



Government of the People's Republic of Bangladesh
Ministry of Road Transport and Bridges
Road Transport and Highways Division
Roads and Highways Department

Request for Qualification (RFQ)

Improvement of the Hatirjheel-Rampura-Bonoshree
Ideal School and College-Sheikherjaiga-Amulia-Demra
Highway into 4-lanes (including link to Chittagong road
intersection and access to Tarabo) through Public
Private Partnership

Issued: [●] 2018

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RFQ - IMPROVEMENT OF THE HATIRJHEEL-RAMPURA-BONOSHREE IDEAL SCHOOL AND COLLEGE-SHEIKHERJAIGA-AMULIA-DEMRA HIGHWAY INTO 4-LANES (INCLUDING LINK TO CHITTAGONG ROAD INTERSECTION AND ACCESS TO TARABO) THROUGH PUBLIC PRIVATE PARTNERSHIP

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This RFQ is not an agreement and is not an offer by the Contracting Authority, the PPP Authority, or any of their respective Representatives, to Registered Entities, Applicants or any other person. The purpose of this RFQ is to provide Registered Entities and Applicants with information to assist the formulation of their Application.

This RFQ does not purport to contain all the information each Registered Entity or Applicant may require. This RFQ may not be appropriate for all persons and it is not possible for the Contracting Authority, the PPP Authority, or any of their respective Representatives to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFQ. Certain Registered Entities or Applicants may have a better knowledge of the proposed Project than others. The assumptions, assessments, statements and information contained in the RFQ may not be complete, accurate or adequate. Each Registered Entity and Applicant should, therefore, conduct its own investigation and analysis and should check the accuracy, reliability and completeness of the information in this RFQ and obtain independent advice from appropriate sources which may include but shall not be limited to their own independent financial, legal, accounting, engineering, technical or other experts.

The Contracting Authority, the PPP Authority and their respective Representatives:

- accept no responsibility for the accuracy or otherwise for any interpretation or opinion of law expressed in this RFQ;*
- make no representation or warranty (express or implied) as to the accuracy, adequacy or completeness of this RFQ or any responses to requests for clarifications made by the Registered Entities or Applicants; and*
- shall not be liable to any Applicant or Registered Entity, 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 without limitation: the accuracy, adequacy, correctness, completeness or reliability of the RFQ or any information contained within it; any omission, mistake or error on the part of a Registered Entity or Applicant; or the Contracting Authority's or PPP Authority's responses to queries or requests for clarifications made by the Registered Entities or Applicants; or any assessment, assumption, statement or information contained therein or deemed to form part of this RFQ or arising in any way from participating in the bidding process.*

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1. **DEFINITIONS**

The following terms are defined for use in this RFQ document:

- (a) **"Addenda"** or **"Addendum"** means an amendment or supplement to this RFQ issued by the Contracting Authority to the Registered Entities prior to the Due Date in accordance with the terms of section 3.7 and which shall, once issued, be read together with this RFQ;
- (b) **"Affiliate"** means in relation to an Applicant or Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant or Consortium Member. The expression "control" means, with respect to a person or entity, the ability (directly or indirectly) to direct or cause the direction of the votes attaching to the majority of its issued shares or interests or carrying voting rights, or to appoint or remove or cause the appointment or removal of those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body) or to otherwise direct its management and policies by operation of law or legal agreement;
- (c) **"Appendix"** means the appendix to this RFQ;
- (d) **"Applicant"** means the Registered Entity or Consortium that submits an Application in response to this RFQ;
- (e) **"Application"** means an application (including the Letter of Application and all the Forms and supporting documents and information, as set out in section 6.1) submitted by an Applicant to the Contracting Authority in accordance with the terms of this RFQ and which is submitted by the Applicant for the purposes of being pre-qualified and shortlisted for the Project;
- (f) **"Authority Communication Protocol"** means the mode of communication used by the Contracting Authority to communicate with Registered Entities and Applicants in respect of this RFQ, which includes posting the information to the Data Room and/or communicating in writing through email/letter but excludes oral communications;
- (g) **"Bangladesh"** means the People's Republic of Bangladesh;
- (h) **"BDT"** means Bangladesh Taka, the lawful currency of Bangladesh;
- (i) **"Bid Security"** means the security that needs to be submitted at the time of submission of the Proposal pursuant to the RFP;
- (j) **"BST"** means Bangladesh Standard Time;
- (k) **"Conflict of Interest"** has the meaning given in section 8;
- (l) **"Consortium"** is a group of Registered Entities coming together to submit an Application;
- (m) **"Consortium Member"** means a member of a Consortium (including both a Lead Member and a Non-Lead Member);
- (n) **"Contract Performance Criteria"** shall mean the criteria set out in section 4.3(b)
- (o) **"Contracting Authority"** means the Government of the People's Republic of Bangladesh represented by the MRTB acting through the RHD;

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- (p) **"Contracting Authority's Representative"** means the representative designated by the Contracting Authority in accordance with the terms of section 10.3 as the person to whom all correspondence from an Applicant or Registered Entity to the Contracting Authority shall be addressed;
- (q) **"Copy Applications"** has the meaning given to it in section 6.4;
- (r) **"Corrigenda"** or **"Corrigendum"** means a correction of any errors in this RFQ issued by the Contracting Authority to the Registered Entities prior to the Due Date in accordance with the terms of section 3.7 and which shall, once issued, be read together with this RFQ;
- (s) **"Data Room"** refers to an online virtual data room located at <http://www.pppo.gov.bd/dataroom/rad/login.php> and providing certain information and documents relevant to the Project and this RFQ;
- (t) **"Day"** means a calendar day;
- (u) **"Due Date"** has the meaning given in section 6.5;
- (v) **"Eligible Project"** has the meaning given in section 4.3(c)(iii) and **"Eligible Projects"** means all or more than one of them (as the context requires);
- (w) **"Eligible Project Nominee"** has the meaning given in section 4.3(c)(iv);
- (x) **"Eligible Projects Criteria"** means the criteria set out in section 4.3(c);
- (y) **"EPC"** means engineering, procurement and construction;
- (z) **"Financial Nominee"** has the meaning given in section 4.2(b);
- (aa) **"Financial Pre-qualification Requirements"** means the financial pre-qualification requirements to be satisfied by Applicants, as set out in section 4.2;
- (bb) **"Forms"** means forms 1 to 12 as set out in the Appendix and **"Form"** means any one of them;
- (cc) **"Government"** means the Government of Bangladesh;
- (dd) **"Lead Member"** with respect to a Consortium means the Consortium Member:
 - (i) who has entered into or will enter into an agreement with the remaining Consortium Members to have at least 26% (twenty six per cent) equity shareholding in the Project Company;
 - (ii) who is or will be the largest shareholder in the Project Company; and
 - (iii) who is authorized by all other Consortium Members to be responsible for the bidding process for the Project on behalf of the Consortium;
- (ee) **"Legal Pre-qualification Requirements"** means the legal pre-qualification requirements to be satisfied by Applicants, as set out in section 4.1;
- (ff) **"LoA"** means Letter of Award;
- (gg) **"Local Eligible Project"** has the meaning given in section 5.5(d)(ii);
- (hh) **"Letter of Application"** has the meaning given to it in section 6.1(b);

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- (ii) **"MRTB"** means the Ministry of Road Transport and Bridges;
- (jj) **"Non-Lead Member"** means a Consortium Member who has entered into or will enter into an agreement with the remaining Consortium Members to hold at least 10% (ten per cent) equity shareholding in the Project Company;
- (kk) **"Original Application"** has the meaning given to it in section 6.4(c);
- (ll) **"PPP"** means Public Private Partnership;
- (mm) **"PPP Act"** means the Bangladesh Public-Private Partnership Act, 2015;
- (nn) **"PPP Authority"** means the Public Private Partnership Authority established under the PPP Act;
- (oo) **"PPP Contract"** means the contract to be entered into by the Contracting Authority and the Project Company for implementation of the Project;
- (pp) **"PPP Guideline"** means the Procurement Guidelines for PPP Projects, 2018;
- (qq) **"Pre-Application Meeting"** means a meeting held by the Contracting Authority with the Registered Entities in relation to this RFQ, as described in section 3.5;
- (rr) **"Preferred Bidder"** means the Shortlisted Bidder chosen by the Contracting Authority to implement the Project following evaluation of the Proposals submitted in respect to the RFP based on the pre-established evaluation criteria;
- (ss) **"Pre-qualified Applicants"** means an applicant that has satisfied all the Pre-qualification Requirements set out in sections 4.1 to 4.3, as defined in section 5.1;
- (tt) **"Pre-qualification Requirements"** means the Legal Pre-qualification Requirements, the Technical Pre-qualification Requirements and the Financial Pre-qualification Requirements and **"Pre-qualification Requirement"** means any of them;
- (uu) **"Project"** has the meaning given in section 2.1;
- (vv) **"Project Company"** means the special purpose company to be duly incorporated under the laws of Bangladesh by the Preferred Bidder either prior to or shortly after execution of the PPP Contract (and in any case no later than the time prescribed in the LoA) for the purposes of delivery of the Project;
- (ww) **"Project Information Memorandum"** means the project information memorandum issued to Registered Entities for the purposes of the Project;
- (xx) **"Proposal"** means a Shortlisted Bidder's written offer in response to the terms and conditions set out in the RFP for the Project;
- (yy) **"Reference Project"** means a project submitted by the Applicant for the purposes of satisfying the Eligible Projects Criteria and Shortlisting Criteria as an Eligible Project or Local Eligible Project (as applicable);
- (zz) **"Reference Project Total Project Cost"** means, in relation to a Reference Project, the aggregate actual costs, expenses and fees properly incurred in connection with the design, construction, testing and commissioning of that Reference Project and the financing of the same (including interest) and related consultancy fees incurred during the applicable construction period;

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- (aaa) **"Registered Entities"** means interested parties registered with the Contracting Authority in the manner described in section 3.1;
- (bbb) **"Relevant Inflation Index"** means, in relation to a Reference Project, the historical annual inflation rate of the country in which that Reference Project is located using the indicator "inflation, consumer prices (annual %)" from the World Bank Databank (<http://databank.worldbank.org/data/home.aspx>) as the source;
- (ccc) **"Request for Proposal"** or **"RFP"** means the request for proposal document issued by the Contracting Authority in respect of the Project;
- (ddd) **"RFP Stage"** means the stage of the bidding process for the Project where the Shortlisted Bidders submit their Proposals in response to the RFP;
- (eee) **"Request for Qualification"** or **"RFQ"** means this request for qualification document issued by the Contracting Authority in respect of the Project;
- (fff) **"RFQ Stage"** means the stage of the bidding process for the Project where the Applicants submit their Applications in respect of this RFQ;
- (ggg) **"section"** means a section of this RFQ;
- (hhh) **"Shortlisted Bidder"** means an Applicant who has submitted an Application and has been pre-qualified and shortlisted by the Contracting Authority to submit a Proposal in response to the RFP, in accordance with section 5;
- (iii) **"Shortlisting Score"** has the meaning given in section 5.4;
- (jjj) **"Technical Pre-qualification Requirements"** means the technical pre-qualification requirements to be satisfied by Applicants, as set out in section 4.3(a); and
- (kkk) **"USD"** or **"US Dollar"** means the lawful currency of the United States of America.

