



Global
Platform for
Sustainable
Cities



THE WORLD BANK
IBRD • IDA | WORLD BANK GROUP



SAMPLE REQUEST
FOR QUALIFICATION

Municipal Public-Private Partnership Framework

08

Important Note:

This Request for Qualifications is provided only as a sample document. It must be adapted to fit the unique circumstances and needs of each particular Municipality and project for which its use is intended. National and local laws, regulations, policies and practices may prescribe a different approach to procuring project-level consulting services.

ADDITIONAL GUIDANCE MATERIAL

World Bank Group's Public-Private Partnership Legal Resource Center,
<https://ppp.worldbank.org/public-private-partnership/>

Sample Document, Adapt as Appropriate

[CONTRACTING AUTHORITY'S NAME]

Request for Qualification

for the

[Title of PPP Project]

[DATE]

Sample Document, Adapt as Appropriate

TABLE OF CONTENTS

DISCLAIMER	5
GLOSSARY	6
1 INTRODUCTION	8
A. Purpose of Issuing the RFQ	8
B. Project Background	8
C. Brief Description of the Bidding Process	8
2 INSTRUCTIONS TO APPLICANTS	9
A. General Requirements	9
B. Documents	10
C. Preparation and Submission of Application	12
D. Evaluation Process	14
E. Qualification and Bidding	14
F. Miscellaneous	15
3 EVALUATION CRITERIA	17
Schedule 1: Project Information	18
Schedule 2: Bidding Process Timelines	19
Schedule 3: Letter of Application	20
Schedule 4: Applicant Information	22
Schedule 5: Consortium Member Information	23
Schedule 6: Financial Capacity	24
Schedule 7: Technical Capacity	25
Schedule 8: Power of Attorney for Signing of Application and Bid	26
Schedule 9: Power of Attorney for Lead Member of Consortium	27
Schedule 10: Consortium Agreement	28
Schedule 11: Declaration of Undertaking	31

Sample Document, Adapt as Appropriate

DISCLAIMER

The information contained in this Request for Qualification (**RFQ**) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of the Contracting Authority or any of its employees or advisors, is provided to Applicants on the terms and conditions set out in this RFQ and such other terms and conditions subject to which such information is provided.

This RFQ is not an agreement and is neither an offer nor invitation by the Contracting Authority to the prospective Applicants or any other person. The purpose of this RFQ is to provide interested parties with information that may be useful to them in the formulation of their Application for qualification pursuant to this RFQ. This RFQ includes statements, which reflect various assumptions and assessments arrived at by the Contracting Authority in relation to the PPP Project. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFQ may not be appropriate for all persons, and it is not possible for the Contracting Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ. The assumptions, assessments, statements and information contained in this RFQ may not be complete, accurate, adequate or correct. Each Applicant should therefore conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFQ and obtain independent advice from appropriate sources.

Information provided in this RFQ to the Applicant(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. None of the Contracting Authority, its employees, or advisors accepts any responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein. The Contracting Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFQ or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQ and any assessment, assumption, statement or information contained therein or deemed to form part of this RFQ or arising in any way by the participation in this prequalification process.

The Contracting Authority, its employees or advisors, likewise accept no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Applicant upon the statements contained in this RFQ. The Contracting Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFQ. The issuance of this RFQ does not imply that the Contracting Authority is bound to select and shortlist prequalified Applications for Bid Stage or to appoint the selected Bidder for the Project and the Contracting Authority reserves the right to reject all or any of the Applications or Bids or otherwise discontinue the process without assigning any reason whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Contracting Authority or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and the Contracting Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

GLOSSARY

Addendum or Addenda means addendum or addenda to the RFQ.

Applicant means an interested single entity or Consortium which submits an Application to the Contracting Authority in accordance with provisions of this RFQ.

Application means the document/s submitted by an Applicant to qualify to submit a bid for the Project.

Application Due Date means the date specified in Schedule 2 as the last date for submission of Applications.

Bid means a proposal submitted by a Bidder for the Project.

Bidder means a single entity or Consortium qualified to submit a Bid to the Contracting Authority.

Bidding Documents means the RFP, the draft PPP Agreement, any Addenda or clarification issued by the Contracting Authority in accordance with the RFP and the PPP Agreement, and any other documents to be provided by the Contracting Authority.

Bidding Process is the two-stage bidding process – comprising of the Qualification Stage and Bid Stage – being followed by the Contracting Authority to award the Project to the Selected Bidder, the terms of which are set out in Clauses 2.4 to 2.7 of this RFQ.

Bid Stage is the second stage of the bidding process which involves the submission of Bids by shortlisted bidders.

Consortium means any combination of entities that have formed a consortium or association by fulfilling the requirements set out in this RFQ, for the purpose of submitting an Application, and if shortlisted, submit a Bid for the implementation of the Project.

Consortium Agreement means the binding consortium agreement to be executed between Consortium Members in the form set out in Schedule 10.

Contracting Authority means any local/municipal government authority public, statutory corporation or other subnational agency.

Control means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% of the voting shares of such person, or the power to appoint majority of the directors on the board of directors of such company or corporation and/or the power to direct the management and policies of such person by operation of law, agreement or otherwise and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law, agreement or otherwise.

Government means the Government of ****.

Lead Member in the context of a Consortium, means the Consortium Member nominated by the Consortium Members as the lead member with the rights and obligations as set out in this RFQ.

