



## **NATIONAL PUBLIC-PRIVATE PARTNERSHIPS GUIDELINES**

### **Annex K – PPP bidding documents**

PPP Unit of the Ministry of Finance, Planning and Economic Development

# Table of Contents

List of abbreviations .....	2
1. Introduction .....	3
2. Template for Request for Prequalifications (RFQ) .....	4
3. Template for Project Information Memorandum (PIM) .....	9
4. Template for Request for Bids (RFB).....	11
5. Heads of Terms of PPP Agreement .....	60

## List of abbreviations

CA	Contracting authority
HC	Highest Compliant Bid
HCPB	Highest Complying and Post-qualified Bid
IRR	Internal rate of return
MPR	Minimum Performance Requirements
O&M	Operations and Maintenance
PPP	Public Private Partnership
RFB	Request for Bids
RFQ	Request for Prequalification
UGX	Uganda Shilling

# 1. Introduction

## 1.1 Background

- 1.1.1. In 2010, the Government of Uganda adopted a PPP policy. The policy creates a framework for the involvement of the private sector in provision of public infrastructure and services.
- 1.1.2. The *Public Private Partnerships Act* came into force on 1 October 2015. The *PPP Act* establishes the legal and institutional framework for the concrete implementation of PPP projects. The *PPP Act* provides for the establishment of the Public Private Partnerships Committee, the Public Private Partnerships Unit and the Project Development Facilitation Fund. The *PPP Act* also sets out the procedure for the implementation of PPP projects across all steps of the project cycle from inception to the end date of the PPP agreement. Furthermore, the *PPP Act* defines the contents of the PPP agreement.
- 1.1.3. Pursuant to the *PPP Act*, the Minister responsible for finance issued the *Public Private Partnerships Regulations, 2019* and the *Public Private Partnerships (Meetings of the Committee) Regulations, 2019* (together, *the PPP Regulations 2019*) . The *PPP Regulations* prescribe the bidding methods and procedures for the selection of a Private Party.
- 1.1.4. The *Guidelines* presented in this document are firmly grounded in the policy and legal framework that has been put in place by the Government for the implementation of PPP projects.

## 1.2 This document

- 1.2.1. The National Public-Private Partnership Guidelines consist of a Main Document and a set of Annexes.
- 1.2.2. This document is Annex K, which contains outlines and templates of bidding documents for the procurement of a PPP project. The following templates are included:
  - (a) Chapter 2: Request for Prequalification (RFQ)
  - (b) Chapter 3: Project Information Memorandum
  - (c) Chapter 4: Request for Bids (RFB)
  - (d) Chapter 5: Heads of terms of PPP agreement.

## 2. Template for Request for Prequalifications (RFQ)

<b>DISCLAIMER</b>	States that information provided in the RFQ documents and during the RFQ process does not result in any obligations or liability on the part of the government, does not entail any right to bidding or contract award, etc.																					
<b>INTRODUCTION</b>	Introduces the context and object of the RFQ process.																					
<b>PROJECT</b>	Brief description of project and outputs (referring to the Project Information Memorandum)																					
<b>DEFINITIONS</b>	List of definitions used in the RFQ																					
<b>SECTION I - BIDDING PROCESS AND INSTRUCTIONS TO RESPONDENTS</b>																						
<b>I.1 Contracting Authority</b>	Introduces the Contracting Authority as the actor administering the tender process.																					
<b>I.2 Outline of the Bidding Process</b>	Provides an outline of the tender process, e.g. as follows:																					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 70%;">Milestone</th> <th style="width: 30%;">Indicative Date</th> </tr> </thead> <tbody> <tr> <td>i. Issuance of the RFQ</td> <td></td> </tr> <tr> <td>ii. Pre-Qualification Meeting</td> <td></td> </tr> <tr> <td>iii. Deadline for clarifications on RFQ</td> <td></td> </tr> <tr> <td>iv. Qualification Documents Submission Date</td> <td></td> </tr> <tr> <td>v. Opening of Qualification Documents</td> <td></td> </tr> <tr> <td>vi. Notification of the results of evaluation of the Qualification Documents</td> <td></td> </tr> <tr> <td>vii. Issuance of Request for Bids, Draft PPP Agreement &amp; annexes (including output specifications, performance requirements, etc.)</td> <td></td> </tr> <tr> <td>viii. Pre-Bid Conference</td> <td></td> </tr> <tr> <td>ix. Deadline for Bidder's Clarifications to the Request for Bids, Draft PPP</td> <td></td> </tr> </tbody> </table>		Milestone	Indicative Date	i. Issuance of the RFQ		ii. Pre-Qualification Meeting		iii. Deadline for clarifications on RFQ		iv. Qualification Documents Submission Date		v. Opening of Qualification Documents		vi. Notification of the results of evaluation of the Qualification Documents		vii. Issuance of Request for Bids, Draft PPP Agreement & annexes (including output specifications, performance requirements, etc.)		viii. Pre-Bid Conference		ix. Deadline for Bidder's Clarifications to the Request for Bids, Draft PPP	
Milestone	Indicative Date																					
i. Issuance of the RFQ																						
ii. Pre-Qualification Meeting																						
iii. Deadline for clarifications on RFQ																						
iv. Qualification Documents Submission Date																						
v. Opening of Qualification Documents																						
vi. Notification of the results of evaluation of the Qualification Documents																						
vii. Issuance of Request for Bids, Draft PPP Agreement & annexes (including output specifications, performance requirements, etc.)																						
viii. Pre-Bid Conference																						
ix. Deadline for Bidder's Clarifications to the Request for Bids, Draft PPP																						

	<table border="1"> <tr> <td>Agreement&amp; Draft output specifications</td> <td></td> </tr> <tr> <td>x. Issuance of Final PPP Agreement and output specifications</td> <td></td> </tr> <tr> <td>xi. Bids Submission Date</td> <td></td> </tr> <tr> <td>xii. Opening of Technical Bid</td> <td></td> </tr> <tr> <td>xiii. Notification of the results of evaluation of the Technical Bids</td> <td></td> </tr> <tr> <td>xiv. Opening of Financial Bid</td> <td></td> </tr> <tr> <td>xv. Notification of the results of the evaluation of the Financial Bids</td> <td></td> </tr> <tr> <td>xvi. Issuance of Notice of Award</td> <td></td> </tr> <tr> <td>xvii. Submission of Post-Award Requirements</td> <td></td> </tr> <tr> <td>xviii. Issuance of Notice of complete compliance with all Post-Award Requirements</td> <td></td> </tr> <tr> <td>xix. Signing Date of PPP Agreement and Compliance with other requirements</td> <td></td> </tr> </table> <p>States general procedural arrangements for the prequalification process, and states its intended outcome as the Successful Bidder entering into a PPP Agreement with the government.</p>	Agreement& Draft output specifications		x. Issuance of Final PPP Agreement and output specifications		xi. Bids Submission Date		xii. Opening of Technical Bid		xiii. Notification of the results of evaluation of the Technical Bids		xiv. Opening of Financial Bid		xv. Notification of the results of the evaluation of the Financial Bids		xvi. Issuance of Notice of Award		xvii. Submission of Post-Award Requirements		xviii. Issuance of Notice of complete compliance with all Post-Award Requirements		xix. Signing Date of PPP Agreement and Compliance with other requirements	
Agreement& Draft output specifications																							
x. Issuance of Final PPP Agreement and output specifications																							
xi. Bids Submission Date																							
xii. Opening of Technical Bid																							
xiii. Notification of the results of evaluation of the Technical Bids																							
xiv. Opening of Financial Bid																							
xv. Notification of the results of the evaluation of the Financial Bids																							
xvi. Issuance of Notice of Award																							
xvii. Submission of Post-Award Requirements																							
xviii. Issuance of Notice of complete compliance with all Post-Award Requirements																							
xix. Signing Date of PPP Agreement and Compliance with other requirements																							
<b>1.3 Responsibility of Prospective Bidders</b>	States the responsibility of parties submitting prequalification documents ("prospective bidders") in terms of acquaintance with the full suite of prequalification documents made available, acquaintance with all applicable laws and regulations, ascertaining its likely ability to prequalify, etc.																						
<b>1.4 Costs and Expenses of Participation</b>	States that all costs incurred by prospective bidders and bidders in relation to participation in the bidding proceedings will be for the account of those prospective bidders and bidders.																						
<b>1.5 Queries and Supplemental Notices</b>	Provides contact information and protocol as to interaction between (prospective) bidders and the procuring authority – including dedicated contact information for the Project or the transaction advisor.																						
<b>1.6 Ownership of Documents</b>	Clarifies that all documents submitted by parties in the course of the tender process would become the property of the government institution undertaking the tender.																						
<b>1.7 Language and Foreign Documents</b>	Clarifies the language to be used in tender documentation and submission, and how any foreign documents submitted to government																						