2. PROJECT OVERVIEW

- 2.1 The Contracting Authority has decided to undertake a project for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through PPP (the **"Project"**). Registered Entities are referred to the Project Information Memorandum for further details about the Project.
- 2.2 The Contracting Authority is pleased to invite Registered Entities to submit Applications in response to this RFQ, so that it may evaluate and shortlist those Applicants who shall be named the Shortlisted Bidders and be invited to respond to the RFP. As part of the RFP Stage, the Contracting Authority will evaluate the Proposals submitted by the Shortlisted Bidders and appoint a Preferred Bidder to undertake the Project.

3. OVERVIEW OF THE BIDDING PROCESS FOR THE PROJECT

3.1 Registration and Data Room

- (a) The bidding phase of the Project began with the advertisement of this RFQ in accordance with the PPP Guideline.
- (b) All interested parties are required to register in order to access this RFQ and related bid documents and to participate in the bidding process. Registration shall

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be performed in accordance with the instructions set out on the notice of this RFQ, including any instructions in respect of payment of any registration fee.

- (c) Only Registered Entities (or in the case of an Application by a Consortium, only Consortia whose Consortium Members are Registered Entities) shall be permitted to submit an Application.
- (d) The Contracting Authority has set up a Data Room for the Project to share documents and communicate with the Registered Entities and Applicants. During the RFQ Stage, only Registered Entities shall be given access to the Data Room which shall contain this RFQ, any Addenda or Corrigenda, notice of invitation to the Pre-Application Meeting and any other relevant information for the RFQ Stage of the bidding process. The Data Room can be accessed at <http://www.pppo.gov.bd/dataroom/rad/login.php>.
- (e) Access to the Data Room will be terminated at the end of the RFQ Stage. Shortlisted Bidders will be notified of the relevant details for access to the data room established for the RFP Stage.

3.2 **The bidding process**

- (a) A two stage bidding process has been adopted for this Project, comprising:
 - (i) **Stage 1: RFQ Stage**
 - (A) During the RFQ Stage, the Registered Entities will submit their Applications in accordance with the terms and conditions of this RFQ. The Applications shall be evaluated on the basis of the pre-determined Pre-qualification Requirements set out in section 4. The pre-qualified Applicants will then be shortlisted in accordance with the shortlisting criteria and process set out in section 5. For the purposes of ensuring the quality of the Shortlisted Bidders that progress to the RFP Stage, the number of Shortlisted Bidders is limited to a maximum of 5 (five).
 - (B) The RFQ Stage is a stand-alone and independent stage that is complete once the Shortlisted Bidders are identified by the Contracting Authority and all Applicants have received notification of the results of the RFQ Stage from the Contracting Authority.
 - (ii) **Stage 2: RFP Stage**
 - (A) The RFP Stage is the competitive procurement process that follows the RFQ Stage and is intended to result in the selection of a Preferred Bidder. Only the Shortlisted Bidders will be invited to submit Proposals during the RFP Stage. The RFP will provide details on the technical and financial Proposals required to be submitted. Proposals shall be opened and evaluated in accordance with the terms of the RFP and the Preferred Bidder will be selected, based upon the submitted Proposals and the evaluation criteria set out in the RFP.
 - (B) A Bid Security will need to be submitted at the RFP Stage.
 - (C) Once selected, the Contracting Authority will finalize and sign the PPP Contract with the Project Company to implement the Project.

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- (D) Should the Preferred Bidder delay the signing of the PPP Contract or the financial close beyond the date specified in the RFP or LoA, the Contracting Authority reserves the right to award the Project to the next highest ranked RFP compliant Shortlisted Bidder in place of the Preferred Bidder.

3.3 Tentative timeline

The Contracting Authority anticipates carrying out the RFQ Stage in accordance with the tentative timeline set out in Table 1 ("**Indicative Bid Schedule**"). However, the Contracting Authority reserves the right to make changes to the Indicative Bid Schedule, including extending the Due Date, if it deems it necessary. Registered Entities will be notified of any change by an Addendum and/or Corrigendum to this RFQ.

Table 1: Indicative Bid Schedule

Ref.	Activity	Cumulative Days from the date of issue of RFQ (or date)
1.	Issue of RFQ	0
2.	Pre-Application Meeting	8 March 2018
3.	Submission of Applications to the Contracting Authority (this is the Due Date, as described in section 6.5)	45
4.	Complete evaluation of Applications for pre-qualifying and shortlisting Applicants	66
5.	Approval of Shortlisted Bidders	71
6.	Notification of Shortlisted Bidders for RFP Stage	76

3.4 Responsibility of Applicants

For the purposes of assessing and responding to this RFQ, each Applicant should at its own cost:

- (a) conduct its own investigation and analysis of the Project and the laws applicable to this RFQ, the bidding process for the Project and the Project;
- (b) check the accuracy, reliability and completeness of the information in this RFQ; and
- (c) obtain independent advice from appropriate sources which may include but shall not be limited to its own independent financial, legal, accounting, engineering, technical or other experts.

3.5 Pre-Application Meeting

- (a) A Pre-Application Meeting will be held by the Contracting Authority for Registered Entities. The time and venue of the Pre-Application Meeting will be notified to Registered Entities using the Authority Communication Protocol. Only Registered Entities shall be allowed to participate in the Pre-Application Meeting. A maximum of 3 (three) representatives for each Registered Entity shall be allowed to attend

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the Pre-Application Meeting. The Contracting Authority may revise the date, time, venue and/or the number of representatives permitted to attend the Pre-Application Meeting. If the Contracting Authority makes any such change it will inform only Registered Entities through the Authority Communication Protocol.

- (b) The purpose of the Pre-Application Meeting shall be to provide further information about the Project and the bidding process. Prior to the Pre-Application Meeting, Registered Entities may submit any questions, requests for clarification and/or suggestions for consideration of the Contracting Authority in accordance with section 3.6. Registered Entities will also be free to seek clarifications and make suggestions for consideration by the Contracting Authority during the course of the Pre-Application Meeting provided that written responses shall only be given through the Authority Communication Protocol in accordance with section 3.6(c) in response to those questions, requests for clarification and/or suggestions for consideration that are submitted in writing in accordance with section 3.6.
- (c) Any presentation materials presented by the Contracting Authority at the Pre-Application Meeting will be uploaded to the Data Room. Any such presentation materials shall not in any event be construed as an agreement, understanding or an instruction by the Contracting Authority and nor shall they be binding on the Contracting Authority.
- (d) The Contracting Authority may provide such clarifications at the Pre-Application Meeting as it deems appropriate provided that any revision to the bidding documents that may become necessary as a result of the Pre-Application Meeting, will be made by the Contracting Authority exclusively through the issue of an Addendum and/or Corrigendum in accordance with section 3.7 and not through any clarifications given at the Pre-Application Meeting.
- (e) The Contracting Authority further reserves the right to set up one or more follow-up meetings after the initial Pre-Application Meeting, if it deems it necessary.

3.6 Clarification Requests

- (a) Registered Entities may ask any question or request any clarification with regards to this RFQ, or make any suggestion for consideration by the Contracting Authority in writing by e-mail and/or letter to the e-mail or address set out in section 10.3. Registered Entities are encouraged to submit questions, requests for clarification and/or suggestions for consideration at least 7 (seven) Days prior to the Pre-Application Meeting. Registered Entities may submit questions, requests for clarification and/or suggestions for consideration after such date but prior to the date falling 20 (twenty) Days prior to the Due Date. The Contracting Authority may, at its sole discretion, elect to accept any question or request for clarification submitted less than 20 (twenty) Days prior to the Due Date.
- (b) All queries, requests for clarification and/or suggestions for consideration that are submitted by e-mail shall be submitted by the Registered Entity to the Contracting Authority in MS Word format. If any query, request for clarification or suggestion for consideration is delivered by way of letter, a copy of the query or request for clarification shall also be submitted by the Registered Entity to the Contracting Authority by email in MS Word format and in case of any discrepancy between copies delivered by letter and those delivered by e-mail, the latter shall prevail. Registered Entities shall use the template below for submission of queries or requests for clarification:

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Subject:		Submission of queries, requests for clarification and/or suggestions for consideration in respect of the request for qualification (" RFQ ") issued for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through PPP (the " Project ")	
Defined terms:		Unless otherwise defined, capitalised terms used in this submission shall have the meaning given to them in the RFQ.	
Date of submission:		[Insert date of submission]	
Registered Entity:		[Insert name of Registered Entity]	
Ref. No.	Section of RFQ	Query/ request for clarification/ suggestion for consideration	Proposed drafting amendment* (if any)

**Note: Registered Entities to apply strikethrough to deleted items and underscore to added items*

- (c) The Contracting Authority will share all the queries, requests for clarification and suggestions for consideration and its responses thereto, with all Registered Entities, through the Authority Communication Protocol, without identifying the source of the questions, requests for clarification and./or suggestions for consideration.
- (d) Notwithstanding anything else to the contrary in this RFQ, the Contracting Authority may, at its sole discretion, elect not to respond to any question, provide any clarification in response to a request or consider any suggestion submitted under the terms of this RFQ and nothing in this RFQ shall be taken to or be read as compelling or requiring the Contracting Authority to give any such response.
- (e) Prior to the Due Date, the Contracting Authority shall be able to provide its interpretations and/or clarifications to this RFQ either on its own motion, in response to any clarification request by a Registered Entity or for any other reason whatsoever provided that that all clarifications and interpretations issued by the Contracting Authority shall be deemed to be part of this RFQ only if issued as an Addendum and/or Corrigendum.

3.7 Addenda and Corrigenda

- (a) Prior to the Due Date, the Contracting Authority may, for any reason whatsoever, whether on its own initiative or in response to a clarification requested by a Registered Entity or otherwise, amend and/or make corrections to this RFQ. Any amendments and corrections to this RFQ shall be made by Addenda and Corrigenda respectively.
- (b) The Registered Entities will be notified of any Addendum or Corrigendum through the Authority Communication Protocol.
- (c) The RFQ as amended or corrected by an Addendum or Corrigendum will be deemed to be the applicable documentation for purposes of the RFQ Stage.

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- (d) The Contracting Authority shall ensure that there is a period of at least 14 (fourteen) Days or more between the issue of an Addendum or Corrigendum and the Due Date.

3.8 Application costs

- (a) Each Registered Entity and Applicant shall bear all costs associated with its participation in the bidding process, its evaluation of this RFQ and the preparation and submission of its Application, including all costs and expenses related to its involvement in but not limited to the following:
 - (i) site visits and inspections;
 - (ii) information gathering processes and appointment of advisers and consultants;
 - (iii) preparation and submission of responses to questions or requests for clarification from the Contracting Authority;
 - (iv) preparation and submission to the Contracting Authority of queries and requests for clarification;
 - (v) attendance at the Pre-Application Meeting and any follow-on meetings scheduled by the Contracting Authority; and
 - (vi) preparation, collection and submission of the Letter of Application, all Forms and all required supporting documents or information.
- (b) The Contracting Authority shall not be held responsible for or in any way be held liable to pay any costs or expenses of any Registered Entity or Applicant, regardless of the conduct or outcome of the bidding process and regardless of whether a Registered Entity submits an Application.