PPP means public-private partnership.

PPP Agreement means the agreement to be executed between the Contracting Authority and the Selected Bidder to implement the PPP project.

Project Company means the special purpose company specifically formed and incorporated in [LOCATION] for the purpose of undertaking the Project pursuant to the PPP Agreement.

RFP means Request for Proposals.

RFQ means this Request for Qualification document dated **** along with its Schedules, and Addenda, if issued.

Successful Bidder means the Bidder selected by the Contracting Authority to award the Project following the completion of the Bidding Process.

Tender Committee means the working group established by the Contracting Authority to carry out the PPP procurement.

Sample Document, Adapt as Appropriate

1. INTRODUCTION

A. Purpose of Issuing the RFQ

- 1.1. The purpose of issuing the RFQ is to enable the Contracting Authority to qualify interested Applicants who wish to be involved in the PPP, by assessing whether the interested Applicants fulfill the Contracting Authority's requirements as set out Section 3 of this RFQ.
- 1.2. It is intended that the Qualification Stage and subsequent processes be conducted in a transparent and open manner in order to ensure that the Contracting Authority's objectives for initiating the PPP are achieved, and value for money objectives met. The qualification process will identify a shortlist of qualified Applicants, who will be asked to submit detailed functional and price information in a later bid process.
- 1.3. The objectives of the RFQ include ensuring that those interested Applicants who successfully qualify have: (a) the financial prerequisites; and (b) an established track record in the development and operation of a similar project so as to enable the interested applicant to successfully manage the PPP.

B. Project Background

- 1.4. The Contracting Authority is seeking private sector participation to improve [SERVICE] in the [LOCATION] through [DESCRIPTION OF FACILITIES] on a PPP basis.
- 1.5. The Service Provider shall undertake: [indicate scope – i.e. design, construction and maintenance of new facilities / operation and maintenance of existing facilities, etc].
- 1.6. Further details on the PPP Project may be found in Schedule 1.

C. Brief Description of the Bidding Process

- 1.7. The Contracting Authority has adopted a two-stage process (collectively referred to as the "Bidding Process") for selection of the Successful Bidder for award of the PPP Project.
- 1.8. The first stage (the "Qualification Stage") of the process is the qualification / shortlisting of interested parties/consortia through their submission of an Application in accordance with the provisions of this RFQ (the "Applicant"). In this stage, Applicants are required to furnish the information specified in this RFQ. The Contracting Authority shall be entitled to disqualify an Applicant in accordance with the aforesaid documents at any stage of the Bidding Process. At the end of this stage, the Contracting Authority shall announce a short-list of prequalified Applicants who shall be eligible for participation in the second stage of the Bidding Process (the "Bid Stage") comprising Request for Proposals (the "Request for Proposals" or "RFP").
- 1.9. The second stage of the process is the bid proper or the Bid Stage. The shortlisted Applicants / Bidders will be called upon to submit their proposals (the "**Bids**") in respect of the project, in accordance with the RFP and other documents to be provided by the Contracting Authority (collectively the "**Bidding Documents**"). Bidders will be required to deposit, along with its Bid, a refundable bid security which will be specified in the RFP.
- 1.10. Further and other details of the process to be followed at the Bid Stage and the terms thereof will be indicated in the RFP.

2. INSTRUCTIONS TO APPLICANTS

A. General Requirements

2.1 Eligibility of Applicants

- 2.1.1 An Applicant shall submit only 1 (one) Application for shortlisting either individually or as a Member of a Consortium. An Applicant applying individually or as a member of a Consortium shall not be entitled to submit another Qualification either individually or as a member of any Consortium, as the case may be.
- 2.1.2 An Applicant may be a natural person, private entity, or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in this RFQ.
- 2.1.3 The Application should be furnished in the formats specified in this RFQ and signed by the Applicant's authorized signatory. The Applicants should note that the formats specified in the RFQ have been provided for the convenience of the Applicants and may not exhaustively enumerate or describe various information required to be provided by the Applicants under this RFQ. The Applicants should ensure that all the information required to be provided by them under this RFQ is included in their Application whether or not a particular format specified herein makes provision for submission of such information and/or whether or not a format for submission of such information is incorporated in this RFQ.
- 2.1.4 The Applicant should submit a power of attorney in accordance with Schedule 8, authorizing the signatory of the Bid to commit the Bidder.
- 2.1.5 In case the Applicant is a Consortium, the Members thereof should furnish a power of attorney in favour of the Lead Member in accordance with Schedule 9.
- 2.1.6 Any condition or qualification or any other stipulation contained in the Application which is inconsistent with the terms of this RFQ may render the Application liable to rejection as a non-responsive Application.
- 2.1.7 The Application and all communications in relation to or concerning this RFQ and the Application shall be in the English language. Supporting documents and printed literature furnished by the Applicant with the Application may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language, duly authenticated and certified by the Applicant. Supporting materials which are not translated into English may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.
- 2.1.8 This RFQ and all attached or other documents, are and shall remain the property of the Contracting Authority and are made available to the Applicants solely for the purpose of preparation and submission of an Application. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparing and submitting their Application.
- 2.1.9 **Conflict of Interest:** An Applicant shall not have a conflict of interest that affects the Bidding Process. Any Applicant found to have a conflict of interest shall be disqualified. Determining the presence of Conflict of Interest shall be the prerogative of the Contracting Authority. An Applicant may be considered to have a conflict of interest that affects the Bidding Process, if:
- (a) Such Applicant (or any constituent thereof) and any other Applicant (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding of an Applicant (or any constituent thereof) is less than **** % of the paid up and subscribed capital of the other Applicant (or any constituent thereof) and it does not have Control of the Applicant; or
 - (b) a consortium member or any constituent of such Applicant is also a consortium constituent of another Applicant; or