	would be treated (e.g. requiring authentication by a consular or notarial official in Uganda).
<b>I.8 Pre-Qualification Meeting (if applicable)</b>	Clarifies the logistics of any forthcoming prequalification meeting (including date, time and location) for interested parties and prospective bidders to clarify any part of the RFQ invitation and documents and to answer any relevant question from interested parties and prospective bidders.
<b>I.9 Qualification Requirements</b>	<p><u>1. Legal Qualification Requirements</u> Prospective bidder to be single partnership/corporation duly registered or consortium duly evidenced.</p> <p><u>2. Technical Qualification Requirements</u> Prospective bidder (or a member of the consortium, holding a certain share in the consortium) to demonstrate technical experience, capabilities and vision on the scope of the PPP project being tendered.</p> <p><u>3. Financial Qualification Requirements</u> Prospective bidder to have a certain financial capability (e.g. expressed as net worth) as proven by recent audited financial statements.</p>
<b>I.10 Local Content</b>	Explains that the Private Party will be required to transfer knowledge to Ugandan nationals and will have to attach to his Bid a plan for the inclusion of Uganda nationals in the implementation of the project
<b>SECTION II - QUALIFICATION DOCUMENTS</b>	
	<p>Typically, the following documents are required to be submitted as qualification documents (using formats/templates drafted for and included in the RFQ documentation):</p> <ul style="list-style-type: none"> <li>• Business structure of the prospective bidder (single bidder or consortium, members of consortium, interest in consortium, etc.);</li> <li>• Basic information sheet for all entities;</li> <li>• Incorporation documents for all entities;</li> <li>• Notarised certification that they have not been disqualified or blacklisted by the CA and/ or the Government of Uganda;</li> <li>• Project specific experience exemplifying technical capabilities required;</li> <li>• Sub-contractor's (if any) notarised statement of willingness to participate in, and capacity to undertake the requirements of, the project;</li> <li>• List of qualified personnel who fulfil requirements as stated in the staff-specific technical qualification requirements;</li> <li>• Notarised statement of financial capability/financial statements;</li> <li>• Notarised application to pre-qualify to bid;</li> <li>• Authority to apply to pre-qualify and designation of authorised representative.</li> <li>• Other project-specific requirements</li> </ul>

<b>SECTION III - VALIDITY OF PREQUALIFICATION APPLICATIONS</b>	
	States provisions on application validity including: <ul style="list-style-type: none"> <li>• Each prospective bidder may submit only one application for prequalification;</li> <li>• Prospective bidder may not be a member of another consortium, nor have an affiliate which is a member of another consortium;</li> <li>• No consortium member may be a member of more than one consortium, nor have an affiliate which is a member of another consortium;</li> <li>• Etc.</li> </ul>
<b>SECTION IV - SUBMISSION OF QUALIFICATION DOCUMENTS</b>	
<b>IV.1 Format of submission of applications</b>	Submission format (e.g. dual submission, number of copies, coding/stamping, signing, marking of originals and copies, etc., hard copies/electronic submissions)
<b>IV.2 Procedures for submission and opening of applications</b>	Submission date/time and address location. Opening procedure Late applications
<b>SECTION V - EVALUATION OF QUALIFICATION DOCUMENTS</b>	
<b>V.1 Evaluation of Qualification Documents</b>	Explains procedure of evaluation of submissions (including clarification procedure, if any)
<b>V.2 Grounds for disqualification</b>	For example: <ul style="list-style-type: none"> <li>• Material or wilful misrepresentation in the pre-qualification process;</li> <li>• Corrupt practice, fraud, collusion, coercion, undesirable or restrictive practice in the pre-qualification process;</li> <li>• Any form of political or other lobbying with respect to the pre-qualification process; illegal conduct or attempt to influence the Project Team's / Contracting Authority's evaluation of the qualification documents or the pre-qualification process;</li> <li>• Etc.</li> </ul>
<b>V.3 Corrupt practice / Fraud / Collusion / Coercion / Undesirable practice / Restrictive practice</b>	To state that any person found to be engaging in any corrupt practice, fraud, collusion, coercion, or undesirable or restrictive practices shall incur civil and criminal liability under the applicable laws and regulations and shall be prohibited from participating in any bidding.
<b>V.4 Conflict of interest</b>	Includes a listing of all cases which are considered conflict of interest.
<b>V.5 Lock-up rules</b>	Regulates whether/how bidders that are consortiums, or use affiliates to meet qualification requirements, may change shareholding and/or composition.
<b>V.6 Notification of results of evaluation of applications</b>	Explains the procedure of notification of results of the evaluation of qualification documents

<b>V.7 Failure of qualification process</b>	Explains that e.g. if only one prospective bidder submits an application and/or is found to qualify, the pre-qualification process may be declared a failure and the tender may be cancelled.
<b>V.8 Right to reject qualification documents, waive minor defects, and not proceed with the bidding</b>	The government may reserve the right to accept or reject all or any application to pre-qualify to bid, and/or to waive any minor defects in the bids, and accept the offer it deems most advantageous to government.
<b>V.9 Complaints mechanism redress</b>	Details of the complaints mechanism for the procurement
<b>SECTION VI - GENERAL CONDITIONS AND PROHIBITIONS</b>	
<b>VI.1 General conditions and prohibitions</b>	Contains any other relevant general conditions and prohibitions.
<b>VI.2 Governing law and rules</b>	Identifies the PPP Act and other applicable legislation as the governing law.
<b>ANNEXES</b>	Contains mostly the forms which are to be used in the submission.
<b>ANNEX 1: Application form</b>	
<b>ANNEX 2: Business structure</b>	
<b>ANNEX 3: Subcontractor's statement of willingness to participate in the project</b>	
<b>ANNEX 4: Details of lead member and authorised representative of consortium</b>	
<b>ANNEX 5: Authority to sign application</b>	
<b>ANNEX 6: Statement of compliance with legal requirements and supporting documents</b>	
<b>ANNEX 7: Key personnel</b>	
<b>ANNEX 8: Statement of financial capability and supporting documents</b>	
<b>ANNEX 9: Template for reference projects and supporting documents</b>	



## 3. Template for Project Information Memorandum

### 3.1 Disclaimer

This Project Information Memorandum has been prepared by the [name of Contracting Authority].

While the drafters of this document exerted their best effort to provide a fair and comprehensive description of the Project based on the Project Feasibility Study and other available information, this Project Information Memorandum does not purport to be all-inclusive or to contain all of the information that a prospective participant may consider material or desirable in making its decision to participate in the tender.

No representation or warranty, expressed or implied, is made, and no responsibility of any kind is or will be accepted by the [name of Contracting Authority] or the Government of Uganda or any of its agencies, with respect to the accuracy and completeness of this preliminary information. The [name of Contracting Authority] may amend or replace any of the information contained in this Project Information Memorandum at any time, without giving any prior notice or providing any reason.

In furnishing this Project Information Memorandum, the [name of Contracting Authority] undertakes no obligation to provide recipients with access to any additional information, or to update, or to correct any inaccuracies which may become apparent in this Project Information Memorandum or any other information made available in connection with the Project prior to the actual procurement. Additional information shall be provided at appropriate times during the formal procurement process.

All information in this Project Information Memorandum is qualified by the terms and conditions of the Request for Bids and its annexes. All information in this Project Information Memorandum shall also be qualified by the terms and conditions of the Request for Bids to be released to Pre-Qualified Bidders, and the draft PPP Agreement and its annexes, including the Minimum Performance Requirements ("MPR") and its annexes. Drafts of the PPP Agreement and its annexes will be made available to Pre-Qualified Bidders. In case of any conflict between the information and terms in this Project Information Memorandum and the Request for Prequalification and the Request for Bids, the information and terms in Request for Prequalification and the Request for Bids shall prevail.

No person has been authorized to give any information or make any representation not contained in this Project Information Memorandum and, if given or made, any such information or representation may not be relied upon as having been authorized by [name of Contracting Authority] or the Government of Uganda or any of its agencies.

### 3.2 Identification data

Project Name:

Contracting Authority:

Location:

Sector:

Contact Name:

Contact Position:

Contact details (email and phone):

### 3.3 Project objectives and background

Describe the problem or critical issue which the Project seeks to resolve, clearly outlining the service gap the Project will address. What are the possible project alternatives evaluated and what is the rationale for selecting the retained Project option?

How does the Project relate to national development strategies?

How does the Project fit in the Contracting Authority's development program?

Project antecedents (approvals and studies to date).

### 3.4 Project description (services, scope, cost)

Describe the desired outcomes of the Project.

Describe the services to be provided and who the primary beneficiaries of these services will be.

Describe the quantity of output / service to be provided or produced by the Project.

Describe the scope and technical characteristics of the Project, including inputs and how the Project will generate the desired outputs.

Optional: Estimate of project costs (capital expenditure on construction, equipment and land acquisition; annual operations and maintenance costs, if available).<sup>1</sup>

### 3.5 Proposed PPP model

Describe the proposed PPP arrangement, using the following list of functions the Private Party will assume: Design, Build, Finance, Operate, Maintain, Transfer.

Also, describe the functions that the Contracting Authority will assume.

Describe the remuneration mechanism (user-pays or government-pays).

Describe government support that has been committed to the project (if any).

### 3.6 Bid process<sup>2</sup>

Description of bidding method and applicable regulations.

Indicative timeline of procurement and implementation.

---

<sup>1</sup> The Contracting Authority may decide not to provide this information to prospective bidders, in order not to influence bids.

<sup>2</sup> If the Project Information Memorandum is communicated or published separate from the RFQ.