3.9 Applicant's representation

It shall be deemed that by submitting an Application, the Applicant has:

- (a) made a complete and careful examination of this RFQ;
- (b) accepted the RFQ and the terms and conditions governing the bidding process;
- (c) acknowledged that it does not have a Conflict of Interest;
- (d) satisfied itself about all matters, things and information necessary and required for submitting an informed Application in accordance with the terms and conditions of this RFQ;
- (e) acknowledged and agreed that the Contracting Authority, the PPP Authority, and their respective Representatives shall not be liable to any Applicant or Registered Entity, 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 without limitation: the accuracy, adequacy, correctness, completeness or reliability of the RFQ or any information contained within it; any omission, mistake or error on the part of a Registered Entity or Applicant; or the Contracting Authority's or PPP Authority's responses to queries or requests for clarifications made by the Registered Entities or Applicants; or any assessment, assumption, statement or information contained therein or deemed to form part of this RFQ or arising in any

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way from participating in the bidding process, nor shall this be a ground for termination of the PPP Contract; and

- (f) agreed to be bound by the undertakings provided by it under the terms and conditions stated in this RFQ.

4. PRE-QUALIFICATION REQUIREMENTS

In order to progress to the shortlisting stage described in section 5, Applicants must satisfy all the Pre-qualification Requirements set out in sections 4.1 to 4.3. Applicants must submit a complete Application, including all required Forms and supporting documents and information, in accordance with section 6.1 and otherwise in accordance with the terms and conditions of this RFQ, in order to demonstrate that it satisfies such Pre-qualification Requirements.

4.1 Legal Pre-qualification Requirements

- (a) Nature of an Applicant

- (i) The Applicant must be either:

- (A) a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile; or

- (B) a Consortium where each Consortium Member is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile.

- (ii) An Applicant and in the case of a Consortium, each Consortium Member, shall not be entitled to submit another Application either individually or as a Consortium Member of any other Consortium and shall not be entitled to participate in more than one Consortium bidding for the Project at the RFP Stage. Furthermore, an Applicant can submit only one Application in response to this RFQ. In the event that an entity applying individually or as a Consortium Member participates in more than one Application, all the Applications with that entity's participation will be deemed invalid.

- (b) Authorisation of nominated representative

The Applicant (or in the case of an Applicant that is a Consortium, each member of the Consortium), must have duly authorised a nominated representative to represent and irrevocably bind that Applicant or Consortium Member, and conduct all business for and on behalf of that Applicant or Consortium Member, during the bidding process for the Project, as evidenced by a certified copy of a resolution of the board of directors authorising the nominated representative on terms equivalent to those set out in Form 8 (Authorisation to a representative) provided that in the event that pursuant to the constitutional documents of any Applicant or Consortium Member, it is not possible for a Consortium Member to provide a board resolution, then a power of attorney authorising the nominated representative on equivalent terms, accompanied by supporting evidence of the due authority of the signatory to the power of attorney and complying with all requirements under applicable law, including the Power of Attorney Act, 2012 and the Power of Attorney Rules, 2015, shall be acceptable.

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(c) Additional Legal Pre-qualification Requirements applicable to Consortia

Where the Applicant is a Consortium, it shall comply with the following additional requirements (in each case as shown in the Forms and supporting documents and information submitted by the Applicant):

- (i) the Consortium shall not have more than 5 (five) Consortium Members (including the Lead Member);
- (ii) the Consortium shall have a Lead Member that:
 - (A) will hold at least 26% (twenty six per cent) equity shareholding in the Project Company if the Applicant is appointed as Preferred Bidder;
 - (B) will be the largest shareholder in the Project Company if the Applicant is appointed as Preferred Bidder;
 - (C) has been duly authorised under a letter of authorisation(s) to represent and irrevocably bind any and all Consortium Members, and conduct all business for and on behalf of any and all the Consortium Members, during the bidding process for the Project, as evidenced by Form 7 (Letter of Authorisation for Lead Member of Consortium) accompanied by supporting evidence of the due authority of the signatory/ signatories to the letter of authorisation(s); and
 - (D) has been designated by the Consortium as the Lead Member;
- (iii) each Non-Lead Member of the Consortium will hold at least 10% (ten per cent) equity shareholding in the Project Company if the Applicant is appointed as Preferred Bidder; and
- (iv) the roles and responsibilities of each Consortium Member with reference to the financial, technical, operation and maintenance obligations of the Project have been defined.

4.2 Financial Pre-qualification Requirements

(a) Financial Pre-qualification Requirements

The Applicant's Financial Nominee must satisfy each and all of the following requirements (the "**Financial Pre-qualification Requirements**"):

- (i) the Financial Nominee must have had a net worth (being the total amount of all assets minus all liabilities, as stated in the audited balance sheet) of at least one hundred million US Dollars (USD \$100,000,000) (or its equivalent in another currency) at the end of each of the most recent 3 (three) full financial years falling prior to the Due Date, as evidenced by certified copies of audited financial statements;
- (ii) the Financial Nominee must have been profitable and a going concern in each of the most recent 3 (three) full financial years falling prior to the Due Date, as evidenced by certified copies of audited financial statements; and
- (iii) the Financial Nominee must be able to demonstrate that it has raised at least one hundred million US dollars (USD \$100,000,000) (or its equivalent in another currency) in third party debt for 1 (one) project in the 5 (five) year period falling prior to and ending on the Due Date.

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(b) Financial Nominee

The Applicant shall nominate one of the following entities for the purpose of meeting the Financial Pre-qualification Requirements ("**Financial Nominee**"):

- (i) the Applicant itself (if the Applicant is a partnership or corporation);
- (ii) the Lead Member (if the Applicant is a Consortium); or
- (iii) an Affiliate of the Applicant or, if the Applicant is a Consortium, an Affiliate of the Lead Member, in each case that has submitted as part of the Application, a certificate in the form set out in Form 11 and that is not participating in any other Application in response to this RFQ whether as a nominated contractor, a nominated Affiliate, an Applicant or a Consortium Member,

provided that only a single entity may be nominated to satisfy all the Financial Pre-qualification Requirements.

4.3 Technical Pre-qualification Requirements

(a) Technical Pre-qualification Requirements

The Applicant must satisfy each of the following criteria (the "**Technical Pre-qualification Requirements**"):

- (i) the Contract Performance Criteria; and
- (ii) the Eligible Projects Criteria.

(b) Contract Performance Criteria

- (i) The Applicant or, if the Applicant is a Consortium, each and all Consortium Members, shall not have been the subject of any court or arbitral award decision determined against the Applicant or Consortium Member (as applicable) in respect of any material contract to which the Applicant or Consortium Member was a party during the 5 (five) years falling prior to and ending on the Due Date, for which the Applicant or Consortium Member was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the Applicant or Consortium Member (as applicable).
- (ii) If an Affiliate is nominated as an Eligible Project Nominee and/or a Local Eligible Project Nominee and/or a nominated contractor is nominated as a Local Eligible Project Nominee in accordance with the terms of this RFQ, the criteria set out in section 4.3(b)(i) shall also apply *mutatis mutandis* to such Affiliate or nominated contractor (as applicable).

(c) Eligible Projects Criteria

- (i) The Applicant's Eligible Project Nominees must have undertaken the construction of at least 2 (two) Eligible Projects.
- (ii) Each Applicant shall be permitted to submit up to a maximum of 5 (five) Reference Projects as potential Eligible Projects.
- (iii) An Eligible Project is a project:

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- (A) involving the construction of a highway, expressway or roadway with at least a 4-lane (four-lane) carriageway configuration on a PPP or EPC basis;
 - (B) that was completed and opened to operations during the 10 (ten) years falling prior to and ending on the Due Date;
 - (C) with a Reference Project Total Project Cost of at least USD 200,000,000 (two hundred million US Dollars), provided that the amount of the Reference Project Total Project Cost shall be inflated using the Relevant Inflation Index from the year in which construction started until the year in which the Due Date falls; and
 - (D) for which the Eligible Project Nominee held at least a 26% (twenty six per cent) equity shareholding in the relevant special purpose vehicle, joint venture company, partnership or other corporation or business organisation with primary responsibility for:
 - (aa) the design, procurement, construction, testing and commissioning obligations, in the case of an Eligible Project undertaken on an EPC basis; or
 - (bb) the design, procurement, construction, testing and commissioning, financing and operation and maintenance obligations, in the case of a Eligible Project undertaken on a PPP basis.
- (iv) The Applicant shall nominate 1 (one) or more of the following entities for the purpose of meeting the Eligible Projects Criteria (each an **"Eligible Project Nominee"**):
- (A) the Applicant itself (if the Applicant is a partnership or corporation);
 - (B) a Consortium Member (if the Applicant is a Consortium); or
 - (C) an Affiliate of the Applicant or a Consortium Member (as applicable) that has submitted as part of the Application, a certificate in the form set out in Form 11 and that is not participating in any other Application in response to this RFQ whether as a nominated contractor, a nominated Affiliate, an Applicant or a Consortium Member.

5. SHORTLISTING CRITERIA AND PROCESS

- 5.1 An Applicant that satisfies all the Pre-qualification Requirements set out in sections 4.1 to 4.3 ("**Pre-qualified Applicant**") shall progress to the shortlisting stage described in this section 5.
- 5.2 If the number of Pre-qualified Applicants is 5 (five) or less, all Pre-qualified Applicants shall be shortlisted to submit a Proposal in response to the RFP as the "Shortlisted Bidders".
- 5.3 If the number of Pre-qualified Applicants is greater than 5 (five), then the shortlisting process set out in sections 5.4 to 5.8 shall apply.

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5.4 Shortlisting Score

The Application of each Pre-qualified Applicant shall be evaluated against the shortlisting criteria set out in section 5.5 ("**Shortlisting Criteria**") and each Pre-qualified Applicant shall be awarded a shortlisting score ("**Shortlisting Score**") equal to the aggregate number of marks awarded against the Shortlisting Criteria.

5.5 Shortlisting Criteria

(a) Shortlisting Criteria "A" – number of Eligible Projects

Subject to section 4.3(c)(ii) above, each Pre-qualified Applicant will be awarded 5 (five) marks for each Eligible Project submitted by the Pre-qualified Applicant.

(b) Shortlisting Criteria "B" – elevated highway projects

Subject to section 4.3(c)(ii) above, each Pre-qualified Applicant will be awarded an additional 3 (three) marks for each Eligible Project submitted by the Pre-qualified Applicant that is an elevated highway project with a minimum length of 3 (three) kilometres.

(c) Shortlisting Criteria "C" – PPP projects

(i) Subject to section 4.3(c)(ii) above, each Pre-qualified Applicant will be awarded an additional 7 (seven) marks for each Eligible Project submitted by the Pre-qualified Applicant that was implemented on a PPP basis (including design, procurement, construction, testing and commissioning, financing and operation and maintenance responsibility).

(ii) Subject to section 4.3(c)(ii) above, each Pre-qualified Applicant will be awarded an additional 10 (ten) marks if more than one Eligible Project submitted by the Pre-qualified Applicant was implemented on a PPP basis (including design, procurement, construction, testing and commissioning, financing and operation and maintenance responsibility) and such Eligible Projects were located in more than one jurisdiction (in aggregate).

(d) Shortlisting Criteria "D" – Local Eligible Project

(i) Each Pre-qualified Applicant will be awarded an additional 7 (seven) marks if it submits a Local Eligible Project that was undertaken by a Local Eligible Project Nominee.

(ii) A Local Eligible Project is a project:

(A) involving the construction of a highway, expressway, flyover, bridge or roadway in Bangladesh;

(B) that was completed and opened to operations during the 10 (ten) years falling prior to and ending on the Due Date; and

(C) with a Reference Project Total Project Cost of at least USD 20,000,000 (twenty million US Dollars), provided that the amount of the Reference Project Total Project Cost shall be inflated using the Relevant Inflation Index from the year in which construction started until the year in which the Due Date falls.