- (c) such Applicant (or any constituent thereof) receives or has received any direct or indirect subsidy from any other Applicant (or any constituent thereof), or has provided any such subsidy to any other Applicant (or any constituent thereof); or
- (d) such Applicant (or any constituent thereof) has the same legal representative for purposes of the Application as any other Applicant (or any constituent thereof); or
- (e) such Applicant (or any constituent thereof) has a relationship with another Applicant (or any constituent thereof), directly or through common third parties, that puts them in a position to have access to each others' information about, or to influence the Application of either or each other; or
- (f) such Applicant (or any constituent thereof) has participated as a consultant to the Contracting Authority in the preparation of any documents, design or technical specifications of the PPP Project, or
- (g) Any legal, financial or technical adviser of the Contracting Authority in relation to the PPP Project is engaged by the Applicant (or any constituent thereof) in any manner for matters related to or incidental to the PPP Project.

2.2 Change in composition of the Consortium

- 2.2.1 Change in the composition of a Consortium will not be permitted by the Contracting Authority after the Submission of Application Due Date.
- 2.2.2 The Consortium shall submit a Power of Attorney and a Consortium Agreement following Schedule 9 and Schedule 10 respectively along with the Application on or before the Submission of Application Due Date.
- 2.2.3 The Consortium Agreement shall, inter alia:
 - (a) convey the intent to form a Project Company with shareholding/ownership equity commitments in accordance with this RFQ;
 - (b) clearly outline the proposed roles and responsibilities of each Member and the Lead Member; and
 - (c) fulfil the minimum shareholding structure indicated in Clauses 2.2.4 and 2.2.5 below.
- 2.2.4 The Lead Member of the Consortium shall hold at least **** % of the subscribed and paid up equity of the Project Company for **** years after the Completion Date, and at least **** % for the following **** years.
- 2.2.5 [Each member of the Consortium shall hold at least **** % of the subscribed and paid up equity of the Project Company for **** years after the Completion Date, and at least **** % for the following **** years.]

2.3 Verification of Information by Applicants

- 2.3.1 It shall be deemed that by submitting the Application, the Applicant has:
 - (a) made a complete and careful examination of the RFQ;
 - (b) agreed to be bound by the undertakings provided by it under and in terms hereof; and
 - (c) acknowledged that it does not have a Conflict of Interest.
- 2.3.2 The Contracting Authority, its employees, and consultants shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by or on behalf of the Contracting Authority.

2.4 Prequalification Conference

- 2.4.1 A prequalification conference of the Applicants shall be convened at the designated date, time and place. Only duly authorized representatives of the Applicants shall be allowed to participate in the pre-qualification conference.
- 2.4.2 During the course of the prequalification conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Contracting Authority. The

Contracting Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Qualification Process.

2.5 Verification and Disqualification

2.5.1 The Contracting Authority reserves the right to verify all statements, information and documents submitted by the Applicant in response to this RFQ and the Applicant shall, when so required by the Contracting Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Contracting Authority shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Contracting Authority thereunder.

2.5.2 The Contracting Authority reserves the right to reject any Application if:

- (a) at any time, a material misrepresentation is made or uncovered; or
- (b) the Applicant does not provide, within the time specified by the Contracting Authority, the supplemental information sought by the Contracting Authority for evaluation of the Application, or
- (c) a Conflict of Interest as discussed in Clause 2.1.9 persists.

2.5.3 Such misrepresentation / improper response shall lead to the disqualification of the Applicant. If the Applicant is a Consortium, then the entire Consortium and each Member shall be disqualified/ rejected.

B. Documents

2.6 This RFQ comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any addendum issued in accordance with Clause 3.9 and any clarifications and interpretations issued in accordance with Clause 3.8.

Request for Qualification	Schedules
Section 1. Introduction	Schedule 1. Project Information
Section 2. Instructions to Applicants	Schedule 2. Bidding Process Timelines
Section 3. Evaluation Criteria	Schedule 3. Letter of Application
	Schedule 4. Applicant Information
	Schedule 5. Consortium Member Information
	Schedule 6. Financial Capacity
	Schedule 7. Technical Capacity
	Schedule 8. Power of Attorney for Signing of Application and Bid
	Schedule 9. Power of Attorney for Lead Member of Consortium
	Schedule 10. Consortium Agreement
	Schedule 11. Declaration of Undertaking

2.7 **Clarifications**

- 2.7.1 Applicants requiring any clarification on the RFQ may notify the Contracting Authority by e-mail at the following e-mail address: ****
- 2.7.2 Queries must be received by the Contracting Authority on or before the last date for receipt of queries indicated in Schedule 2.
- 2.7.3 The Contracting Authority shall endeavour to respond to the questions raised or clarifications sought by the Applicants within fifteen (15) days of receipt of such questions or clarifications. The Contracting Authority will notify Applicants by e-mail that queries and its responses have been posted in the website.
- 2.7.4 The Contracting Authority will organize the clarification response procedure. The queries and its responses will be updated in the website of the Contracting Authority. The Contracting Authority may notify Applicants by e-mail that responses to queries have been posted at the Contracting Authority's website.
- 2.7.5 The Contracting Authority may also on its own initiative, if deemed necessary, issue interpretations and clarifications. All clarifications and interpretations issued by the Contracting Authority shall be deemed to be part of the RFQ. Verbal clarifications and information given by the Contracting Authority or its employees or representatives shall not be binding on the Contracting Authority.
- 2.7.6 Should the Contracting Authority deem it necessary to amend the RFQ as a result of a clarification, it shall do so following the procedure in Clause 2.8 below.