## 4. Template for Request for Bids (RFB)

---

**GOVERNMENT OF UGANDA**

[Name of the Contracting Authority]

---

**PPP FOR THE  
[NAME OF THE PROJECT]**

**REQUEST FOR BIDS**

**[Date]**

## DISCLAIMER

The information contained in this Request for Bids and the other Background Information Documents subsequently provided to Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the [Contracting Authority] or any of its employees or advisors, is provided to the Bidder(s) on the terms and conditions set out in the Bidding Documents and such other terms and conditions subject to which such information is provided.

The Background Information Documents are not agreements or offers by the [Contracting Authority] to the Bidder(s) or any other person. The purpose of the Background Information Documents is to provide interested parties with information that may be useful to them in making their financial offers pursuant to the Background Information Documents. The Background Information Documents include statements, which reflect various assumptions and assessments arrived at by the [Contracting Authority] in relation to the [Name of the Project]. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. The Background Information Documents may not be appropriate for all persons and it is not possible for the [Contracting Authority], its employees, or its advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses the Background Information Documents. The assumptions, assessments, statements and information contained in the Background Information Documents and associated documents may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in the Background Information Documents and obtain independent advice from appropriate sources.

Information provided in the Background Information Documents to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The [Contracting Authority] accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The [Contracting Authority], its employees and its advisors make no representation or warranty and shall have no liability to any person, including any Bidder, under any law, statute, rule or regulation, principle of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in the Background Information Documents or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Background Information Documents and any assessment, assumption, statement or information contained therein or deemed to form part of the Background Information Documents or arising in any way for participation in the Bidding Process.

The [Contracting Authority] also accept no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in the Background Information Documents.

The [Contracting Authority] may, in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in the Background Information Documents.

The issuance of the Background Information Documents does not imply that the [Contracting Authority] are bound to select a Bidder or to appoint a selected Bidder, as the case may be, for the [Name of the Project] and the [Contracting Authority] reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

Each Prospective Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the [Contracting Authority] or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the

[Contracting Authority] shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

## INTRODUCTION

This Request for Bids ("RFB") provide the procedures and requirements for the submission of Bids by Bidders and the selection by the [Contracting Authority], of a Successful Bidder to [Scope of services] the [Name of the Project]. The selection of a Successful Bidder shall be done pursuant to a dual-stage public bidding in accordance with the [Uganda PPP Act of 2015 and its subsidiary PPP Regulations of 2019] the applicable provisions of which are incorporated herein by reference.

Unless otherwise specified in this Request for Bids, all the terms and conditions in the RFO still apply. In case of conflict between any terms in the RFO and this Request for Bids, the latter shall prevail. Capitalized terms used but not defined herein shall have the same meaning given in the RFO.

Unless otherwise specified in this RFB, all information contained in this RFB, the Draft PPP Agreement ("PPP Agreement"), and the Minimum Performance Requirements ("MPR") supersede any information supplied in the Information Memorandum.

## SECTION I – GENERAL PROVISIONS

### I-1 Bidding Documents

1. The Bidding Documents for the Project, issued by [the Contracting Authority] to the Bidders, shall govern the preparation, submission, and evaluation of Bids and the selection of and award of the Project to the Successful Bidder. They consist of the following documents:
  - a. this Request for Bids, including special bid bulletins issued by the Contracting Authority and documents incorporated herein by reference; and
  - b. the PPP Agreement and its annexes.
2. The PPP Agreement and its annexes shall be the principal document governing the contractual relationship between the Concessionaire, on the one hand, and the [Contracting Authority], on the other, in the implementation of the Project.
3. In addition to the Bidding Documents, certain documents will be provided to the Bidders solely to provide background information on the Project ("**Background Information Documents**"), which documents shall be made available in the Data Room. Bidders may access the Data Room by logging on to the following website address: [Web directory] and use the account details that they will be provided individually.
4. The Bidder is obliged to verify the correctness, completeness, accuracy and reliability of the information contained in the Background Information Documents. The [Contracting Authority], or any other associated party do not provide any warranty, undertaking, or assurance of the correctness, completeness, accuracy, or reliability of the information contained in the Background Information Documents. Further, [Contracting Authority], or any other associated party does not warrant that the information contained in the Background Information Documents represents all of the information in their possession or power (either during Bidding Process or at the time of signing of the PPP Agreement) relevant or material to or in connection with the Project or the obligations of any Bidder or the Successful Bidder (or the special purpose corporation that it shall form) under the PPP Agreement. The [Contracting Authority], or any other associated party is not bound by any of

the contents of the Background Information Documents. The [Contracting Authority], or any other associated party shall not be liable to any Bidder or the Successful Bidder (or the special purpose corporation that it shall form) for any damages caused by such party's reliance on the Background Information Documents regardless of any erroneous, absent, incomplete, inaccurate, or unreliable information or documentation provided by the [Contracting Authority], even if attended by gross negligence, nor shall such be a ground for the refusal to enter into or rescission of the PPP Agreement by the special purpose corporation to be formed by the Successful Bidder. Without prejudice to the above, the [Contracting Authority], or any other associated party shall not be liable to any Bidder or the Successful Bidder (or the special purpose corporation that it shall form) in respect of any failure, whether before, on, or after the signing of the PPP Agreement, to (i) disclose or make available any information, documents, or data; (ii) review or update the Invitation Documents, Bidding Documents, or Background Information Documents; (iii) provide any information regarding any inaccuracy, error, omission, defects, or inadequacy in any of the Invitation Documents, Bidding Documents or Background Information Documents.

**I-2 Indicative Milestone Dates**

Table 1 below provides an indicative schedule for the Bidding Process, as follows:

**Table 1. Indicative Milestones**

Milestone	Indicative Date
Opening of Data Room	[*]
Pre-Bid Conference(s)/Site Visit	[*]
One on One meetings with Bidders	[*]
Deadline for clarifications on the Bid Documents	[*]
Issuance of Final PPP Agreement and MPR [Annex 2]	[*]
Bids Submission Date	[*]
Opening of Technical Bid	[*]
Notification of the results of evaluation of the Technical Bids	[*]
Opening of Financial Bid	[*]
Notification of the results of the evaluation of the Financial Bids	[*]
Issuance of Notice of Award	[*]
Submission of Post-Award Requirements	[*]
Issuance of Notice of complete compliance with all Post-Award Requirements	[*]
Signing Date of PPP Agreement and Compliance with other requirements	[*]

The actual schedule may be changed by the [Contracting Authority] at any time, without incurring any liability to the Bidders. Bidders shall be notified by the Contracting Authority of any changes in the indicative milestone dates through bid bulletins.

**I-3 Pre-Qualified Bidders**

Only Pre-Qualified Bidders shall be allowed to submit Bids at this second stage of the Bidding Process.

**I-4 Responsibility of Bidders**

1. Notwithstanding any information given in the Bidding Documents, Background Information Documents, and any additional communications from the [Contracting Authority], or the Contracting

Authority, including supplemental notices and bid bulletins, it is the sole responsibility of each Bidder to:

- a. be fully acquainted with the requirements, terms, and conditions of the Bidding;
  - b. examine all of the Bidding Documents and Background Information Documents and verify the correctness, completeness, accuracy, and reliability of the information contained in these documents;
  - c. familiarize itself with all the applicable laws and regulations of Uganda, whether national or local, which may affect the Bidding and the Project; and
  - d. determine and satisfy itself, at its own cost and risk, and by such means as it considers necessary and desirable, as to all matters pertaining to the execution of the Project, including but not limited to the location and nature of the Project; existing works and plans for future works in the area; existing or threatened legal disputes or issues; environmental and social concerns and issues; the requirement and availability of labour, materials, equipment, aggregate sources, water, power, communications and other relevant factors; resource requirements; the financial viability of the Project; and risks and contingencies that may affect the cost, duration, execution and completion of the Project.
2. The Bidders (including any Consortium Members, Subcontractors, or Affiliates) and the Successful Bidder (and the special purpose corporation that it shall form) shall not be entitled to and shall not make any claim against the [Contracting Authority], or any other associated party, whether on the basis of contract or tort, for damages, extensions of time, or payments on the grounds:
- a. of any misunderstanding or misapprehension in respect of the Invitation Documents, Bidding Documents, and/or Background Information Documents; or
  - b. that incorrect or insufficient information relating to the Invitation Documents, Bidding Documents, and/or Background Information Documents was given to them by the [Contracting Authority], or any other associated party.
3. By submitting its Bid, a Bidder shall be presumed to have fully examined and accepted all of the terms and conditions in all of the Invitation Documents and Bidding Documents.

## **I-5 Costs and Expenses of Participation**

Bidders shall bear all costs, losses and damages associated with or resulting from their participation in the Bidding Process. The [Contracting Authority] shall not be held responsible or liable in any way for any such costs or damages incurred by any Bidder (whether incurred by it directly or by its advisers, contractors, Affiliates or other persons), regardless of the results of the Bidding Process.

## **I-6 Clarifications on Bidding Documents**

1. A Bidder may submit queries and/or comments on the Bidding Documents. All queries and comments should be sent in writing, by personal delivery, email or fax, to the following:

Attention:  
Address:  
E-mail:  
Telephone:

In case of a discrepancy between copies personally delivered, emailed, and/or faxed, the copy personally delivered shall prevail.