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- (iii) The Applicant may nominate 1 (one) or more of the following entities for the purpose of meeting Shortlisting Criteria "D" ("**Local Eligible Project Nominee**"):
- (A) the Applicant itself (if the Applicant is a partnership or corporation);
 - (B) a Consortium Member (if the Applicant is a Consortium);
 - (C) an Affiliate of the Applicant or a Consortium Member (as applicable) that has submitted as part of the Application, a certificate in the form set out in Form 11 and that is not participating in any other Application in response to this RFQ whether as a nominated contractor, a nominated Affiliate, an Applicant or a Consortium Member; or
 - (D) a nominated contractor that has submitted as part of the Application, a certificate in the form set out in Form 10 and that is not participating in any other Application in response to this RFQ whether as a nominated contractor, a nominated Affiliate, an Applicant or a Consortium Member.

5.6 One Eligible Project may meet multiple Shortlisting Criteria and a Local Eligible Project may also be submitted as an Eligible Project subject to satisfaction of the requirements for an Eligible Project and the Eligible Project Nominee. However, Applicants are encouraged to submit the maximum allowed number of Reference Projects (being up to 5 (five) Reference Projects for the purposes of satisfying the Eligible Projects Criteria and Shortlisting Criteria "A" to "C" and an additional 1 (one) Reference Project for the purpose of satisfying Shortlisting Criteria "D").

5.7 Example Shortlisting Score calculation

By way of example for illustration purposes only:

- (a) a Pre-qualified Applicant that submits 5 (five) Eligible Projects, 2 (two) of which involve an elevated highway with a minimum length of 3 (three) kilometres and 3 (three) on a PPP basis, of which 2 (two) were located in the same jurisdiction and one (1) which was performed in another jurisdiction and in addition submits a Local Eligible Project, will be awarded the following Shortlisting Score:

Shortlisting Score for the Pre-qualified Applicant = $(5 \times 5) + (2 \times 3) + (3 \times 7) + 10 + 7 = 69$

- (b) a Pre-qualified Applicant that submits 5 (five) Eligible Projects, none of which involve an elevated highway with a minimum length of 3 (three) kilometres but all of which were undertaken on a PPP basis located in the same jurisdiction and in addition submits a Local Eligible Project, will be awarded the following Shortlisting Score:

Shortlisting Score for the Pre-qualified Applicant = $(5 \times 5) + (0 \times 3) + (5 \times 7) + 0 + 7 = 67$

5.8 Pre-qualified Applicants shall be ranked on the basis of their Shortlisting Scores and the 5 (five) highest ranked Pre-qualified Applicants shall be shortlisted to submit a Proposal in response to the RFP as the "Shortlisted Bidders". In the event of a tie in the Shortlisting Scores of 2 (two) or more Pre-qualified Applicants, the sum of the Reference Project Total Project Cost of all Eligible Projects (excluding, unless it is also an Eligible Project, any

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Local Eligible Project) submitted by each of the tied Pre-qualified Applicants shall be calculated and the tied Pre-qualified Applicants with the higher aggregate Reference Project Total Project Cost shall be ranked higher.

6. SUBMISSION OF THE APPLICATION

6.1 Application documents

Each Applicant must submit its Application on or before the Due Date strictly in accordance with the requirements of this RFQ and each Application must include:

- (a) the RFQ submission identification sheet attached as set out in section 6.4(h);
- (b) the original letter of application, duly completed and executed in the form set out in Form 2 (Letter of Application) ("**Letter of Application**");
- (c) the Forms listed below as enclosures with the Letter of Application, each duly completed and if applicable, executed in the form set out in the Appendix of this RFQ and otherwise in accordance with the instructions set out in this RFQ and with the required supporting documents and information appended:

Form	Form Description	Executed/ Completed by
3	Particulars of Applicant	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> Lead Member
4	Particulars of Local Eligible Project	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> Lead Member (only applicable if a Local Eligible Project is submitted for the purposes of the Shortlisting Criteria)
5	Particulars of Eligible Projects	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> Lead Member
6	Financial Capability (in respect of financial capability of the Financial Nominee)	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> Lead Member
7	Letter of authorisation for Lead Member of Consortium	<u>Single entity Applicant:</u> Not applicable <u>Consortium:</u> Non-Lead Members
8	Authorisation to a representative	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> each Consortium Member
9	Certificate of Compliance	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> each Consortium Member
10	Certificate by Nominated Contractor of Willingness to Participate	Nominated Contractor(s) (only applicable if nominated to satisfy Shortlisting Criteria "D")

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11	Certificate by Affiliate of [Applicant]/[Consortium Member] of Willingness to Participate	Affiliate(s) of Applicant or Consortium Member (only applicable if nominated to satisfy Pre-qualification Requirements and/or Shortlisting Criteria)
12	Application Checklist	<u>Single entity Applicant:</u> Applicant <u>Consortium:</u> Lead Member

6.2 Language

The Application, and any correspondence and other documents related to the Application or this RFQ submitted by the Applicant or a Registered Entity shall be written in English. Supporting printed literature, documents or other information furnished by an Applicant in another foreign language shall be permitted provided that it is accompanied by an English translation, certified by the translator to be a complete and accurate translation of the original. In case of conflict between the original text and the certified English translation, the certified English translation shall prevail.

6.3 Currency amounts

- (a) All figures in currency amounts must be submitted in USD.
- (b) The exchange rate in the event that the Applicants need to convert foreign currency amounts to USD, shall be those rates listed as the midpoint bid rate on www.oanda.com/currency/historical-rates as on the date of the issue of the RFQ. The Applicant must state the relevant currency and the exchange rate applied for any converted sums.
- (c) The Contracting Authority reserves the right to make arithmetical corrections in respect of all figures contained in any Application if there is an arithmetical error.
- (d) In the event of any discrepancy between any amount in words and figures, the amount in words shall prevail.

6.4 Signing, sealing, and marking of Applications

- (a) Applicants must submit 1 (one) original and 6 (six) copies of their Application in the form described in section 6.1.
- (b) The Application shall be in written form, printed either in standard A4 paper, bound together in ring binders or folders and be fully paginated.
- (c) The original of an Application must be clearly marked "ORIGINAL" ("**Original Application**") and the other copies marked "COPY" ("**Copy Applications**"). In the event of any discrepancies between the Original Application and the Copy Applications, the Original Application shall prevail.
- (d) The Original Application shall be signed by the authorised representative of the Applicant who shall also initial each page of the Original Application, in each case in blue or black ink. Any alterations, omissions, additions or any other amendments made to the Original Application shall be initialled by the authorised representative of the Applicant.
- (e) The Applicant shall seal: the Original Application in an envelope marking the envelope as "ORIGINAL"; and the Copy Applications in envelopes marking the envelopes as "COPIES".

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- (f) Additionally, two electronic versions of the Application shall be provided on compact discs, suitable for electronic reproduction in PDF format and two electronic versions of the Application shall be provided on memory sticks, suitable for electronic reproduction in PDF format.
- (g) The Applicant shall prepare an outer envelope or package, which shall contain:
 - (i) the envelopes marked ORIGINAL and COPIES prepared in accordance with section 6.4(c) and
 - (ii) the compact discs and memory sticks prepared in accordance with section 6.4(f),

(the "**Package**").

- (h) Each Package shall:
 - (i) have the RFQ Submission Identification Sheet, in the form set out in Form 1, affixed to the outside along with a duplicate for receipt of submission which shall:
 - (A) clearly be marked "Application for Qualification for Rampura-Amulia-Demra Road Project Through Public Private Partnership";
 - (B) clearly indicate the name and address of the Applicant; and
 - (C) indicate the Due Date on the right hand corner;
 - (ii) be addressed and submitted to:

Designation:	Additional Chief Engineer Public Private Partnership Cell Roads and Highways Department
Address:	Public Private Partnership Cell Roads and Highways Department Flat # 502, 132/4, New Baily Road Dhaka -1000, Bangladesh

; and

- (iii) be individually sealed.

If a Package and each envelope enclosed within it 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 and subsequent losses, if any, suffered by the Applicant.

- (i) The Applicant may deliver or submit the Application either through pre-paid courier or in person, at the address as provided in section 6.4(h)(ii). Applications submitted by any other means, including fax, telex, telegram or e-mail, shall not be accepted and shall be rejected.

6.5 Due Date

- (a) Applications shall be submitted on or before 1400 hours BST, on 10 April 2018 (the "**Due Date**") to the address provided in section 6.4(h)(ii) above, in the manner and form as detailed in this RFQ.

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- (b) It is the sole responsibility of each Applicant to make sure that: its Application is delivered on or before the Due Date; and an acknowledgment of submission is requested and received from the Contracting Authority.
- (c) The Contracting Authority may, in its sole discretion, extend the Due Date by issuing an Addendum to all Registered Entities.

6.6 Late Applications

Applications received by the Contracting Authority after the specified time on the Due Date shall not be eligible for consideration and shall be rejected.

6.7 Modifications, substitutions or withdrawal of Applications

- (a) The Applicant may modify, substitute or withdraw its Application after submission, provided that a written notice of the modification, substitution or withdrawal is received by the Contracting Authority prior to the Due Date. No Application shall be modified, substituted or withdrawn by the Applicant after the Due Date.
- (b) The modification, substitution or withdrawal notice shall be prepared, signed, sealed, marked, and delivered, in an original version, copies and electronic versions, in accordance with section 6.4, with the envelopes being additionally marked as "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.
- (c) Any modification, substitution or withdrawal of the Application or additional information supplied subsequent to the Due Date, unless the same has been expressly sought by the Contracting Authority, shall be disregarded.

6.8 Changes to an Applicant

- (a) Subject to section 6.8(b) below:
 - (i) a change in the composition of a Consortium that is an Applicant; or
 - (ii) a change in the composition of an Applicant that is a single entity from a single entity Applicant to a Consortium Applicant,will not be permitted by the Contracting Authority after the Due Date.
- (b) A change in the composition of an Applicant, either as a result of addition of a new Non-Lead Member, substitution of an existing Non-Lead Member with a new member, withdrawal of a Non-Lead Member and/or a change in the respective shareholdings in the proposed Project Company, may be permitted by the Contracting Authority after the RFQ Stage but before the submission of the Proposals at the RFP Stage only where:
 - (i) the Lead Member continues to be the Lead Member of the Consortium or in the case of a single entity Applicant that intends to change its composition to be a Consortium Applicant, the single entity Applicant is the Lead Member of the Consortium and the Consortium otherwise satisfies all the Legal Pre-qualification Requirements;
 - (ii) the Consortium continues to have or has no more than 5 (five) Consortium Members composed only of the Lead Member and Non-Lead Members;
 - (iii) the substitute (in cases where a new member is replacing an existing Non-Lead Member or is joining with a single entity Applicant to form a Consortium) satisfies the Legal Pre-qualification Requirements and all other applicable

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requirements of this RFQ and to the extent the new Non-Lead Member is also the Local Eligible Project Nominee, is at least equal, in terms of the capacity of the Consortium Member who is sought to be substituted to fulfil Shortlisting Criteria "D";

- (iv) the new Non-Lead Member(s) expressly adopt(s) the Application already made on behalf of the Applicant as if it were a party to it originally and submits Form 7, Form 8, Form 9 and if it is also the Local Eligible Project Nominee, revised particulars of the Reference Project under Form 4; and
 - (v) the new composition of the Applicant is at least equal to the entire previous composition of the Applicant in terms of capacity to fulfil the Technical Pre-qualification Requirements and the Financial Pre-qualification Requirements and Shortlisting Score and the modified Applicant continues to satisfy the Legal Pre-qualification Requirements and all other requirements of this RFQ.
- (c) Approval for a change in the composition of an Applicant shall be at the sole discretion of the Contracting Authority and must be approved by the Contracting Authority in writing.
- (d) The modified Applicant shall be required to submit each Form, together with all supporting documents and information, that requires amendment as a result of the change, at the time specified in the RFP.
- (e) Any change in the composition of an Applicant other than as set out above shall lead to the rejection of the Application and/or Proposal and forfeiture of the Bid Security, if any.
- (f) Applicants will not be able to change their composition after the due date for Proposals up to the signing of the PPP Contract. After the execution of the PPP Contract, any change in the equity of the Project Company shall be subject to the terms and conditions of the PPP Contract.