2.8 **Amendment**

- 2.8.1 At any time prior to the deadline for submission of Application, the Contracting Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of addenda.
- 2.8.2 Any Addendum thus issued will be uploaded in the website of the Contracting Authority. The Contracting Authority may notify Applicants about the issuance of an Addendum by e-mail.
- 2.8.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the Contracting Authority may, at its own discretion, extend the deadline for submission of the Application.

C. Preparation and Submission of Application

2.9 **Format and Signing of Application**

- 2.9.1 The Applicant shall provide in its Application all the information sought under this RFQ. The Contracting Authority will evaluate only those Application that are received in the required formats and complete in all respects. Incomplete and /or conditional Application shall be rejected.
- 2.9.2 The Applicant shall prepare one original set of its Application (together with originals/copies of documents required to be submitted along therewith) and clearly marked "ORIGINAL". In addition, the Applicant shall submit one copy of the Application marked "COPY". In the event of any discrepancy between the original and the copy, the original shall prevail.
- 2.9.3 The Application shall be signed by the authorized signatory of the Applicant who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Application shall be initialed by the person signing the Application. The Application shall contain page numbers.

2.10 Contents of the Application

- 2.10.1 The Application shall be marked as follows:
"APPLICATION FOR THE [NAME OF THE PROJECT]"
and shall clearly indicate the name and address of the Applicant.
- 2.10.2 The documents constituting the Application submission shall include the following accomplished forms:
- (a) The Letter of Application (Schedule 3);
 - (b) The Applicant Information (Schedule 4) including attachments;
 - (c) If a consortium, the Consortium Member Information to be accomplished by each member of the consortium (Schedule 5) including attachments;
 - (d) The Applicant's Financial Capacity (Schedule 6) including attachments;
 - (e) The Applicant's Technical Capacity (Schedule 7) including attachments;
 - (f) The Power of Attorney for Signing of Application (Schedule 8);
 - (g) If a consortium, the Power of Attorney for Lead Member of Consortium (Schedule 9);
 - (h) If a consortium, the Consortium Agreement; and
 - (i) The Declaration of Undertaking.

2.11 Sealing and Marking of Application

- 2.11.1 The Application shall be sealed it in an envelope marked with the following: "APPLICATION FOR QUALIFICATION FOR [NAME OF PPP PROJECT]."
- 2.11.2 The Application shall be addressed to:
- ATTENTION: [Name of Head of Contracting Authority's Tender Committee]
ADDRESS: [Address of Contracting Authority]
- 2.11.3 If the envelopes are not sealed and marked as instructed above, the Contracting Authority assumes no responsibility for the misplacement or premature opening of the contents of the Application submitted.

2.12 Application Submission Deadline

- 2.12.1 Applications must be received by the Contracting Authority at the address specified in Schedule 2 no later than the Application Due Date.
- 2.12.2 The Application must be hand delivered as prescribed by the Contracting Authority. The Contracting Authority shall, on request, provide the Applicant with a receipt showing the date and time when the Application was received.
- 2.12.3 The Contracting Authority may, at its discretion, extend the Application Due Date by amending the RFQ in accordance with Clause 2.8, in which case all rights and obligations of the Contracting Authority and Applicants previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 2.12.4 Applications received by the Contracting Authority after the specified deadline for submission shall be declared late and shall not be eligible for consideration and shall be returned unopened to the Applicant.

2.13 Modifications / Substitution / Withdrawal of Applications

- 2.13.1 The Applicant may modify, substitute or withdraw its Application after submission, provided that written notice of the modification, substitution or withdrawal is received by the Contracting Authority prior to Application Due Date. No Application shall be modified, substituted or withdrawn by the Applicant on or after the Application Due Date.
- 2.13.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and

delivered in accordance with this Clause 2.11, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.13.3 Any alteration/ modification in the Application or additional information supplied subsequent to the Application Due Date, unless the same has been expressly sought for by the Contracting Authority, shall be disregarded.

D. Evaluation Process

2.14 Opening and Evaluation of Applications

- 2.14.1 The Tender Committee shall open the Applications exactly one hour after the deadline for submission, at the place specified in Schedule 2 and in the presence of the Applicants who choose to attend.
- 2.14.2 Applications for which a notice of withdrawal has been submitted shall not be opened.
- 2.14.3 Upon the opening of Applications, the Tender Committee shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive only if it:
- (a) contains all the documents required to be submitted by this RFQ;
 - (b) is received on or before the Submission of Application Due Date, including any extension thereof;
 - (c) is signed, sealed and marked as stipulated in this RFQ; and
 - (d) does not contain any condition or qualification.
- 2.14.4 Only applications that are deemed to be responsive will be evaluated and shortlisted.
- 2.14.5 The Tender Committee reserves the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Tender Committee in respect of such Application.
- 2.14.6 Only responsive Applications that fulfill the following may be shortlisted:
- (a) Contains all the required information stipulated in this RFQ;
 - (b) Submitted documents in the format prescribed by this RFQ; and
 - (c) Hurdled the minimum qualification requirements stipulated in Section 3 of this RFQ.