2. Bidders must submit their queries and/or comments on or before the date/s indicated in Table 1.
3. For all of its queries/comments submitted, Bidders must use the template provided in Annex 3.
4. Queries on the Bidding Documents must be concrete or clarifying and not purely hypothetical in nature.
5. The Contracting Authority shall decide which queries received on the dates specified above it shall respond to, and is under no obligation to respond to all queries received. Responses to queries and any modifications to the Bidding Documents will be made on a non-attributable basis and shall be in writing and provided to Bidders through supplemental notices or bid bulletins issued by the Contracting Authority and sent to all qualified Bidders. All supplemental notices and bid bulletins issued by the Contracting Authority shall be deemed to be incorporated in and made an integral part of this Request for Bids and/or the relevant Bidding Documents.
6. All queries and/or comments in relation to the Background Information Documents must be submitted through the use of the query function provided in the Data Room to be established for this Project.
7. The deadline for submission of clarifications to the Bidding Documents is on [\*].

## **I-7 Ownership of Documents**

All documents submitted by a Bidder to the Contracting Authority pursuant to this Request for Bids shall become the property of the [Contracting Authority] and any information obtained by the [Contracting Authority] from such documents may be reasonably used by it subject to the confidentiality clause in Section [\*] of this Request for Bids.

## **I-8 Language and Foreign Documents**

1. The Bid, and all correspondence and documents relating to the Invitation Documents and the Bid, shall be prepared and written in the English language. Any printed literature or document furnished by Bidders written in another foreign language shall be accompanied by an English translation. In case of conflict, the English translation shall prevail.
2. [All documents or certifications issued by foreign authorities or executed outside of Uganda shall also be authenticated before a Ugandan consular official at Ugandan consulate near the place of issue or execution.]

## **SECTION II – [OPTIONAL] SITE VISITS**

The Contracting Authority shall conduct a group site visit for all Bidders to the site of the Project. The schedule, logistics and rules governing the site visit shall be set out in a special bid bulletin to be issued by the Contracting Authority.

The Contracting Authority may – as an element of its evaluation of the Bid - ask a Bidder to organise a site visit at the facilities of the Bidder to enable the Contracting Authority to verify the technical soundness and/or operational feasibility of the technical bid that was submitted by the Bidder.



### **SECTION III – [OPTIONAL] PRE-BID CONFERENCE**

The Contracting Authority shall conduct a Pre-Bid Conference to clarify any part of the Bidding Documents and to answer any relevant questions from Bidders regarding any provision, requirement and/or terms and conditions of the Bidding Documents, or such other matters that the Bidders may raise. No provision, term, or condition in the Bidding Documents shall be modified by statements made at the Pre-Bid Conference unless these are made in writing and contained in a supplemental notice or bid bulletin issued by the Contracting Authority.

### **SECTION IV – [OPTIONAL] ONE-ON-ONE MEETINGS**

The Contracting Authority will arrange for one-on-one meetings with Bidders on the dates indicated in Table 1. The Contracting Authority will make rounds [Number of rounds] of these one-on-one meetings mandatory and will contact the Bidders to arrange for these meetings. Bidders may contact the Contracting Authority Secretariat identified in Section [\*] to arrange for one-on-one meeting round 1, and if and when deemed necessary by the Bidder(s) and the Contracting Authority, also for a [Number of round] round of one-on-one meetings. A Bidder scheduled for a one-on-one meeting is requested to submit its questions and/or comments at least [Number of days] ([\*]) days prior to such meeting, following the same procedures indicated in Section [\*]. For the mandatory one-on-one meetings round [Number of round], the Contracting Authority may also send the relevant Bidder questions on its interpretation of the Project and its proposed solution. The Contracting Authority will do so, when relevant, at least [Number of days] ([\*]) days in advance. No provision, term, or condition in the Bidding Documents shall be modified by statements made during these meeting unless these are made in writing and contained in a supplemental notice or bid bulletin issued by the Contracting Authority.

### **SECTION V – BID PROPOSALS**

On the Bids Submission Date, a Bidder must submit its Bid consisting of the documents described in this Section.

#### **V-1 Envelope 1 – Bid letter, authorization and designation of representatives and additional requirements for consortiums and technical bid**

Envelope 1 should contain the following documents:

- a. Bid Letter, using the form in Annex TP<sub>1</sub>;
- b. Authority to Submit Bid and Designation of Authorized Representative:
  - (i) for Bidders which are partnerships or corporations: Authority to Submit Bid and Designation of Authorized Representative using the form in Annex TP<sub>2</sub>; or
  - (ii) for Bidders which are Consortia: Consortium Member's Authority to Participate in the Consortium and Submit a Bid and Designation of Lead Member and Authorized Representative of Consortium, using the form in Annex TP<sub>3</sub>, to be submitted by each Consortium Member;
- c. For a Bidder which is a Consortium, an Updated Business Structure using the form in Annex TP<sub>4</sub>, providing information on the final composition of the Consortium and the equity structure of each Consortium Member; the information in this Updated Business Structure shall supersede any information previously provided in Annex [\*] of the RFQ, provided that

any change in the Consortium Members was duly approved by the Contracting Authority in accordance with Section [\*] of the RFB.

The Updated Business Structure shall be submitted even if there are no changes in the composition of the Consortium or the equity structure of each Consortium Member since the Qualification Documents Submission Date.

- d. Acceptance and Compliance Letter stating acceptance and compliance of the Bidding Documents using the form in Annex TP5;
- e. The Bid Security, as described in Section VI, using the form in Annex TP6 without modification;
- f. Certified True Copy of a valid Tax Clearance Certificate, issued by [name relevant Uganda tax authority]
- g. Technical Bid, consisting of: (to be tailored to project specific requirements)
  - (i) [optional] (Updated) Project Implementation Plan, including the project schedule, using format outlined in Annex TP8;
  - (ii) [optional] Updated Authority Risk Management Plan, detailing the matters outlined in Annex TP9;
  - (iii) [optional] Updated Project Development Plan, detailing the matters outlined in Annex TP10;
  - (iv) [optional] Conceptual Engineering Design, detailing the matters outlined in Annex TP11;
  - (v) [optional] The Business Plan, detailing the bankability and financial feasibility of the Bidder's offer and further detailing the matters outlined in Annex TP12;
  - (vi) Local Content Plan in Annex TP13.
  - (vii) [others, i.a. Operation and Maintenance Plan, Safety Plan, Environment Management Plan, etc.]

The documents that the Bidders will submit as part of Envelope 1 are obligated to make use of A4 paper size, font type Times New Roman, font size 12 pt, single line spacing.

## **V-2 Envelope 2 - Financial bid**

Envelope 2 shall contain a Bidder's Financial Bid, which includes all of the following documents:

- a. Bid Price, The Bid Price shall be indicated in Annex FP1.
- b. Financial model, including users' instructions and data & assumptions book, following the requirements set out in Annex FP2 (format of submission).

## **V-3 Validity of bids**

A Bid shall be valid for a period of not less than [Number of days] ([\*]) days from the Bids Submission Date.

## **V-4 Rejection of bids and right to not proceed**

At any time prior to the execution of the [Type of the agreement] Agreement by the Successful Bidder, the [Contracting Authority] reserves the right not to proceed with the Bidding Process and the execution of the [Type of the agreement] Agreement, without prior notice or incurring liability, and

without any obligation to give any reason not to proceed.

The [Contracting Authority] reserves the right to accept any or reject any or all of the Bids without giving any reason whatsoever. The [Contracting Authority] are not obliged to accept any Bid or to give any reasons for their decision. In the event that the [Contracting Authority] rejects any or all of the Bids, the Bid Security shall be returned to the Bidders, without prejudice to the operation of Section [\*].

The [Contracting Authority] reserves the right to amend the scope of the Project and/or the terms of the RFB at any point, without incurring liability.

## **SECTION VI – BID SECURITY**

### **VI-1 Form of Bid Security**

The Bid Security submitted as part of the Bid must be an irrevocable standby letter of credit in the amount of [Amount] [United States Dollars (USD [\*])/Ugandan Shilling (UGX [\*])] and in the form of Annex TP6 without modification. The amount of Bid Security for the Project will be announced by the Contracting Authority in a supplemental Bid Bulletin.

### **VI-2 Validity and purpose**

The Bid Security shall be valid for [Number of days] ([\*]) calendar days from the Bids Submission Date. The Bid Security shall guarantee that a Bidder shall comply with all of the terms of this Request for Bids and, if declared the Successful Bidder, that it shall comply with all of the Post-Award Requirements, execute the PPP Agreement, and that the special purpose corporation it shall form for the Project shall thereafter accede to the PPP Agreement.