6.9 Changes to a nominee

- (a) If a nominated contractor or nominated Affiliate is proposed as a Local Eligible Project Nominee, Eligible Project Nominee or Financial Nominee in accordance with the terms of this RFQ, then, subject to section 6.9(b) below, a substitution of such nominated contractor or nominated Affiliate will not be permitted by the Contracting Authority after the Due Date.
- (b) Substitution of a nominated contractor or nominated Affiliate may be permitted by the Contracting Authority after the RFQ Stage but before the submission of the Proposals at the RFP Stage only where:
 - (i) the substitute is at least equal, in terms of the capacity of the Local Eligible Project Nominee, Eligible Project Nominee or Financial Nominee who is sought to be substituted, to fulfil the applicable Financial Pre-qualification Requirements, Technical Pre-qualification Requirements or Shortlisting Criteria and all other applicable requirements of this RFQ;
 - (ii) if the substitute was previously nominated by another Applicant at the RFQ Stage, that Applicant is not a Shortlisted Bidder or has otherwise withdrawn from the RFP Stage; and
 - (iii) the new nominated contractor or nominated Affiliate submits revised particulars of the relevant Reference Projects pursuant to Form 4 and/or Form 5 (if and as applicable), and/or revised particulars of financial

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capability pursuant to Form 6 (if and as applicable) and a certificate of its willingness to participate under Form 10 or 11 (as applicable).

- (c) Approval for a change in a substitution of a nominated contractor or nominated Affiliate as the Local Eligible Project Nominee, Eligible Project Nominee or Financial Nominee shall be at the sole discretion of the Contracting Authority and must be approved by the Contracting Authority in writing.
- (d) The Applicant shall be required to submit each Form, together with all supporting documents and information, that requires amendment as a result of the change, at the time specified in the RFP.
- (e) Any change in a nominated contractor or nominated Affiliate other than as set out above shall lead to the rejection of the Application and/or Proposal and forfeiture of the Bid Security, if any.
- (f) Applicants will not be able to change a nominated contractor or nominated Affiliate after the due date for Proposals up to the signing of the PPP Contract. After the execution of the PPP Contract, any such changes shall be subject to the terms and conditions of the PPP Contract.

6.10 Joint and several liability

Where the Applicant is a Consortium, all Consortium Members shall be liable jointly and separately for the obligations under this RFQ (and if the Applicant is shortlisted, under the RFP).

6.11 Return of Applications

The Contracting Authority will not return any Application or any information provided along therewith by an Applicant. However, Applications that have been duly withdrawn under section 6.7, may be collected by the Applicant or their authorized representatives on or after the Due Date. If the Applications are not collected within 30 (thirty) Days of the Due Date, the Contracting Authority reserves the right to dispose of the Application.

7. EVALUATION OF THE APPLICATIONS

7.1 Opening of Applications

- (a) The Contracting Authority shall open the Applications at 1430 hours BST on the Due Date at the place specified in section 6.4(h)(ii) and in the presence of the Applicant(s), or authorized person(s) of the Applicant(s), who choose to attend. Applications for which a notice of withdrawal has been submitted in accordance to section 6.7 shall not be opened.
- (b) The Contracting Authority will subsequently review and evaluate each Application in accordance with the provisions set out in this RFQ. Pre-qualification and shortlisting of the Applicants will be entirely at the discretion of the Contracting Authority following the processes, procedures and the qualification criteria outlined in this RFQ. The Contracting Authority reserves the right to use and interpret the documentation it receives in accordance with its own judgment in order to properly apply the qualification criteria to pre-qualify and shortlist Applicants, and to decide alone and without any Applicant being entitled to any recourse, which Applicants will be determined as Shortlisted Bidders.

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7.2 Test of compliance

- (a) The Contracting Authority will conduct an initial review of each Applicant and each Application received for completeness and compliance with the RFQ, to determine if the Application should be considered further.
- (b) The Contracting Authority in its absolute discretion may (but is not obliged to) waive any non-conformity or irregularity in an Application.

7.3 Right to accept or reject any or all Applications

- (a) Notwithstanding anything contained in this RFQ, the Contracting Authority may accept or reject any Application or annul the bidding process at any time without any notice, any liability or any obligation and without assigning any reasons thereof. If the Contracting Authority rejects all Applications and/or annuls the bidding process, it may, in its discretion, re-issue the RFQ.
- (b) Notwithstanding anything contained in this RFQ, the Contracting Authority reserves the right to disqualify any Applicant (and where the Applicant is a Consortium, the entire Consortium) and/or reject any Application at any time, in the following circumstances:
 - (i) if the Application is deemed to be incomplete, non-responsive, inconsistent, ambiguous for any reason including without limitation, if the Applicant:
 - (A) is not a Registered Entity (or if a Consortium, its members are not Registered Entities);
 - (B) fails to submit the complete Application in the form and in accordance with the requirements set out this RFQ;
 - (C) submits an Application that is subject to any conditions or qualifications; or
 - (D) fails submit the Application by the Due Date;
 - (ii) if at any time, a misrepresentation that could lead to failure to meet any mandatory requirements set out in this RFQ is made or discovered in the Application;
 - (iii) if any one or more of the Pre-qualification Requirements are not met by the Applicant;
 - (iv) if the Applicant (or where the Applicant is a Consortium, any member of that Consortium):
 - (A) provides materially incorrect or false information;
 - (B) has a Conflict of Interest; or
 - (C) has directly or indirectly or through an agent, engaged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process for the Project or in the bidding process for any other project in the 3 (three) years prior to and ending on the Due Date or is otherwise in breach of the terms of section 9; or

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- (v) if the Applicant or where the Applicant is a Consortium, any member of that Consortium or where the nominee is not an Applicant or Consortium Member, a Local Eligible Project Nominee, Eligible Project Nominee or Financial Nominee:
 - (A) is from a country which does not have diplomatic relations with the Government;
 - (B) does not have legal capacity to enter into a contract with the Contracting Authority;
 - (C) is insolvent, in receivership, bankrupt or being wound up or its business activities are to be suspended or it is to be the subject of legal proceedings for any of the foregoing, or it intends to submit an application for insolvency or liquidation;
 - (D) is one with whom, in the 3 (three) years prior to and ending on the Due Date, the Contracting Authority has entered into a contract for some other purpose and later terminated the contract prior to the expiry of the contract due to an event of default on the part of the Applicant;
 - (E) has been debarred or blacklisted by any international development agency or funding agency such as the World Bank, Asian Development Bank, or other similar multinational organisation during the 5 (five) years prior to and ending on the Due Date;
 - (F) has, including any directors thereof, been convicted of a criminal offence in Bangladesh within the 5 (five) years prior to and ending on the Due Date; or
 - (G) has 100% (one hundred per cent) ownership in any entity which is prohibited by the Government from participating in any project, if that prohibition subsists as on the date of the Application.
- (c) If it is found that of any of the circumstances in section 7.3(b) above have occurred, the Contracting Authority reserves the right to take any such measures as may be deemed fit by the Contracting Authority and at the sole discretion of the Contracting Authority, including annulment of the bidding process.
- (d) Notwithstanding anything to the contrary contained in this RFQ, the Contracting Authority shall not be liable to the Applicant in any manner whatsoever in the event of rejection of an Application, termination of the bidding process or re-issue of the RFQ thereafter.

7.4 Evaluation

- (a) Following its initial review of completeness and compliance as set out in section 7.2, the Contracting Authority will proceed to conducting its evaluation of those Applications that are not rejected.
- (b) The Contracting Authority shall first evaluate each Application in accordance with section 4 to determine if the Pre-qualification Requirements have been satisfied and if the Application and Applicant are pre-qualified. An Application will be given an overall rating of "pre-qualified" if each Pre-qualification Requirement is rated "pass". Subject to section 7.2(b), an Applicant will be disqualified if any Pre-qualification Requirement is marked "fail".

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- (c) Those Applications that are pre-qualified in accordance with section 7.4(b) will then be evaluated and ranked by the Contracting Authority against the Shortlisting Criteria in accordance with the process set out in section 5.

7.5 Clarification requests by the Contracting Authority

- (a) The evaluation of each Application will be based solely on the contents of the Application and any clarification and/or supplementary information provided pursuant to this section.
- (b) To facilitate evaluation of each Application, the Contracting Authority may at its sole discretion, seek written clarifications and/or supplementary information from any Applicant regarding its Application through letter and/or email after the Application has been received. The Applicant shall submit any requested clarification(s) and/or supplementary information by letter and a copy by email to the Contracting Authority's Representative within the time prescribed by the Contracting Authority. Any extension to prescribed time for response shall be at the sole discretion of the Contracting Authority.
- (c) If an Applicant does not provide any requested clarification and/or supplementary information within the prescribed time, its Application may be rejected. If the Application is not rejected, the Contracting Authority may proceed to evaluate the Application by interpreting the particulars requiring clarification to the best of its understanding and that of its advisors, and the Applicant may not question the Contracting Authority's interpretation.
- (d) An Applicant shall not be permitted to make amendments to its original Application in the form of a clarification.
- (e) The Contracting Authority reserves the right to verify all statements, information, references and documents submitted by the Applicant in response to this RFQ, including by way of reference checks. The Contracting Authority may rely on and consider any information obtained from any reference or source in connection with any Application and it may further apply any such information in evaluating the applicable Application. Failure of the Contracting Authority to undertake any such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Contracting Authority.

7.6 Treatment of a single Application

In the event that only one Application is received in response to the RFQ or if there is only one Applicant who has pre-qualified at the end of the RFQ Stage, the bidding process shall be cancelled. The Contracting Authority may re-launch the RFQ process, modifying the RFQ as required and/or may take such other action as permitted under the PPP Act and PPP Guideline.

7.7 Notification and debriefing

- (a) Following approval by the Contracting Authority, the Contracting Authority's Representative will contact all Applicants to inform them whether or not they have been selected as the Shortlisted Bidders for participation in the RFP Stage. The Contracting Authority may then publicly disclose the names of the Shortlisted Bidders, and issue the RFP to those Shortlisted Bidders.
- (b) The Contracting Authority may, upon request of any unsuccessful Applicant, conduct a debriefing session with such unsuccessful Applicant. Any information given to the Applicant in a debriefing session must remain confidential and the

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Applicant must, if so requested by the Contracting Authority, enter into a confidentiality agreement to that effect. During such debriefing, only the strengths and weaknesses of the Applicant's Application relative to the evaluation criteria will be disclosed and discussed. The evaluation, ranking and content of any other Applications will not be disclosed.