2.15 Confidentiality

- 2.15.1 Information relating to the examination, clarification, evaluation, and recommendation for the short-listed Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Contracting Authority in relation to or matters arising out of, or concerning the Bidding Process.
- 2.15.2 The Contracting Authority will treat all information, submitted as part of the Application, in confidence and will require all those who have access to such material to treat the same in confidence.
- 2.15.3 The Contracting Authority may not divulge any such information unless it is directed to do so by any statutory body that has the power under law to require its disclosure or to enforce or assert any right or privilege of the statutory body and/or the Contracting Authority.

E. Qualification and Bidding

2.16 After the evaluation of Applications, the Tender Committee will announce a shortlist of prequalified Applicants ('Bidders') who will be eligible for participation in the Bid Stage. At the same time, the Tender Committee will notify the other Applicants that they have not been shortlisted.

2.17 Only shortlisted Applicants shall be issued the RFP and allowed to submit their proposals for the PPP Project.

2.18 All documents and other information supplied by the Contracting Authority or submitted by an Applicant to the Contracting Authority shall remain or become the property of the Contracting Authority. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Contracting Authority will not return any Application or any information provided along therewith.

2.19 Fraudulent and Corrupt Practices

2.19.1 It is the Government's policy to require that Contracting Authorities (including beneficiaries of public funds), as well as applicants/suppliers/contractors under PPP or publicly funded contracts, observe the highest standard of ethics during the procurement and execution of such contracts.

2.19.2 In pursuit of this policy, the Government defines, for the purposes of this provision, the terms set forth below as follows:

- (a) "corrupt practice" means the offering, giving, receiving, or soliciting, of anything of value to influence the action of a public official in the Bidding Process (for the avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Contracting Authority who is or has been associated in any manner with the Bidding Process, at any time during the Bidding Process and within one year from the date of the conclusion of such process, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process), and includes inter alia, bribery, extortion or coercion, which involves threats of injury to person, property or reputation;
- (b) "fraudulent practice" means a misrepresentation, omission, or suppression of facts, or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) "coercive practice" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process; and
- (d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Contracting Authority or member of the Tender Committee with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest.

2.19.3 Should the Applicant commit any of the foregoing, the Tender Committee is mandated to:

- (a) Reject the recommendation for the shortlisting of the Applicant; and
- (b) Declare the Applicant ineligible, for a period of ten years, to be awarded a PPP contract.

2.20 The Government reserves the right, where the Applicant has been found by a national or international entity to have engaged in corrupt or fraudulent practices, to declare such Applicant ineligible, for a period of ten years, to be awarded a PPP contract or any publicly funded contract.

F. Miscellaneous

2.21 The Bidding Process shall be governed by, and construed in accordance with, the laws of [LOCATION] and the Courts of [LOCATION] shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the RFQ and/or the Bidding Process.

2.22 The Contracting Authority, in its sole discretion and without incurring any obligation or liability or assigning any reason, reserves the right, at any time, to:

- (a) suspend, withdraw and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any Applicant in order to receive clarification or further information;
- (c) retain any information and/or evidence submitted to the Contracting Authority by, on behalf of, and/or in relation to any Applicant;

- (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant;
- (e) amend, modify or reissue the RFQ or any part thereof; and/or
- (f) accept or reject any or all of the Applications.

2.23 An Applicant who claims to have suffered or that may suffer any loss or injury as a result of breach of a duty imposed on a Contracting Authority or an approving authority in the course of the Bidding Process may seek a review by the appropriate authority in accordance with applicable law.

2.24 It shall be deemed that by submitting the Application, the Applicant agrees and releases the Contracting Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

Sample Document, Adapt as Appropriate

3. EVALUATION CRITERIA

3.1 The following criteria will be used in the evaluation of the Applicant's submission: (a) General requirements; (b) Financial capacity; and (c) Technical experience.

3.2 **General Requirements**

The general requirements are clearly stated in Clause 2.1. Whether the Applicant has met the general requirements will be decided upon a review of the following documents:

- (a) Copy of a registration document which certifies that the legal entity or consortium member is duly incorporated;
- (b) Authorisation of Applicant's representative; and
- (c) If there is a case mentioned in Clause 2.1, the Applicant must notify the Contracting Authority's Tender Committee and present the decision made by the court or competent authority.

3.3 **Financial Capacity**

The Applicant must demonstrate that it has a Net Worth of at least [AMOUNT] ([AMOUNT in words] only) at the close of the immediately preceding financial year.

3.4 **Technical Capacity**

The Applicant must demonstrate that it possesses the following experience:¹

Indicator	Schedules
1. Experience in the Design of Similar Infrastructure Projects	Experience in the design of similar infrastructure projects demonstrated through at least two contracts undertaken in the last ten years for projects of a similar type, size and complexity [indicate examples and minimum project size].
2. Experience in the Construction of Similar Infrastructure Projects	Experience in the construction of similar infrastructure projects demonstrated through at least two contracts undertaken in the last ten years for projects of a similar type, size and complexity [indicate examples and minimum project size].
3. Experience in the Operations & Maintenance of Similar Infrastructure Projects	Experience in the operation & maintenance of similar infrastructure projects demonstrated through at least two contracts undertaken in the last ten years for projects of a similar type, size and complexity [indicate examples and minimum project size].