### **VI-3 Forfeiture of Bid Security**

The Bid Security shall be subject to forfeiture in its entirety in favour of the [Contracting Authority] upon the occurrence of any of the following events:

- a. the Bidder withdraws its Bid at any time on or before [Number of days] ([\*]) calendar days from Bids Submission Date;
- b. the Bidder, any Consortium Member, any proposed contractor or Affiliate of the Bidder, the Successful Bidder (or the special purpose corporation it shall form), or any of the officers, employees, agents, or advisers of any of these entities
  - (i) commits any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, or Restrictive Practice,
  - (ii) has a Conflict of Interest,
  - (iii) violates the Lock-Up Rules, or
  - (iv) has any Outstanding Dispute with government,

regardless of the stage of the Bidding Process when the violation existed, was committed, or discovered;

- c. the Bidder is disqualified or fails to post-qualify due to a material misrepresentation in any statement made or document submitted as part of its Qualification Documents or Bid;
- d. the Successful Bidder (or the special purpose corporation it shall form for the Project) fails to comply with the Post-Award Requirements within [Number of days] ([\*]) days from official receipt by the Successful Bidder of the Notice of Award;
- e. the Successful Bidder fails to sign the [Type of the agreement] Agreement within [Number of days] ([\*]) days from receipt by the Successful Bidder of notice from the [Contracting Authority] that all of the Post-Award Requirements have been complied with;
- f. the Successful Bidder (or the special purpose corporation it shall form for the Project) fails to post the [Type of security] Performance Security on the Signing Date; or
- g. other events as described in this Request for Bids as grounds for forfeiture of the Bid Security.

#### VI-4 Return of Bid Security

Bidders who for reasons other than those provided in Section [\*]: (a) are disqualified or (b) fail to post-qualify, will have their Bid Security returned to them without interest within [Number of days] ([\*]) days from receipt of written notice of their disqualification or failure to post-qualify.

Within [Number of days] ([\*]) days after the signing of the [Type of the agreement] Agreement by the Successful Bidder or legal entity formed by the Successful Bidder, or [Number of days] ([\*]) days after the Bids Submission Date, whichever comes earlier, the remaining Bid Securities of all Bidders, except for that of the Successful Bidder, whose Bid Securities have not been forfeited or previously returned will be returned without any interest. Any Bidder who has not been disqualified may extend the validity of its Bid Security.

## SECTION VII – SUBMISSION AND EVALUATION OF BIDS

### VII-1 Form of Submissions

The Bidder shall prepare and submit its Bid in the following manner:

- a. For the documents comprising Envelope 1, as described in Section [\*], the Bidder shall prepare and submit one (1) set of the original documents (the “**Original Set**”) and [Number] ([\*]) sets of clear photocopies of the documents comprising the original set. The Original Set should be placed in a sealed envelope marked with the Bidder’s name, the name of the Project, and marked “Envelope 1 - Original”. Each page of the Original Set should be marked as “Original”, initialled on the right margin of every page by the Bidder’s authorized representative as identified in the form in Annex TP2 or 1C, and numbered continuously. Each of the [Number] ([\*]) sets of photocopies should be placed in a sealed envelope marked with the Bidder’s name, the name of the Project, and marked “Envelope 1 – Copy [1...[Number]]”. Each set shall be fastened or bound and each annex separated by a labelled divider/tab (e.g., “Annex TP1”, “Annex TP2”, ...).
- b. The documents comprising Envelope 2, as described in Section [\*], shall be prepared in the same way as the documents comprising Envelope 1.

- c. Together with the Original Set of Envelope 1, the Bidder shall submit [Number] ([\*]) readable compact discs ("CD-R"), flash disks or flash drives, each containing electronic files of all the contents of Envelope 1, in Portable Document Format (.pdf), with the pages arranged in exactly the same sequence as the sequence in the original set of the documents enumerated in Sections [\*] (Envelope 1). In the event of any conflict between the printed (paper) copies and the electronic copies, the original printed (paper) copies shall prevail.
- d. The electronic files of Envelope 2 shall be prepared in the same way as that of Envelope 1 including the electronic excel file of Schedule A of Annex FP1.
- e. The CD-Rs, flash disks or flash drives containing the electronic copies of Envelopes 1 and 2 shall be placed inside the respective Original Set.
- f. The Bidder shall place the original sets of Envelopes 1 and 2 in one outer sealed box marked as follows:

[Contracting Authority]

[Name of the Project]

BID - ORIGINAL

*[NAME AND ADDRESS OF BIDDER]*

DO NOT OPEN BEFORE: [Time and Date]

- g. For each of the [Number] ([\*]) sets of photocopies, it shall place the envelopes marked "Envelope 1 - Copy [1...[Number]]", and "Envelope 2 - Copy [1...[Number]]", in one or more outer sealed boxes, which should be marked as follows:

[Contracting Authority]

[Name of the Project]

BID PROPOSAL – COPY [1...[Number]]

*[NAME AND ADDRESS OF BIDDER]*

DO NOT OPEN BEFORE: [Time and Date]

- h. Unsealed and unmarked Bids shall not be a ground for disqualification. However, the Contracting Authority shall assume no responsibility for the misplacement or premature opening of the Bids.

## VII-2 Deadline and Place of Submission of Bids

1. Bidders shall submit their Bids to:

**Contracting Authority of [Contracting Authority]  
[Name of the Project]  
[Full address]**

2. The Bids must be submitted between [Time] and [Time] on the Bids Submission Date, outside of which time the Bids shall not be accepted by the Contracting Authority. Bidders who fail to submit their Bid within the prescribed time on the Bids Submission Date shall be disqualified.
3. Each set of Bid submitted shall be numbered in the order received and stamped with the time of receipt. In addition, the receipt of each set of Bid shall be recorded in a register in the order of receipt specifying the date, time, and name of the Bidder submitting the same.

## VII-3 Submission, Opening, and Examination of Bids

1. Immediately after the expiry of the time to submit Bid on the Bids Submission Date, the Contracting Authority will begin the opening proceedings by announcing the names of the Bidders who have submitted Bid and any such other matters as the Contracting Authority may consider appropriate.
2. Bidders may send a representative to witness the opening proceedings. Bidders who do not send a representative to witness the opening of Envelope 1 and Envelope 2 shall be deemed to have waived the opportunity to witness the opening of these envelopes.
3. Opening and Evaluation of the Envelope 1 (Technical Bid)

For each Pre-Qualified Bidder, the Contracting Authority shall first open the Envelope 1, announce whether or not the documents required in Section [\*] are in the Envelope 1 and proceed to note down the details of the Pre-Qualified Bidder's submission.

The Contracting Authority shall thereafter conduct a detailed evaluation of the Technical Bid of each Pre-Qualified Bidder.

### **[Pass/Fail Approach]**

If the Contracting Authority determines, after its detailed evaluation of the Technical Bid that the Bidder has complied with all the requirements for the Technical Bid in accordance with the technical bid criteria included in Annex 1, the Bidder shall be rated "complying." If the Contracting Authority determines, after its detailed evaluation of the Technical Bid that the Bidder has not complied with all the requirements for the Technical Bid in as included in Annex 1, the Bidder shall be rated "non-complying."

The Contracting Authority shall send written notices to the Bidders with complying and non-complying Technical Bids on the results of the detailed evaluation of their respective Technical Bids.

The notices to the Bidders with non-complying Technical Bids shall likewise indicate the reasons why such Bidder was rated as "noncomplying." The Contracting Authority shall reject the entire bid of the Bidder with the non-complying Technical Bid, and return unopened the Second Envelope of that Bidder. Such Bidder shall no longer have any right to participate further in the bidding process for which its Technical Bid was rated "non-complying."

All Bidders whose Technical Bids have been rated as “complying” shall be considered on equal footing insofar as the Technical Bids are concerned - i.e., no bonus is given to Technical Bids that exceed the MPR requirements in Annex 2. Hence, the Successful Bidder shall be determined on the basis of the Financial Bids - i.e., it shall be the Bidder with the highest complying Bid Price, subject to the conduct of post-qualification verification.

#### **[Price-Quality Approach]**

The Contracting Authority shall score the Technical Bid of Bidder based on the criteria set out in Annex 1. If the Bidder’s technical score reaches the minimum technical score in accordance to Annex 1, the Bidder shall be rated “complying.” If the Contracting Authority determines, after its detailed evaluation of the Technical Bid that the Bidder has not reached the minimum technical score for the Technical Bid in as included in Annex 1, the Bidder shall be rated “non-complying.”

The Contracting Authority shall send written notices to the Bidders with complying and non-complying Technical Bids on the results of the detailed evaluation of their respective Technical Bids.

The notices to the Bidders with non-complying Technical Bids shall likewise indicate the reasons why such Bidder was rated as “noncomplying.” The Contracting Authority shall reject the entire bid of the Bidder with the non-complying Technical Bid, and return unopened the Second Envelope of that Bidder. Such Bidder shall no longer have any right to participate further in the bidding process for which its Technical Bid was rated “non-complying.”

The notices to the Bidders with complying Technical Bids shall include the time, date, and venue of the opening of their respective Financial Bids (“Financial Bid Opening Date”).

#### 4. Clarification/Verification of Technical Bids

During the evaluation of the contents of each Bidder’s Envelope 1, the Contracting Authority may, at its discretion, (i) request Bidders to make clarifications of their Bids; (ii) invite Bidders to a meeting(s) to provide clarifications and/or confirmations; or (iii) request Bidders to verify the submitted documents.

Clarifications shall be limited to providing explanations and/or supporting documentation for information and/or plans included as part of the Bid, but shall not include the submission of additional documents in the Bid nor its modification.