8. CONFLICT OF INTEREST

- (a) Applicants shall not have a Conflict of Interest in relation to this Project. Any Applicant found to have a Conflict of Interest shall be disqualified.
- (b) For the purposes of this RFQ, "**Conflict of Interest**" means, in respect of any Applicant:
 - (i) such Applicant (or any constituent thereof) and any other Applicant (or any constituent thereof) have either directly or indirectly common controlling shareholders;
 - (ii) such Applicant receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated loan from any other Applicant, or has provided any such direct or indirect subsidy, grant, concessional loan or subordinated loan to any other Applicant;
 - (iii) such Applicant has a relationship with another Applicant, either directly or through common third parties, that puts them in a position to have access to each other's information or influence the Application of the other;
 - (iv) such Applicant has participated as a consultant(s) and/or adviser(s) or has directly assisted the Contracting Authority in the preparation of any documents, design or technical specifications of the Project;
 - (v) such Applicant employs or has employed an officer or employee of the Contracting Authority in relation to the Project during the RFQ stage of the bidding process; or
 - (vi) such Applicant appoints any legal, financial or technical adviser of the Contracting Authority in relation to the Project for matters related to or incidental to the Project or the RFQ.
- (c) Applicants or their agents and/or employees shall not engage in discussions or other communications with any other Applicant or their agents and/or employees regarding the preparation or submission of their Application. Breach of this provision may result in disqualification of the Applicant from the bidding process.
- (d) Notwithstanding anything else to the contrary in this RFQ, Applicants may use the same firm or firms to obtain geotechnical, topographical, or other information about the site and may use the same firm or firms to obtain legal advice in respect of the RFQ or Project.

9. FRAUDULENT AND CORRUPT PRACTICES

- (a) Registered Entities and Applicants and their respective partners, suppliers, sub-contractors, sub-consultants, officers, employees, agents, service providers and advisers shall observe the highest standard of ethics during the bidding process. Notwithstanding anything to the contrary contained herein, the Contracting Authority shall reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has directly or indirectly or

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through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process.

- (b) Furthermore, a Registered Entity or Applicant shall not be eligible to participate in any bidding process for any other project of the Contracting Authority for a period of 3 (three) years from the date such Applicant is found by the Contracting Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
- (c) For the purposes of this section, the following terms shall have the meaning hereinafter respectively assigned to them:
 - (i) "**corrupt practice**" means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence the actions of any persons connected with the bidding process for or on behalf of the Contracting Authority;
 - (ii) "**coercive practice**" means impairing or harming or threatening to impair or harm, directly or indirectly, any person or the property of that person to influence improperly the actions of a person involved in the bidding process;
 - (iii) "**collusive practice**" means an arrangement between two or more persons involved in the bidding process designed to achieve an improper purpose, including influencing improperly the actions of another person;
 - (iv) "**fraudulent practice**" means any act or omission including a misrepresentation that knowingly or recklessly misleads or attempts to mislead a person involved in the bidding process to obtain a financial or other benefit or to avoid an obligation;
 - (v) "**obstructive practice**" means (1) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (2) acts intended to materially impede the exercise of the inspection and audit rights of the Contracting Authority, or financier/s of the Project including any development partner of the financier/s; and
 - (vi) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among the Applicants with the objective of restricting or manipulating a full and fair competition in the bidding process.
 - (vii) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Contracting Authority 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;
- (d) Necessary action will be taken against an Applicant or Registered Entity for any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, under applicable laws.

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10. MISCELLANEOUS

10.1 Confidentiality

- (a) All communications between the Applicants and the Contracting Authority and all information obtained in connection with or arising out of this RFQ, shall be treated as confidential during as well as after preparation and submission of the Applications. In the event of any breach of confidentiality by the Applicant, the Contracting Authority, at its sole and absolute discretion, may at any time reject the Application by the Applicant without any further consideration and terminate that Applicant's right to continue in the bidding process.
- (b) Applicants must treat all information obtained in connection with or arising out of the bidding process as the property of the Contracting Authority. The Application and all other correspondence, documentation and information provided to the Contracting Authority by the Applicant in connection with the bidding process shall become the property of the Contracting Authority. All information collected or processed by or for the Contracting Authority is for the sole use of the Contracting Authority at its discretion.
- (c) Applicants must treat all information referred to in sections 10.1(a) and (b) in a highly confidential manner and not use this information for any purpose other than for the purpose of the bidding process and in order to fulfil any related requirement from this RFP stage. Without limiting the generality of the foregoing, Applicants participating in any aspect of the RFQ stage, shall keep highly confidential such participation and any developments in the bidding process.
- (d) Notwithstanding the foregoing, the obligation of confidentiality shall not pertain to information which was at the time of disclosure, or which thereafter became, part of the public domain or is required to be disclosed by law or a court order, where, in such cases, all reasonable attempts will be made to notify the Contracting Authority in advance of doing so.
- (e) Subject to the provisions of this RFQ, the Contracting Authority shall endeavour to maintain the confidentiality of information and/or documents relating to the pre-qualification, examination, clarification, evaluation, negotiations, approval or any other function related to the bidding process, provided that this shall not restrict disclosure to any person who is officially concerned with the bidding process or is a retained professional advisor advising the Contracting Authority in relation to matters arising out of, or concerning the bidding process. The Contracting Authority will further require all those who have access to such information and/or documents to treat the same as confidential.
- (f) Notwithstanding the foregoing, information may become public through the operation of law, or otherwise due to the need for transparency and accountability and in protection of the public interest in the Contracting Authority and in decisions made by the Contracting Authority. The Contracting Authority shall not in any way be liable for disclosure of any confidential information if the disclosure is required under the Right to Information Act, 2009 or if the Contracting Authority has been directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the Contracting Authority or as may be required by law or in connection with any legal process.

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10.2 Governing Law

The bidding process shall be governed by and construed in accordance with the laws of Bangladesh and the courts of Bangladesh shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the bidding process.

10.3 Contracting Authority Contact Details

All correspondence and contact by Applicants and Registered Entities (including Consortium Members in the case of a Consortium) with the Contracting Authority in relation to this RFQ must be made directly with the following representative as designated by the Contracting Authority or any alternative representative as notified by the Contracting Authority to the Applicants or Registered Entities.

Contracting Authority's Representative:	Additional Chief Engineer Public Private Partnership Cell Roads and Highways Department
Address:	Roads and Highways Department Flat # 502, 132/4. New Baily Road Dhaka - 1000, Bangladesh
Telephone:	+88 02 935 7857
Email:	rad-rhd@pppo.gov.bd

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APPENDIX 1

FORMS

- Form 1 - RFQ Submission Identification Sheet
- Form 2 - Letter of Application
- Form 3 - Particulars of Applicant
- Form 4 - Particulars of Local Eligible Project
- Form 5 - Particulars of Eligible Projects
- Form 6 - Financial Capability
- Form 7 - Letter of Authorisation for Lead Member of Consortium
- Form 8 - Authorisation to a representative
- Form 9 - Certificate of Compliance
- Form 10 - Certificate by Nominated Contractor of Willingness to Participate
- Form 11 - Certificate by Affiliate of Applicant or Consortium Member of Willingness to Participate
- Form 12 - Application Checklist

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FORM 1

RFQ SUBMISSION IDENTIFICATION SHEET

DUE DATE:

Designation:	Additional Chief Engineer Public Private Partnership Cell Roads and Highways Department
Address:	Public Private Partnership Cell Roads and Highways Department Flat # 502, 132/4, New Baily Road Dhaka -1000, Bangladesh

SUBMISSION OF APPLICATION UNDER THE REQUEST FOR QUALIFICATION FOR THE IMPROVEMENT OF THE HATIRJHEEL-RAMPURA-BONOSHREE IDEAL SCHOOL AND COLLEGE-SHEIKHERJAIGA-AMULIA-DEMRA HIGHWAY INTO 4-LANES (INCLUDING LINK TO CHITTAGONG ROAD INTERSECTION AND ACCESS TO TARABO) THROUGH PUBLIC PRIVATE PARTNERSHIP

Name of Applicant:

Name of Lead Member (if applicable):

Name(s) of the Consortium Members (if applicable):

Address:

Phone Number:

Fax Number:

Email:

Date and Time of Submission of the Application:

(For office use only. To be filled in by the Contracting Authority on receipt of Application)

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FORM 2

LETTER OF APPLICATION¹

Date: [*please insert day, month, year*]

To: Additional Chief Engineer
Public Private Partnership Cell
Roads and Highways Department
Flat # 502, 132/4, New Baily Road
Dhaka -1000, Bangladesh

Dear Sir,

Subject: request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("RFQ")

Terms defined in the RFQ shall have the same meaning when used in this Letter of Application unless otherwise stated.

I, [*Name*], being duly authorized to represent and act on behalf of [*please insert the name of the Applicant*] (the "**Applicant**") a [*corporation/partnership/Consortium*][*organised and existing under the laws of [place]/organised by agreement among its Consortium Members*], hereby declare that:

1. having reviewed and examined the RFQ and any Addenda and Corrigenda and having fully understood all the information provided therein and in accordance with the same, the Applicant hereby applies to be pre-qualified and shortlisted for the RFP stage of the bidding process, and agrees and undertakes to abide by all the terms and conditions of the RFQ;
2. all statements made and all information and documents provided by the Applicant in or in connection with this Application are true and correct; nothing has been omitted which renders such information misleading; all documents accompanying such Application are true copies of their respective originals; and the Contracting Authority may rely on such statements, information and documents when evaluating Applications for pre-qualification and shortlisting under the RFQ;
3. the Contracting Authority is authorised to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection to this RFQ, and to seek clarification from our accountants and clients regarding any financial and technical aspects of the Application. The Applicant and each Consortium Member hereby authorises third parties to supply information required to verify statements and information submitted in its Pre-Qualification Documents. The Applicant shall make available to the Contracting Authority any additional information it requests to supplement or verify anything in the Application;
4. the Applicant acknowledges the right of the Contracting Authority to amend the scope or value of the Project, reject any bid or terminate the bidding process at any time without assigning any reason whatsoever and without incurring any liability, and acknowledges that the Contracting Authority is neither bound to accept any Application nor invite the Shortlisted Bidders to submit Proposals. The Applicant waives to the fullest extent of the

¹ To be provided on letterhead of the Applicant or, in the case of a Consortium, the Lead Member of the Consortium, including full postal address, telephone number and email address.

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law, its right to seek and obtain a court injunction or restraining order against the Contracting Authority or the MRTB to prevent or restrain the RFQ stage of the bidding process, the holding of the RFP stage of the bidding process, the award of the PPP Contract or any proceedings related thereto;

5. [the Applicant is not]/[no Consortium Member is]² another Applicant nor a Consortium Member of any other Consortium which is an Applicant for the Project;
6. [the nominated contractor named in Form 3 is not participating in any other Application in response to the RFQ whether as a nominated contractor, an Applicant or a Consortium Member;]³
7. the Applicant does not have a Conflict of Interest in relation to this Project;
8. if, following submission of this Application, any change in facts or circumstances may mean the Applicant would be ineligible or disqualified from the bidding process in accordance with the terms, the Applicant shall inform the Contracting Authority of the same immediately;
9. [this Application and any subsequent Proposal as well as any resulting PPP Contract shall legally bind all Consortium Members, jointly and severally;]⁴ and
10. the Contracting Authority and its authorized representatives may contact the following persons for further information or clarification:

Key Contact Person:

Name: _____
Designation: _____
Address: _____
Tel No. _____
Mobile _____
Email: _____

(Please fill in details of the key contact person)

Alternative Contact:

Name: _____
Designation: _____
Address: _____
Tel No. _____
Mobile _____
Email: _____

(Please fill in details of an alternative contact person)

² Delete whichever is not applicable.