¹ In the case of a Consortium, the Applicant, through its Consortium members, must demonstrate that it collectively possesses all of the required technical experience. The Indicators may vary and may be further expanded based on the requirements of the PPP Project.

Schedule 1: Project Information²

- 1.1. The Contracting Authority has, as part of its [*insert development strategy*]³, identified the PPP opportunity at [*insert location*].
- 1.2. It is intended that by the Contracting Authority entering into the PPP with a private party, the Contracting Authority may be able to [*insert the purpose for entering into PPP*]. It is intended that the project will be implemented by the private party in compliance with any terms and conditions stipulated in the PPP Agreement.
- 1.3. The Contracting Authority embarked on the project after conducting feasibility studies in order to determine whether it could proceed with the project and whether the project may be viable.
- 1.4. Under the project, the private partner will build an asset by using its own funds or funds it has raised, transfer the possession as specified in the PPP Agreement, and transfer it to local ownership upon the expiration of the PPP Agreement. The payment to the private partner will comprise of [user payments from users of the PPP project]; [and/or] [availability payments from the Contracting Authority].

² All numbered footnotes in Schedule 1 are for guidance of the Contracting Authority and should be omitted prior to issue of the RFQ.

³ All project specific provisions have been enclosed in square parenthesis and may be modified, as necessary, before issuing the RFQ for the project. The square parenthesis should be removed after carrying out the required modifications.

⁴ The Contracting Authority must provide relevant details regarding the asset and the possible product or service categories which could be provided through the use of the asset. The Contracting Authority will be heavily guided by its feasibility study as to what information is relevant. The Contracting Authority must provide sufficient information so as to allow interested parties to consider whether they would wish to be involved in the PPP.

⁵ The Contracting Authority must provide a summary on the site information and on issues that were identified during the feasibility phases, such as: legal, environmental, stakeholders, personnel and human resources, infrastructure, equipment, performance standards, transfer of risk and other information identified as being relevant through the inception and feasibility phases.

1.5. [DESCRIPTION OF THE ASSET]⁴

1.6. [SITE REVIEW]⁵

Sample Document, Adapt as Appropriate

Schedule 2: Bidding Process Timelines

The Contracting Authority shall endeavor to adhere to the following timelines:

Event Description	Estimated Date, Time, and Location (if applicable)
QUALIFICATION STAGE	
Last date for receipt of queries	
Prequalification conference	
Contracting Authority's response to queries	
Submission of Application Due Date	
Opening of Applications	
Announcement of Short List	
BID STAGE	
Issuance of RFP to Qualified Bidders	
Last date for receiving queries	(to be finalized)
Pre-bid conference	(to be finalized)
Submission of bidders comments on draft PPP Agreement	(to be finalized)
Contracting Authority responses to queries by and, if necessary, issue a revised and amended PPP Agreement	(to be finalized)
Bid Due Date	(to be finalized)
Opening of Technical Proposals	(to be finalized)
Announcement of Qualified Technical Proposals	(to be finalized)
Opening of Financial Proposals	(to be finalized)
Selection and Announcement of Successful Bidder	(to be finalized)
Approval of Successful Bidder	(to be finalized)
Finalisation of matters to permit signing of PPP Agreement	(to be finalized)

Schedule 3: Letter of Application

[On the letterhead of the Applicant / Lead Member]

Original or Copy number:

Date:

To: [Contracting Authority's Name]

[Insert Contracting Authority's Address]

Re: Application for Qualification for the [name of project]

Dear Madam/Sir,

With reference to your RFQ dated [DATE], I/we, having examined the document and understood its contents, hereby submit my/our Application for the aforesaid Project. We hereby confirm that we/our members in the Consortium satisfy the terms and conditions laid out in the RFQ document. We have agreed that _____ [insert member's name] will act as the Lead Member of our consortium, and that _____ [insert individual's name] will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the Application.⁶

The Application is being submitted for the express purpose of qualifying as a shortlisted Bidder for the aforesaid Project. The Application is unconditional and unqualified.

I/We hereby certify/declare that:

1. All the required accompanying documents are complete and are all included in this Application;
2. All information provided in the Application are true and correct;
3. Nothing has been omitted which renders such information misleading;
4. All documents accompanying such Application are true copies of their respective originals;
5. I/we shall make available to the Contracting Authority any additional information it may find necessary or require to supplement or authenticate the submissions;
6. I/we will abide by all the terms and conditions of the RFQ;
7. I/We have examined and have no reservations to the RFQ, including any addendum issued by the Contracting Authority;
8. In the last 3 years, I/we/any of the Members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach by [us/any of the Members];
9. I/we are not barred by the Government, or any public agencies from participating in similar projects as of [Submission of Application Due Date];
10. I/We do not have any Conflict of Interest;
11. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in this RFQ, in respect of any tender or request for proposal issued by or any agreement entered into with the Contracting Authority or any other public sector enterprise or any government, at central or state level;
12. I/we have taken steps to ensure that in conformity with the provisions of this RFQ, no person acting for me/us or on my/our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice;
13. You may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive, without incurring any liability to the Applicants;

⁶ Please strike out if not applicable.