Responses that are received from the relevant Bidder shall be included as part of its Bid under a section of “Clarification/Verification” with a clear reference to the section of the original bid for which the clarification/verification is provided.

#### 5. Opening and Evaluation of the Envelope 2 (Financial Bid)

Bidders with complying Technical Bids, or their duly authorized representatives, may opt to be present at the opening of the Financial Bids on the Financial Bid Opening Date. On the Financial Bid Opening Date, the Contracting Authority shall undertake the following:

At the designated time, the Contracting Authority shall open the Financial Bid (Envelope 2) for Bidders with complying Technical Bids. The opening shall be done in the presence of the complying Bidders and/or their duly authorized representatives who have chosen to be in attendance on the Financial Bid Opening Date.

The Contracting Authority shall announce whether or not the documents required in Section [\*] are in the Second Envelope and shall proceed to note down the details of the Bidder’s submission. The

Contracting Authority shall check if the Bid Price does not fall below the Minimum Expected Returns. If the Bid Price falls below the Minimum Expected Returns, then the Financial Bid shall be rated as “non-complying.”

The Contracting Authority shall then rank the Bid Prices of all Bidders with “complying” Financial Bids from the highest to the lowest.

The Contracting Authority shall send written notices to the Bidders on the results of the evaluation of their respective Financial Bids.

6. Determination of the Highest Complying Bid (“HCB”)

**[Pass/Fail Approach]**

The Contracting Authority shall declare the highest Bid Price as the Highest Complying Bid.

**[Price-Quality Approach]**

The Contracting Authority shall declare the Highest Bid Score as the Highest Complying Bid.

7. Verification of Bidder(s) with the Highest Complying Bid

The Contracting Authority shall verify the documents submitted by the Bidder(s) with the HCB. This shall involve verifying the information and statements made in the Bidder’s Qualification Documents, Technical Bid, and Financial Bid as to their correctness and validity. This verification shall be conducted over a period not to exceed [Number] ([\*]) days after the determination of the Bidder(s) with the HCB.

If the Bidder with the HCB passes the verification, the Contracting Authority shall consider its Bid Price as the Highest Complying and Post-qualified Bid (“HCPB”), and the Contracting Authority shall recommend to the [Contracting Authority] to declare the Bidder as the Preferred Bidder and to issue the Notice of Award to that Bidder.

If the Bidder with the HCB fails the verification, the Contracting Authority shall, after notifying the Bidder with the HCB of its failure during the verification process, consider the Bidder with the second HCB as the Bidder with the HCB and shall undertake verification on that Bidder.

If that Bidder passes the verification, the Contracting Authority shall consider it as the Bidder with the HCPB, and the Contracting Authority shall recommend to the [Contracting Authority] to declare the Bidder as the Successful Bidder and to issue the Notice of Award to that Bidder. Otherwise, the same process is repeated until the HCPB is declared for the Project.

8. Negotiations with HCB

If the Bid submitted by the Bidder is not acceptable to the Contracting Agency, the Contracting Agency may initiate an additional negotiation round or stop the procedure and take alternative actions.

If negotiations are successful, the Contracting Agency will proceed to the issuance of the Notice of Award.

## VII-4 Confidentiality

1. Information relating to the examination, evaluation, clarification, and comparison of Bids and recommendations concerning the award of the Project shall not be disclosed to any of the Bidders or other persons not concerned with the Bidding Process; provided, that the [Contracting Authority], and the Contracting Authority shall not have the obligation to keep any information submitted by a Bidder confidential after the signing of the [Type of the agreement] Agreement by the special purpose corporation



formed by the Successful Bidder or the lapse of [Number] ([\*]) days after the Bids Submission Date, whichever comes earlier.

2. The Contracting Authority will not return either the original or the copies of any Bid submitted by a Bidder, other than as specified in this Section.

## **SECTION VIII – NOTICE OF AWARD, POST-AWARD REQUIREMENTS, AND EXECUTION OF PPP AGREEMENT**

### **VIII-1 Notice of Award and Post-Award Requirements**

Within [Number] ([\*]) days from the approval of the award by the [Contracting Authority], the [Contracting Authority] shall issue the Notice of Award to the Bidder with the best ranked complying post-qualified Bid, which shall thereafter be known as the “Successful Bidder”. The Notice of Award shall prescribe that, within [Number] ([\*]) days from the Successful Bidder’s official receipt of the Notice of Award, the Successful Bidder must submit the following documents to the Contracting Authority as conditions for the execution and signing of the [Type of the agreement] Agreement (“**Post-Award Requirements**”):

- a. Notice of Award signed by the authorized representative of the Successful Bidder; and
- b. The following requirements:
  - (i) Performance Security, pursuant to Section VIII-2;
  - (ii) Letters from reputable financial institutions expressing their willingness to provide sufficient credit facilities as required in the Successful Bidder’s Financial Bids, and also indicating the terms and conditions for such facilities, using the form in Annex TP7;
  - (iii) The following requirements:
    - a. Certificate of Incorporation, Articles of Incorporation, and By-Laws of the Ugandan corporation which will be incorporated by the Consortium Members (the “**Special Purpose Corporation**”).
    - b. Proof of commitments of the equity contribution equivalent to at least [Number] percent ([\*]%) of the Bid Price multiplied by [Number] percent ([\*]%) - e.g. treasurer’s affidavit attesting to actual paid-up capital, subscription agreement(s) between a shareholder(s) of the Special Purpose Corporation and the Special Purpose Corporation itself covering the said equity contribution, or shareholders agreement between/among two or more shareholders of the Successful Bidder undertaking to contribute/subscribe the required equity contribution.

Failure to comply with the Post-Award Requirements within the prescribed [Number] ([\*]) -day period shall result in the forfeiture of the Successful Bidder’s Bid Security and the withdrawal of the Notice of Award. Within [Number] ([\*]) days from the [Contracting Authority]’s receipt of the Post-Award Requirements, the [Contracting Authority] shall determine and notify the Successful Bidder of its compliance with all of the Post-Award Requirements.

If at any time after the issuance of the Notice of Award and prior to the signing of the [Type of the agreement] Agreement, the Successful Bidder (and/or the special purpose corporation that it shall form) is

found to have (i) engaged in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice or Restrictive Practice, (ii) a Conflict of Interest, (iii) violated the Lock-Up Rules, or (iv) an Outstanding Dispute with government, it will be disqualified, its Notice of Award will be withdrawn, and its Bid Security will be forfeited.

## **VIII-2 Performance Security**

### **a. Performance Security for Construction Works**

- i. The Performance Security for Construction works (the "Construction Security") shall secure the faithful performance by the Bidder of its obligations under the [Type of the agreement]
- ii. The Construction Security must be in the form of cash, irrevocable letter of credit, bank draft or bank guarantee using the form in Annex 4, without modification and be issued by universal or commercial bank licensed by the [Name of the institution] included in Schedule 1.
- iii. The Construction Security shall be in an amount equivalent to [[\*] percent ([\*] %) of the Bid Price]. [\*] [Ugandan Shilling (UGX [\*]/United States Dollars (USD [\*\*\*])).
- iv. The Bidder shall ensure that the Construction Security is at all times in full force and effect during the Construction Security Validity Period.

### **b. Performance Security for Operation and Maintenance**

- i. The Performance Security for Operation and Maintenance (the "O&M Security") shall secure the faithful performance by the Bidder of its obligations under the [Type of the agreement] Agreement for the O&M of [Name of the project] for the duration of the concession period, from the date of the issuance of the Certificate of Completion until [Date] as defined in the [Type of the agreement] Agreement (the "O&M Security Validity Period").
- ii. The O&M Security must be in the form of cash, irrevocable letter of credit, bank draft or bank guarantee issued by universal or commercial bank licensed by the [Name of the institution] included in Schedule 1.
- iii. The Performance Security shall be in an amount equivalent to [\*] [Ugandan Shilling (UGX [\*]/United States Dollars (USD [\*\*\*])).
- iv. The Bidder shall ensure that the Performance Security is at all times in full force and effect during the Performance Security Validity Period.

## **VIII-3 Execution of [Type of the agreement] Agreement**

Within [Number] ([\*]) days from its receipt of notification of compliance, the Special Purpose Corporation and the authorized official of the [Contracting Authority] shall sign the [Type of the agreement] Agreement. Failure by the Special Purpose Corporation to sign the [Type of the agreement] Agreement within this time frame will result in forfeiture of the Bid Security and the withdrawal of the Notice of Award.

## **SECTION IX – NEXT BEST COMPLYING BIDS**

If (a) the Bidder with the best complying Bid is not post-qualified, (b) the Successful Preferred Bidder does not fulfil the Post-Award Requirements within the timeframe specified in Section [\*], or (c) the Successful Bidder (or the special purpose corporation it shall form), any of its Consortium Members, any of the proposed contractors or Affiliates of the Successful Bidder, or any of the officers, employees, agents, and advisers of any of these entities is found to have (i) engaged in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, or Restrictive Practice, (ii) a Conflict of Interest, (iii) violated the Lock-Up Rules, (iv) any Outstanding Dispute with government, then the next best complying Bid as ranked in Section [\*] shall undergo the post-qualification process, shall be issued a Notice of Award, and shall comply with the Post-Award Requirements. If the next best complying Bid fails in any of the requirements, the process may again be repeated with the next best complying Bid and so on. This process will be repeated every time a Preferred Bidder is unable to fulfil the requirements of Section [\*], until [Number] ([\*]) days after the Bids Submission Date.