³ This may be deleted if the Applicant has not nominated a contractor.

⁴ This may be deleted if the Applicant is a single entity and not a Consortium.

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Signed by [*insert name of authorised representative*])
for and on behalf⁵ of [*insert name Applicant, if a single entity or Lead Member, if a Consortium*]:

Enclosures:

1. Particulars of the Applicant, together with its attachments
2. [Particulars of Local Eligible Project, together with its attachments]⁶
3. Particulars of Eligible Projects, together with its attachments
4. Particulars of Financial Capability, together with its attachments
5. [Letter of Authorisation for Lead Member of Consortium]⁷
6. Authorisation(s) to a representative
7. Certificate of Compliance
8. [Certificate by Nominated Contractor of Willingness to Participate]⁸
9. [Certificate by Affiliate of Applicant or Consortium Member of Willingness to Participate]⁹
10. Application Checklist

⁵ In case of a Consortium, the authorised representative of the Lead Member should sign.

⁶ Delete if not applicable.

⁷ Delete in the case of a single entity Applicant.

⁸ Delete if not applicable.

⁹ Delete if not applicable.

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**FORM 3
PARTICULARS OF THE APPLICANT**

A – Particulars of the Applicant or, in the case of a Consortium, each Consortium Member

Name of Applicant/ Consortium Member:	
Country of incorporation or registration:	
Date of incorporation or registration:	
Company/ business registration number (if any):	
Registered address:	
Brief description of its business:	
Website (if any):	
Shareholders or owners:	
Ultimate parent company or owner: (being the person who ultimately, directly or indirectly, controls the Applicant/ Consortium Member)	
Authorized Representative: (as authorised under the board resolution or power of attorney)	
Contact Person: (include name, telephone, email and postal address)	
Required attachments to this form:	Certified copy of its certificate of incorporation or registration Certified copy of the its latest annual filing with the company or business registry applicable to it in it country of jurisdiction (or equivalent document)

**In the case of a Consortium, repeat the above table for each Consortium Member.*

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B – Business Structure in the case of a Consortium

	Name of Consortium Member	Proposed role (with reference to the financial, technical, operation and maintenance obligations of the Project as set out in section 4.1(c)(iv) of the RFQ)	Equity shareholding (%) (in the Project Company if the Applicant is appointed Preferred Bidder)
Lead Member			
Non-Lead Member			
Non-Lead Member			
Non-Lead Member			
Non-Lead Member			

C – Roles of Nominated Contractors or Affiliates (if applicable)

Name of Nominated Contractor or Affiliate	Proposed role (with reference to the financial, technical, operation and maintenance obligations of the Project as set out in section 4.1(c)(iv) of the RFQ)

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**FORM 4
PARTICULARS OF LOCAL ELIGIBLE PROJECT**

Name of Reference Project submitted by the Applicant for the purposes of satisfying Shortlisting Criteria "D"	<i>[insert name of the project]</i>
Local Eligible Project Nominee that undertook the Reference Project	<i>[include name, company registration number and registered address]</i>
Relationship of Local Eligible Project Nominee to Applicant	<i>[Applicant/Consortium Member/Affiliate of Applicant or Consortium Member (as applicable)/nominated contractor]</i>
Date of Contract	
Employer/ Contracting Authority	<i>[include full name, company registration number (if applicable) and principal address]</i>
Location of Reference Project	<i>[include town/city, region/state and country]</i>
Description of Reference Project	<i>[[operation/maintenance] of a controlled-access [highway/expressway/roadway][insert other relevant details including carriageway configuration and number of toll plazas]]</i>
Date Reference Project was completed and opened to operations	
Role of Local Eligible Project Nominee in the Reference Project	
Details of Referee for Reference Project	<i>[name and contact details of a referee]</i>
Required attachments to this form:	<p>If the Local Eligible Project Nominee that undertook the Reference Project is not the Applicant nor a Consortium Member: (i) certified copy of its certificate of incorporation or registration; and (ii) certified copy of the its latest annual filing with the company or business registry applicable to it in its country of jurisdiction (or equivalent document).</p> <p>Any evidence that may be supplied to support the details of the Reference Project set out in this form. For example, company brochures of the Local Eligible Project Nominee, links to websites of the employer/contracting authority or the Local Eligible Project Nominee describing the Reference Project, reports prepared in respect of the Reference Project.</p>

Use this form and complete the table above if a Reference Project is submitted for the purposes of satisfying Shortlisting Criteria "D" (this submission is optional for the purpose of maximising the Shortlisting Score but is not mandatory).

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**FORM 5
PARTICULARS OF ELIGIBLE PROJECTS**

Name of Reference Project submitted by the Applicant for the purposes of satisfying the Eligible Projects Criteria and any of the Shortlisting Criteria "A" to "C"	<i>[insert name of the project]</i>
Eligible Project Nominee responsible for the Reference Project	<i>[include name, company registration number and registered address]</i>
Relationship of Eligible Project Nominee to Applicant	<i>[Applicant/Consortium Member/Affiliate] (as applicable)</i>
Date of EPC or PPP Contract	
Employer/ Contracting Authority	<i>[include full name, company registration number (if applicable) and principal address]</i>
Location of Reference Project	<i>[include town/city, region/state and country]</i>
Description of Reference Project	<i>[[Construction/Up-gradation] of a [highway/expressway/ roadway][insert other relevant details including carriageway configuration]]</i>
Date Reference Project was completed and opened to operations	
Reference Project Total Project Cost	<i>[insert Reference Project Total Project Cost in accordance with the terms of the RFP]</i>
Role of Eligible Project Nominee in the Reference Project	
Equity Shareholding of Eligible Project Nominee in the relevant Project Company or EPC Contractor	
Is Reference Project an elevated highway of more than 3km	<i>[Yes/No] (delete as appropriate)</i>
Was Reference Project implemented on an EPC or PPP Basis	<i>[EPC/PPP] (delete as appropriate)</i>
Details of Referee for Reference Project	<i>[name and contact details of a referee]</i>
Required attachments to this form:	<p>If the Eligible Project Nominee responsible for the Reference Project is an Affiliate of the Applicant or the Lead Member: (i) certified copy of its certificate of incorporation or registration; and (ii) certified copy of the its latest annual filing with the company or business registry applicable to it in its country of jurisdiction (or equivalent document).</p> <p>Any evidence that may be supplied to support the details of the Reference Project set out in this form. For example, company brochures of the Eligible Project Nominee, links to websites of the Employer/ Contracting Authority or the Eligible Project Nominee describing the Reference Project, reports prepared in respect of the Reference Project.</p>

Repeat the table above for each Reference Project submitted as a potential Eligible Project for the purpose of satisfying the Eligible Projects Criteria and any of the Shortlisting Criteria "A" to "C".

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**FORM 6
PARTICULARS OF FINANCIAL CAPABILITY**

Entity which is nominated as Financial Nominee	<i>[include name, company registration number and registered address]</i>		
Relationship of Financial Nominee to Applicant	<i>[Applicant/Lead Member/Affiliate of Applicant or Lead Member (as applicable)]</i>		
Financial Information	[FY 1]	[FY 2]	[FY 3]
(i) Total Assets			
(ii) Total Liabilities			
(iii) Total Net Worth			
(iv) Profits Before Taxes			
(v) Profits After Taxes			
Third Party Debt Information			
(i) Applicable Project for which Third Party Debt was secured	<i>[include project name, location and sector]</i>		
(ii) Aggregate Amount of Third Party Debt			
(iii) Date of Financial Close of Third Party Debt			
(iv) Date of First Drawdown of Third Party Debt			
(v) Date of Final Drawdown of Third Party Debt			
(vi) Tenor of Third Party Debt			
(vii) Name of Borrower	<i>[include name, company registration number and registered address]</i>		
Required attachments to this form:	<p>If the Financial Nominee is an Affiliate of the Applicant or the Lead Member: (i) certified copy of its certificate of incorporation or registration; and (ii) certified copy of the its latest annual filing with the company or business registry applicable to it in its country of jurisdiction (or equivalent document).</p> <p>Certified copies of audited financial statements for most recent 3 (three) full financial years falling prior to the Due Date.</p> <p>Any evidence available to be disclosed to support the information provided in respect of the Third Party Debt Information (for example, certified copy of audited financial statements referencing such debt, if different from those provided above).</p>		

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FORM 7

LETTER OF AUTHORISATION FOR LEAD MEMBER OF CONSORTIUM¹⁰

Date: [*please insert day, month, year*]

To: Additional Chief Engineer
Public Private Partnership Cell
Roads and Highways Department
Flat # 502, 132/4, New Baily Road
Dhaka -1000, Bangladesh

Dear Sir,

Subject: request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("RFQ")

Terms defined in the RFQ shall have the same meaning when used in this Letter of Application unless otherwise stated.

We, [PLEASE INSERT NAMES AND ADDRESS OF THE NON-LEAD MEMBER(S)] do hereby irrevocably appoint and authorize [PLEASE INSERT NAME AND ADDRESS OF THE LEAD MEMBER] ("**Lead Member**") to represent each of us individually and all of us collectively as Consortium Members in [PLEASE INSERT NAME OF APPLICANT] (the "**Applicant**" or the "**Consortium**") in all matters in connection with the RFQ, including but not limited to: executing and submitting of the Application, Proposal and other relevant documents; participating in the Pre-Application Meeting and other conferences held during the RFQ or otherwise during the RFP or bid process; providing or submitting queries and requests for clarification to the Contracting Authority; providing information and responses to the Contracting Authority; representing the Consortium in all matters before the Contracting Authority; signing and execution of all contracts including the PPP Contract and undertakings consequent to acceptance of the Consortium's bid, and generally dealing with the Contracting Authority in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award of the Project to the Consortium.

We hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by the Lead Member pursuant to and in exercise of the powers conferred by this letter of authorisation and that all acts, deeds and things done by the Lead Member in exercise of the authority hereby conferred shall and shall always be deemed to have been done by us.

This letter of authorisation shall be governed by, and construed in accordance with, the laws of Bangladesh and the courts of Bangladesh shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with this letter of authorisation.

Signed by [*insert name of authorised representative of Non-Lead Member*])
for and on behalf of [*insert name of Non- Lead Member*]¹¹:

¹⁰ To be provided only in the case of a Consortium. This letter of authorisation shall be provided (either individually or jointly) by all the Non-Lead Members nominating the Lead Member of the Consortium.

¹¹ Repeat signature block for each Non-Lead Member if provided jointly.