14. I/we/any Member, am/are not a member of a/any other Consortium applying for the Project;
15. I/we or any Member of our consortium have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community;
16. In regard to matters relating to security and integrity of the country, I/we have not been charged by any government agency or convicted by a court of law;
17. No investigation by a regulatory authority is pending either against me/us/any Member or against our chief executive officer or any of my/our directors/managers/employees;

I/We believe that I/we satisfy(ies) and meet(s) all the requirements as specified in this RFQ and are/is qualified to submit an Application.

Respectfully,

(Name, designation, and signature of the authorised representative)

For and on behalf of: (name and seal of the Applicant / Lead Member of the Consortium)

Sample Document, Adapt as Appropriate

Schedule 4: Applicant Information⁷

Application Information

Applicant's legal name:

In case of Consortium, legal name
of each member:

Applicant's actual or intended
country of constitution:

Applicant's actual or intended year
of constitution:

Applicant's legal address in country
of constitution:

Applicant's authorized
representative information (name,
designation, address, Telephone/
Fax numbers, E-mail):

Attached are copies of original documents of:

- 1. Notarized documents of constitution of the legal entity named above
- 2. Letter of authorization to represent the applicant
- 3. Letter of intent to form Consortium or Consortium agreement.

Sample Document, Adapt as Appropriate

⁷ This section must be completed by the authorized consortium representative, or if the applicant is a sole organization, by that organization

Schedule 5: Consortium Member Information⁸

Consortium Member Information

Consortium member's legal name:

Consortium member's actual or
intended country of constitution:

Consortium member's actual or
intended year of constitution:

Consortium member's legal
address in country of constitution:

Consortium member's authorized
representative information (name,
designation, address, Telephone/
Fax numbers, E-mail):

Attached are copies of original documents of:

- 1. Notarized documents of constitution of the legal entity named above
- 2. Letter of authorization to represent consortium member
- 3. Letter of intent to form Consortium or Consortium agreement.

⁸ This section is to be
completed by each
consortium member.

Schedule 6: Financial Capacity⁹

[On the letter head of the Applicant]

(In [CURRENCY])

Applicant Type	Member Code ¹⁰	Net Worth
		Year 1
Single entity Applicant		
Consortium		

Name & address of Bidder's Banks:

Instructions:

The Applicant/Members of the Consortium will attach copies of the balance sheets, financial statements and audited annual reports for 5 years preceding the Application Due Date. The financial statements will:

1. reflect the financial situation of the Applicant;
2. be audited by a statutory auditor;
3. be complete, including all notes to the financial statements; and
4. correspond to accounting periods already completed and audited (no statements for partial periods will be requested or accepted, if no audited results are available for such partial periods).

"Net Worth" shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).

Year 1 will be the latest completed financial year, preceding the Application Date.

The Applicant will provide an Auditor's Certificate specifying the Net Worth of the Applicant and also specifying the methodology adopted for calculating such Net Worth.

If the annual accounts for the latest financial year are not audited, the Applicant will provide the provisional annual accounts for the latest financial year. The provisional annual accounts will be accompanied by an undertaking by the Applicant to the effect that: if it is chosen as a Bidder, the Bidder will submit the audited annual accounts for the latest financial year during the RFP process; and such audited annual accounts shall not vary by more than 5% from the provisional accounts submitted by it with its Application.

⁹ This section must be completed by the authorized consortium representative, or if the applicant is a sole organization, by that organization.

¹⁰ Member Code will indicate NA for Not Applicable in case of a single entity Applicant. For other members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the project relates to an Associate of the Applicant or its Member, write "Associate" along with Member Code.

Schedule 7: Technical Capacity

Name of Prospective Applicant:	
Name of entity fulfilling the requirement:	
Relationship to Prospective Bidder:	<i>[indicate whether Prospective Bidder / Consortium Member / Design & Engineering Contractor]</i>

Project List

Project Title:	
Location:	
Project Size: (provide indicative investment requirement)	
Description of the Project:	
Date of Contract:	
Date of Commissioning:	
Scope of Work:	
Client/Project Owner: <i>(indicate client's contact details)</i>	

The above table should contain the summary details that need to be provided for the projects that the Applicant wishes to showcase as relevant experience (i.e. design & engineering, construction, operation, maintenance, etc).

In case various aspects of the project are to be undertaken by different entities in a Consortium, separate forms need to be accomplished for each (i.e. one form for the entity nominated to fulfill design & engineering experience; separate form if a different entity is nominated by the Applicant to fulfill construction, etc).

For each project showcased, a certification from the client should be enclosed. The certificate should at least state the following: (1) Name of project and scope of work; (2) date of award and commercial operations date; and (3) current status of the project.

Schedule 8: Power of Attorney for Signing of Application

I, (name of the company) incorporated under applicable laws and having its registered office at [__]
"Company", do hereby irrevocably constitute, nominate, appoint and authorize Mr. /Ms (name), presently
residing at [indicate business address], who is presently employed with us and holding the position of
[designated position], as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in
our name and on our behalf, all such acts, deeds, matters and things as are necessary or required in
connection with or incidental to submission of our Application for prequalification for the [Title of Project]
(the 'Project') proposed or being developed by the Contracting Authority including but not limited to signing
and submission of all applications and other documents and writings, participate in prequalification and
other conferences and providing information/responses to the Contracting Authority, and generally dealing
with the Contracting Authority in all matters in connection with or relating to or arising out of our Application
for the said Project.