## **SECTION X – PROCESS TO BE FOLLOWED IF ONLY ONE BIDDER SUBMITS A BID, PASSES THE TECHNICAL EVALUATION, OR SUBMITS A COMPLYING BID AMOUNT**

### **X-1 Only one bidder submits a bid**

If only one Bidder submits a Bid, the Contracting Authority may, at its discretion, extend the Bid Submission Date, or proceed to open and evaluate the Bid in accordance with the procedure in Section [\*]. If the Bid Submission Date is extended, then the Bidders having already submitted their Bids shall have the right to withdraw their Bids and submit a new Bid on the new Bid Submission Date.

### **X-2 Only one technical bid passes**

If, after the submission of the Bidders' Bids, only one of the Technical Bids is determined to have passed, the Contracting Authority may, at its discretion, proceed to open such Bidder's Financial Bid in accordance with the procedure in Section [\*]. If the remaining Bidder's Financial Bid is found to be complying, the Contracting Authority shall conduct post-qualification of the Bidder and award the Project in accordance with the procedure in Section [\*], without prejudice to the [Contracting Authority] exercising their right under Section [\*].

## **SECTION XI – GENERAL CONDITIONS AND PROHIBITIONS**

By submitting its Bid, the Bidder acknowledges and agrees that:

1. it, including all Consortium Members, proposed contractors, and Affiliates, and their respective officers, employees, agents, and advisers shall observe the highest standard of ethics during the Bidding Process;
2. it, including all Consortium Members, proposed contractors, and Affiliates, and their respective officers, employees, agents, and advisers shall not commit any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, or Restrictive Practice;
3. it, including all Consortium Members, proposed contractors, and Affiliates, and their respective officers, employees, agents, and advisers, shall not engage in any form of political or other lobbying with respect to the Project or attempt to influence the outcome of the Bidding Process; and
4. it accepts all the terms and conditions of the Invitation Documents and Bidding Documents.

## **SECTION XII – CORRUPT PRACTICE, FRAUDULENT, COLLUSIVE, COERCIVE, UNDESIRABLE PRACTICE, AND RESTRICTIVE PRACTICES**

If a Bidder, any Consortium Member, any proposed contractor, or Affiliate, the Successful Bidder or the Concessionaire, as the case may be, is found to have, directly or indirectly or through an agent, engaged in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, or Restrictive Practice during the Bidding Process, or after the issuance of the Notice of Award or the execution of the PPP Agreement, the [Contracting Authority] shall –

1. reject or disqualify the Bid of or withdraw the Notice of Award to such Bidder, without being liable in any manner whatsoever to the Bidder;
2. forfeit and appropriate the Bid Security of such Bidder, without prejudice to any other right or remedy that may be available to the [Contracting Authority];
3. seek to impose the maximum penalties for civil and criminal liability available under the applicable law on individuals and/or entities involved in such practices; and
4. prohibit or disqualify individuals and/or entities involved in such practices from participating in any bidding of the [Contracting Authority] from the date that they are found to have directly or indirectly engaged in any such practices.

For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:

“Corrupt Practice” means any of the prohibited acts under [Reference to applicable Law] including the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process or the implementation of the Project.

“Fraudulent Practice” means any hoax, delusion, falsification, scheme, artifice, dishonesty, trickery, deceit, cheating and the like, especially when involving misrepresentation, omission, concealment, suppression, non-disclosure or disclosure of incomplete facts, whether in fact or equity, in order to influence the Bidding Process or implementation of the [Type of the Agreement] Agreement.

“Coercive Practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, or exercising undue influence upon any person or property to influence any person’s participation or action in the Bidding Process or the implementation of the [Type of the Agreement] Agreement.

“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 (ii) in any manner influencing or attempting to influence the Bidding Process, the evaluation of Qualification Documents or Bids, or the implementation of the [Type of the Agreement] Agreement

“Restrictive Practice” means any act, scheme, plan or agreement such as forming a group, clique, cartel, trust, syndicate, combine, pool and the like or arriving at any understanding or arrangement among Prospective Bidders, Consortium Members, Construction Contractors, or Bidders with the objective of restricting, subverting or manipulating a full and fair competition in the Bidding Process.

## SECTION XIII – CONFLICT OF INTEREST AND OUTSTANDING DISPUTE WITH GOVERNMENT

The Bidders and Consortium Members, including their Affiliates, must not have any Conflicts of Interest. Without limiting the generality of Conflict of Interest, any of the following will be considered a Conflict of Interest:

- a. A Bidder or any of the Consortium Members or any of their Affiliates (of either a Bidder or any of its Consortium Members) is a member of another Consortium, or an Affiliate of a member of another Consortium.
- b. A Bidder, any of its Consortium Members, or any of their Affiliates (of either a Bidder or any of its Consortium Members) and any other Bidder, any of its Consortium Members, or any of their Affiliates (of either a Bidder or any of its Consortium Members) have common controlling shareholders.
- c. A Bidder or any of the Consortium Members, or any of their Affiliates (of either a Bidder or any of its Consortium Members) is proposed as a Construction Contractor of another Bidder.
- d. A Bidder or any of the Consortium Members, or any of their Affiliates (of either a Bidder or any of its Consortium Members) has ownership interest of at least [Number] percent ([\*] %) in any other Bidder or any Consortium Member of any other Bidder, or any of their Affiliates (of either the other Bidder or any of its Consortium Members).
- e. Another Bidder or any Consortium Member of another Bidder, or any of their Affiliates (of either the other Bidder or any of its Consortium Members) has ownership interest of at least [Number] ([\*] %) in a Bidder or any of its Consortium Members, or any of their Affiliates (of either the Bidder or any of its Consortium Members).
- f. A member of the board of directors, partner, officer, employee, professional advisor or agent of a Bidder or any Consortium Member, or any of their Affiliates (of either the Bidder or any of its Consortium Members), is also directly involved in any capacity related to the Bidding Process for the Project for another Bidder or any Consortium Member of any other Bidder, or any of their Affiliates (of either the Bidder or any of its Consortium Members).
- g. A Bidder, any of its Consortium Members, any of its proposed Construction Contractors, or any Affiliate of any of these, has participated as a consultant to the [Contracting Authority] in the preparation of any documents, design, or technical specifications of the Project or in connection with the Bidding Process.
- h. A Bidder, any of its Consortium Members, any of its proposed Construction Contractors, or any Affiliate of any of these, engages any legal, financial, or technical adviser of [Contracting Authority] in relation to the Project, or anyone who is or was an employee of [Contracting Authority] less than one year before his or her engagement by the Bidder, any of its Consortium Member, or any of its proposed Construction Contractors, or any Affiliate of any of these.
- i. A member of the board of directors, partner, officer, professional advisor, or agent of a Bidder or any Consortium Member, or any of their Affiliates (of either the Bidder or any of its Consortium Members) is related by consanguinity or affinity up to the third civil degree to the [Contracting Authority] who have direct access to information that may substantially affect the result of the Bidding.

If at any time prior to the signing of the [Type of the agreement] Agreement, any Bidder or Bidders, Consortium Member, or Proposed Construction Contractor, or any Affiliate of any of these, is found to have a Conflict of

Interest as defined in this Section, it shall be disqualified from further participating in the Bidding Process. If the Conflict of Interest involves another Bidder or Bidders, then both Bidders shall be disqualified.

## SECTION XIV – LOCK-UP RULES

### XIV-1 Lock-up rules during qualification period

From the Qualification Documents Submission Date to the Bids Submission Date (“**Qualification Period**”), the following rules shall apply:

#### a. Corporation and Partnership

- (i) For a Bidder who is a corporation or partnership, no restrictions shall be imposed on the ownership structure of such a Bidder.
- (ii) However, if a Bidder which is a corporation or a partnership proposes an Affiliate to meet any of the Qualification Requirements, the proposed Affiliate must remain as such at all times.

#### b. Consortium

- (i) A Consortium Member, except for the entity that meets the Financial Qualification Requirement, may leave the Consortium and not be replaced by any other entity (“**Withdrawal**”), subject to the following conditions:
  - 1. A Consortium Member proposed to meet any of the Technical Qualification Requirements cannot Withdraw from the Consortium, except in the event of a Substitution as provided in paragraph (2) below.
  - 2. Any Consortium Member not proposed to meet the Technical or Financial Qualification Requirements may Withdraw from the Consortium.
  - 3. Withdrawing Consortium Members cannot join any other Bidder that has been pre-qualified to bid for the Project.
- (ii) A Consortium Member may be replaced by another entity not previously identified in the Consortium’s Business Structure (Annex TP2) (“**Substitution**”), subject to the following conditions:
  - 1. Any Consortium Member, except for the entity that meets the Financial Qualification Requirement, can be substituted by another entity.
  - 2. If the Consortium Member leaving the Consortium is the only entity in the Consortium who meets a particular Technical Qualification Requirement, then the substitute should also meet that particular Technical Qualification Requirement.
  - 3. The substitute should not be any of the entities identified in Annex TP2 of another Bidder. For the avoidance of doubt, the term “Bidders” shall include those Bidders that failed to pre-qualify to bid for the Project.