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**FORM 8
AUTHORISATION TO A REPRESENTATIVE**

IT WAS RESOLVED THAT:

1. [PLEASE INSERT NAME OF THE AUTHORISED REPRESENTATIVE] ("**Authorised Representative**") of [PLEASE INSERT ADDRESS OF THE AUTHORISED REPRESENTATIVE] be hereby appointed and authorised to act on behalf of [PLEASE INSERT NAME OF THE APPLICANT OR CONSORTIUM MEMBER] ("**Company**") in all matters in connection with the request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("**RFQ**"), including but not limited to: executing and submitting of the Application, Proposal and other relevant documents (including power of attorney); participating in the Pre-Application Meeting and other conferences held during the RFQ or otherwise during the RFP or bid process; providing or submitting queries and requests for clarification to the Contracting Authority; providing information and responses to the Contracting Authority; representing the Company in all matters before the Contracting Authority [and other Consortium Members]¹²; signing and execution of all contracts including the PPP Contract and undertakings consequent to acceptance of the bid, and generally dealing with the Contracting Authority [and other Consortium Members]¹³ in all matters in connection with the bid for the Project and/ or upon award of the Project to the Company or the Consortium of which the Company is a member; and
2. all acts, deeds and things lawfully done or caused to be done by the Authorised Representative pursuant to and in exercise of the powers conferred by this resolution be hereby ratified and confirmed.

¹² Delete if not applicable.

¹³ Delete if not applicable.

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**FORM 9
CERTIFICATE OF COMPLIANCE**

1. This certificate is entered into in connection with the request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("**RFQ**"). Terms defined in the RFQ shall have the same meaning when used herein unless otherwise stated.
2. The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS], personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE APPLICANT/CONSORTIUM MEMBER]¹⁴, [a company/a partnership]¹⁵ duly organized under the laws of [PLEASE INSERT NAME OF THE COUNTRY] ([the "**Applicant**"/[the "**Consortium Member**"]¹⁶), hereby certifies that:
 - (a) all statements, representations, information and other matters of fact made in this Application including any attachments and enclosures are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such Application are true copies of their respective originals;
 - (b) [it has been nominated as a(n) [Financial Nominee]/ [Local Eligible Project Nominee]/ [Eligible Project Nominee] for the Applicant and has been allocated the role of *[insert role consistent with part B of Form 3]* in the Project and:
 - (i) is willing to participate in the Project in the role allocated to it in the Application;
 - (ii) has the required experience and capacity to under the role allocated to it in the Application; and
 - (iii) without limiting the generality of paragraph (a) above, all statements, representations, information and other matters of fact made in the [Particulars of Local Eligible Project]/ [Particulars of Eligible Projects]/[Particulars of Financial Capability] submitted with the Application in respect of [Reference Projects carried out by it]/[its financial capability] are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such particulars are true copies of their respective originals;
 - (c) the [Applicant]/[Consortium Member] is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile;
 - (d) [the [Applicant][Consortium Member] has agreed that [PLEASE INSERT NAME OF THE LEAD MEMBER] will act as the Lead Member of the Consortium of which we are a Consortium Member]/[the [Applicant][Consortium Member] has agreed to act as the Lead Member of the Consortium of which we are a Consortium Member]¹⁷
 - (e) the [Applicant]/[Consortium Member] is participating in only one Application;

¹⁴ Certificate is to be signed by the authorised representative of the Applicant to whom the authority has been granted under the terms of this RFQ. Where this is a Consortium, separate certificates should be signed individually by the authorized representative of the Lead Member and each Non-Lead Member.

¹⁵ Delete as appropriate

¹⁶ Delete as appropriate

¹⁷ Only applicable in the case of an Application by a Consortium. Delete as appropriate.

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- (f) [the [Applicant]/[Consortium Member] has not been the subject of any court or arbitral award decision determined against the [Applicant]/[Consortium Member] in respect of any material contract to which the [Applicant]/[Consortium Member] was a party during the last 5 (five) years, for which the [Applicant]/[Consortium Member] was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the [Applicant]/[Consortium Member]];¹⁸
- (g) none of the events or circumstances set out in section 7.3(b)(v) of the RFQ apply to the [Applicant]/[Consortium Member]¹⁹;
- (h) the [Applicant]/[Consortium Member]²⁰ does not have a Conflict of Interest as set out in the RFQ;
- (i) the [Applicant]/[Consortium Member]²¹ has taken steps to ensure its conformity and the conformity of its partners, suppliers, sub-contractors, sub-consultants, officers, employees, agents, service providers and advisers with the provisions under section 9 of the RFQ;
- (j) the [Applicant]/[Consortium Member]²² has not, directly or indirectly or through an agent, engaged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process for the Project or in the bidding process for any other project in the previous 3 (three) years and is not otherwise in breach of the terms of section 9; and
- (k) the [Applicant]/[Consortium Member] has complied with and undertakes to continue to comply with the terms and conditions of the RFQ.

Executed as a deed by)
[insert name of company in bold and)
upper case] acting by [insert name of)
authorised representative]:)

Signature of authorised representative
Signature of witness
Name of witness
Address of witness
.....
.....
Occupation of witness

¹⁸ To be included if the Applicant/relevant Consortium Member is an Eligible Projects Nominee and/or a Local Eligible Projects Nominee.
¹⁹ Delete as appropriate
²⁰ Delete as appropriate
²¹ Delete as appropriate
²² Delete as appropriate

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FORM 10

CERTIFICATE BY NOMINATED CONTRACTOR OF WILLINGNESS TO PARTICIPATE

1. This certificate is entered into in connection with the request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("**RFQ**"). Terms defined in the RFQ shall have the same meaning when used herein unless otherwise stated.

2. The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS], personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE NOMINATED CONTRACTOR]²³, [a company/a partnership]²⁴ duly organized under the laws of [PLEASE INSERT NAME OF THE COUNTRY] (the "**Contractor**"), hereby certifies that:
 - (a) [it has been nominated as a Local Eligible Project Nominee for the Applicant and has been allocated the role of *[insert role consistent with part C of Form 3]* in the Project and:
 - (i) is willing to participate in the Project in the role allocated to it in the Application;
 - (ii) has the required experience and capacity to under the role allocated to it in the Application; and
 - (iii) without limiting the generality of paragraph (a) above, all statements, representations, information and other matters of fact made in the Particulars of Local Eligible Project submitted with the Application in respect of the Reference Project carried out by it are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such particulars are true copies of their respective originals;
 - (b) if the Applicant is selected as the Preferred Bidder, the Contractor intends, subject to agreement of all terms and conditions with the Applicant, to enter into a contract with the Project Company to perform the obligations and assume the attendant liabilities as the *[insert role consistent with part C of Form 3]* for the Project;
 - (c) the Contractor is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile;
 - (d) the Contractor is not participating in any other Application, whether as a nominated contractor, a nominated Affiliate, a Consortium Member or Applicant;
 - (e) none of the events or circumstances set out in section 7.3(b)(v) of the RFQ apply to the Contractor;
 - (f) the Contractor has not been the subject of any court or arbitral award decision determined against the Contractor in respect of any material contract to which the Contractor was a party during the 5 (five) years falling prior to and ending on the Due Date, for which the Contractor was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the Contractor;

²³ Certificate is to be signed by the authorized representative of the nominated contractor.

²⁴ Delete as appropriate

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- (g) the Contractor has not, directly or indirectly or through an agent, engaged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the previous 3 (three) years and is not otherwise in breach of the terms of section 9 of the RFQ; and
- (h) the signatory to this certificate is authorised to execute this certificate on behalf of the Contractor pursuant to the [power of attorney]/[board resolution] attached.

Executed as a deed by)
[**insert name of company in bold and**)
upper case] acting by [**insert name of**)
authorised representative]:)

Signature of authorised representative

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

Attachments: Power of attorney/ board resolution.

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FORM 11

CERTIFICATE BY AFFILIATE OF [APPLICANT]/[CONSORTIUM MEMBER] OF WILLINGNESS TO PARTICIPATE

1. This certificate is entered into in connection with the request for qualification for the improvement of the Hatirjheel-Rampura-Bonoshree Ideal School and College-Sheikherjaiga-Amulia-Demra Highway into 4-lanes (including link to Chittagong road intersection and access to Tarabo) through public private partnership ("**RFQ**"). Terms defined in the RFQ shall have the same meaning when used herein unless otherwise stated.
2. The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS], personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE AFFILIATE]²⁵, [a company/a partnership]²⁶ duly organized under the laws of [PLEASE INSERT NAME OF THE COUNTRY] (the "**Nominated Affiliate**"), hereby certifies that:
 - (a) [it has been nominated as a(n) [Local Eligible Project Nominee]/ [Eligible Project Nominee]/ [Financial Nominee] for the Applicant and has been allocated the role of *[insert role consistent with part C of Form 3]* in the Project and:
 - (i) is willing to participate in the Project in the role allocated to it in the Application;
 - (ii) has the required experience and capacity to under the role allocated to it in the Application; and
 - (iii) without limiting the generality of paragraph (a) above, all statements, representations, information and other matters of fact made in the [Particulars of Local Eligible Project]/ [Particulars of Eligible Projects]/ [Particulars of Financial Capability] submitted with the Application in respect of [Reference Projects carried out by it]/[its financial capability] are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such particulars are true copies of their respective originals;
 - (b) if the Applicant is selected as the Preferred Bidder, the Affiliate intends, subject to agreement of all terms and conditions with the Applicant, to enter into a contract with the Project Company to perform the obligations and assume the attendant liabilities as the *[insert role consistent with part C of Form 3]* for the Project;
 - (c) [if the Applicant is selected as the Preferred Bidder, the Affiliate will contribute sufficient equity to the Lead Member for the purposes of satisfying the Lead Member's equity commitments to the Project;]¹
 - (d) the Affiliate is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile;
 - (e) the Affiliate is not participating in any other Application, whether as a nominated contractor, a nominated Affiliate, a Consortium Member or Applicant;
 - (f) none of the events or circumstances set out in section 7.3(b)(v) of the RFQ apply to the Affiliate;

²⁵ Certificate is to be signed by the authorized representative of the Affiliate. If there is more than one Affiliate nominated to meet the Pre-qualification Requirements and/or Shortlisting Criteria, then a separate certificate should be signed for each Affiliate.

²⁶ Delete if not the Financial Nominee.

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- (g) the Affiliate has not been the subject of any court or arbitral award decision determined against the Affiliate in respect of any material contract to which the Affiliate was a party during the 5 (five) years falling prior to and ending on the Due Date, for which the Affiliate was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the Affiliate;
- (h) the Affiliate has not, directly or indirectly or through an agent, engaged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the previous 3 (three) years and is not otherwise in breach of the terms of section 9 of the RFQ; and
- (i) the signatory to this certificate is authorised to execute this certificate on behalf of the Affiliate pursuant to the [power of attorney]/[board resolution] attached.

Executed as a deed by)
[insert name of company in bold and)
upper case] acting by [insert name of)
authorised representative]:)

Signature of authorised representative

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

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**FORM 12
APPLICATION CHECKLIST**

Form No.	Form Description	Checked (or marked not applicable) by Applicant	Checked (or marked not applicable) by Contracting Authority
1	RFQ Submission Identification Sheet		
2	Letter of Application including all required enclosures:		
3	Particulars of Applicant including all required attachments		
4	Particulars of Local Eligible Project including all required attachments		
5	Particulars of Eligible Projects including all required attachments		
6	Particulars of Financial Capability including all required attachments		
7	Letter of Authorisation for Lead Member of Consortium		
8	Authorisation to a representative		
9	Certificate of Compliance		
10	Certificate by Nominated Contractor of Willingness to Participate including all required attachments		
11	Certificate by Affiliate of Applicant or Consortium Member of Willingness to Participate including all required attachments		
12	Application Checklist		