We hereby agree to ratify and confirm all acts, deed, matters and things lawfully done or caused to be done
by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that
all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and
shall always be deemed to have been done by us.

Capitalised terms not defined herein shall have the meaning assigned to them under the RFQ.

IN WITNESS WHEREOF,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS
POWER OF ATTORNEY ON THIS DAY OF, 20**

For

(Signature)

(Name, Title and Address)

Witnesses:

(Notarised)

Accepted

..... (Signature)

(Name, Title and Address of the Attorney)¹¹

¹¹ The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure. Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

Schedule 9: Power of Attorney for Lead Member of Consortium

Whereas, the Members of the Consortium are interested in bidding for the Project and implementing the [Title of Project] (the 'Project') in accordance with the terms and conditions of the Request for Qualification (RFQ) and other connected documents in respect of the Project.

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's prequalification for the Project.

NOW THIS POWER OF ATTORNEY WITNESSES THAT;

We, M/s. _____ (Lead Member) and M/s _____ (the respective names and addresses of the registered office) do hereby designate M/s. _____ being one of the Members of the Consortium, as the Lead Member of the Consortium, to do on behalf of the Consortium, all or any of the acts, deeds or things necessary or incidental to the prequalification of the Consortium and submission of its Application for the Project, including but not limited to signing and submission of relevant documents and writings, participating in prequalification and other conferences, responding to queries, and generally to represent the Consortium in all its dealings with the Contracting Authority or any person in connection with the Consortium's Application for the Project.

We hereby agree to ratify all acts, deeds and things lawfully done by the Lead Member, our said attorney pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/Consortium.

Dated this ____ day of _____, 20..

(Executors) ¹²

¹² The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable Law and the charter documents of the executors and when it is so required the same should be under common seal affixed in accordance with the required procedure. Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

Schedule 10: Consortium Agreement

THIS CONSORTIUM AGREEMENT is entered into on this [•] day of [•] 20[•] (the "Agreement") AMONGST

1. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns);

AND

2. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns);

AND

3. [Name of entity], a company incorporated under [legislation] and having its registered office at [business address] (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to the context include its successors and permitted assigns).

The above mentioned parties of the FIRST, SECOND and, THIRD PART are collectively referred to as the "Parties" and each is individually referred to as a "Party".

WHEREAS,

1. The Contracting Authority has invited Applications through its Request for Qualification No [•] dated [•] (the "RFQ") for shortlisting of potential bidders for the [Title of the Project] through Public Private Partnership;
2. The Parties are interested in jointly bidding for the Project as members of a Consortium (as defined below) and in accordance with the terms and conditions of the RFQ and other documents in respect of the Project; and
3. It is a necessary condition under the RFQ that the members of the Consortium shall enter into a concession agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFQ.

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/or through any other consortium constituted for the Project, either directly or indirectly.

3. Covenants

The Parties hereby undertake that in the event the Consortium is shortlisted, and eventually declared the Successful Bidder and awarded the Project, it shall incorporate the Project Company under [legislation] as required by and in accordance with the RFP and other Bidding Documents to be issued for performing all its obligations as the Concessionaire in terms of the PPP Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below.

Party of the First Part shall be the Lead Member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process;

{Party of the Second Part shall be [•]; and}

{Party of the Third Part shall be [•]}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project in accordance with the terms of the RFQ, RFP and for the performance of the Project Company's obligations under the PPP Agreement.

6. Shareholding in the Project Company

The Parties agree that the proportion of shareholding among the Parties in the Project Company shall be as follows:

First Party:

Second Party:

Third Party:

Subject to the terms of the PPP Agreement, the Lead Member shall for [•] years hold equity share capital not less than **% (** per cent) of the subscribed, paid up and voting equity share capital of the Project Company; and

Each member of the Consortium shall hold at least ** % of the subscribed and paid up equity of the Project Company for [•] years after the Completion Date, and at least ** % for the following [•] years.

The Parties undertake that they shall comply with all equity lock-in requirements set forth in the PPP Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- 7.1 Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- 7.2 The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Member of Consortium is annexed to this Agreement, and will not, to the best of its knowledge:
- 7.3 Require any consent or approval not already obtained;
- 7.4 Violate any applicable law presently in effect and having applicability to it;
- 7.5 Violate the memorandum of association and articles of association, by-laws or other applicable organizational documents thereof;
- 7.6 Violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; and
- 7.7 Create or impose any liens, mortgages, pledges, claims, security interests, charges or any other encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- 7.8 This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

7.9 There is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the full and final satisfaction of all obligations under the PPP Agreement in accordance with the terms thereof, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified for the Project or does not get selected for award of the Project as the Successful Bidder, the Agreement will stand terminated, in accordance with the mutual agreement of the Parties.

9. Miscellaneous

This Consortium Agreement shall be governed by the laws of ****.

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Contracting Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of THIRD PART

(Signature)

(Name)

(Designation)

(Address)

Sample Document, Adapt as Appropriate

Schedule 11: Declaration of Undertaking

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our Application, nor will we offer or grant or accept any such incentives or conditions in this Bidding Process or, in the event that we are awarded the contract, in the subsequent execution of the contract.

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the client if this situation should occur at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding for the client, the client is entitled to exclude our company/ the consortium from the Bidding Process and, if the contract is awarded to our company/ the consortium, to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

Place, date

Authorized Representative of the Bidder

Sample Document, Adapt as Appropriate