- 4. Notwithstanding a Substitution, the Consortium Members originally identified in Annex TP<sub>2</sub> should continue to commit to own not less than [Number] percent ([\*] %) of the outstanding voting shares of the Concessionaire.
- (iii) A Consortium Member, whether or not it is proposed to meet the Technical or Financial Qualification Requirements, may increase or reduce its committed percentage equity interest in the Concessionaire, as specified in Annex TP<sub>2</sub> of the RFB.
- (iv) In the event of a Withdrawal, Substitution or change in the committed percentage equity interest in the Concessionaire, the following requirements must be met:
  - c. The Lead Member must –
    - (i) maintain its commitment to own at least [Number] percent ([\*] %) of the outstanding voting shares of the Concessionaire; and
    - (ii) always own the highest percentage of outstanding voting shares of the Concessionaire.
  - d. No Consortium Member, on its own or together with its Affiliates, shall own a greater percentage of outstanding voting shares in the Concessionaire than the Lead Member, on its own or together with its Affiliates.
  - f. Any change in the composition or shareholding structure of the Consortium must be submitted to the Contracting Authority at least [Number] ([\*]) days before Bids Submission Date. If a Consortium has any new Consortium Member, the submission shall be accompanied by the following attachments pertaining to any new Consortium Member:
    - (i) Basic Information Sheet, using the form of Annex [\*] of the RFQ, including the accompanying attachments as required under Section [\*] of the RFQ;
    - (ii) Certificate of incorporation or articles of partnership for partnerships in accordance with Section [\*] and Annex [\*] of the RFQ;
    - (iii) All Annexes [\*] of the RFQ, as may be relevant, if the new Consortium Member is replacing a Consortium Member which was proposed to meet any of the Technical Qualification Requirements;

Bidders should ensure that any changes made should not prevent it from complying with all of the terms and conditions in the RFQ, including the Qualification Requirements therein, and this Request for Bids. If the proposed changes cause the Bidder to be non-compliant with any of the terms and conditions of the RFQ or this Request for Bids, such Bidder shall be disqualified from the Bidding.

#### **XIV-2 Lock-Up Rules During Bidding Period**

From the Bids Submission Date until the execution of the PPP Agreement (“**Bidding Period**”), the following rules shall apply:

##### **a. Corporation and Partnership**

For a Bidder who is a corporation or a partnership, no changes shall be made in the equity or ownership structure of such Bidder, as provided in the Bidder’s original or revised Business Structure (Annex TP<sub>1</sub>) submitted to and approved by the Contracting Authority.

b. Consortium

For a Bidder who is a Consortium, no changes shall be made in the composition of the Consortium and in the committed percentage equity interest of each Consortium Member in the special purpose corporation which it shall be required to incorporate if it wins the Bid, as provided in the Bidder's Updated Business Structure (Annex TP4).

#### **XIV-3 Consequence of Violation of Lock-Up Rules**

Any violation of the Lock-Up Rules shall be a ground for disqualification from the Bidding.

### **SECTION XV– GOVERNING LAW AND RULES**

The provisions of the Decree on PPP and other applicable Uganda laws shall govern all matters not specifically covered by this Request for Bids and other Bidding Documents.

### **SECTION XVI – DEFINITIONS**

Unless otherwise provided, the following terms used in this Request for Bids shall have the following meanings:

- a. **"Affiliate"** means, a corporation or entity effectively Controlled by or Controlling the Bidder or associated with the Bidder under common ownership and Control.
- b. **"Bid"** means a valid offer to undertake the Project to be submitted by a Bidder, including the Bid Letter, Bid Security, and Additional Requirements for Consortiums with New Members, Technical Bid, and Financial Bid to be submitted by the Bidders pursuant to this Request for Bids.
- c. **"Bids Submission Date"** means the latest date and time that the Bidder is allowed to submit Bids, which is at [Time] on [Date].
- d. **"Bid Security"** means the instrument provided by the Bidder, as part of its Bid, to guarantee that it shall comply with all its obligations under the Request for Bids.
- e. **"Bidder"** means any partnership, corporation, or Consortium that is a Pre-Qualified Bidder and participates in this second stage of the Bidding Process.
- f. **"Bidding Documents"** means the documents, which are issued to Bidders, as enumerated in Section [\*] of this Request for Bids.
- g. **"Bidding Period"** means the period from Bids Submission Date until the execution of the PPP Agreement.
- h. **"Bidding Process"** means the process beginning from the publication of the Invitation to Pre-Qualify and Bid until the signing of the [Type of the agreement] Agreement.
- i. **"Conflict of Interest"** is defined in Section [\*].
- j. **"Consortium"** means an unincorporated association of natural or juridical persons bound by contract or law, solidarily undertaking by mutual written agreement, a common enterprise which is to participate in the Bidding Process.



- k. **"Consortium Member"** means any of the natural or juridical persons or group of persons comprising a Consortium, each having a definite interest in the common undertaking, solidarily liable in the Bid and whose interest will be converted into an equivalent equity participation in the corporation that will become the Bidder if the Consortium is awarded and accepts the [Contracting Authority] [Name of the project] Project.
- l. **"Control"** means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law " [Precise definition to be determined on a project by project basis];
- m. **"Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, and Restrictive Practices"** are each defined in Section [\*].
- n. **"Highest Bid Score"** is defined as the highest combined technical and financial score in accordance to Annex 1.
- o. **"Financial Bid"** is defined in Section [\*] of this Request for Bids.
- p. **"Request for Bids"** or **"RFQ"** means the invitation to Prospective Bidders to submit Bids issued by the Contracting Authority dated [Date] and the General/Special Bid Bulletins thereof.
- q. **"Lead Member"** means, for a Bidder which bids as a Consortium, the Consortium Member having the largest equity interest in the Consortium, which should not be less than [Number] percent ([\*] %), and which should be designated in writing as such by the other Consortium Members.
- r. **"Lock-Up Rules"** is defined in Section [\*] of this Request for Bids.
- s. **"Notice of Award"** is defined in Section [\*] of this Request for Bids.
- t. **"Performance Security"** is defined in Section [\*] of this Request for Bids and in the relevant section of the PPP Agreement.
- u. **"PPP Act"** is defined as the Uganda PPP Act of 2015.
- v. **"PPP Agreement"** means the agreement to be signed by the Contracting Authority and the Special purpose corporation formed by the Successful Bidder.
- w. **"Pre-Bid Meeting"** is defined in Section [\*] of this Request for Bids.
- x. **"Pre-Qualification"** means the first stage of the Bidding Process involving the submission, opening and evaluation of the Qualification Documents submitted by the Prospective Bidders.
- y. **"Pre-Qualified Bidder"** is defined in Section [\*] of the RFQ.
- z. **"Preferred Bidder"** means Bidder determined by the Contracting Authority has having the highest post-qualified Bid.
- aa. **"Project"** is defined in Section [\*] of the RFQ.
- bb. **"Tax Clearance Certificate"** means a document issued by the Uganda Revenue Authority, indicating the tax entity has no outstanding tax liabilities.
- cc. **"Technical Bid"** shall include Annex TP6 and Annex TP8 to Annex TP12 pursuant to Section [\*] of this

Request for Bids.

dd. **“Successful Bidder”** means the Bidder issued with a Notice of Award by the Contracting Authority.

## ANNEX TP1 – FORM OF BID LETTER

[Letterhead]

Uganda

I, [name], [citizenship], of legal age, with office address at [address], as the authorized representative of [name of Bidder], a [corporation/partnership/Consortium], [organized and existing under and by virtue of the laws of [place of incorporation/registration] or organized by agreement among its Consortium Members], after having been duly sworn according to law, hereby declare for and on behalf of [name of Bidder] that:

1. In accordance with the Bidding Documents for the [Name of the project], [name of Bidder], a [partnership/corporation/Consortium] with business address at [business address], hereinafter referred to as the Bidder, submits its Bid to finance, design, construct, operate and maintain the [Name of the Project] [the "Project"] in accordance with the Request for Bids.
2. Bidder's Bid consists of the following components:
  - a. Envelope No. 1 - this Bid Letter, Authorization and Designation of Representatives, Bid Security, and Additional Requirements for Consortiums, and Technical Bid; and
  - b. Envelope No. 2 - Financial Bid.
3. [Name of Bidder] declares that all statements made, and the information and documents submitted in its Bid are true and correct as of the date of this statement, and any misrepresentation or false statement made therein shall be a ground for its disqualification.
4. [Name of Bidder] authorizes the [Contracting Authority] to conduct any inquiries or investigations to verify the statements, documents, and information submitted in its Bid, and to seek clarification from any person regarding any aspect of its Bid. [Name of Bidder] also permits third parties to supply information required to verify statements and information submitted in its Bid.
5. [Name of Bidder]'s Bid is unconditional and unqualified. [Name of Bidder] understands and accepts all of the terms, conditions and other provisions of the Invitation Documents and Bidding Documents, including the final version of the PPP Agreement and its annexes.
6. [Name of Bidder] acknowledges the right of the [Contracting Authority] to reject its Bid without assigning any reason and to cancel the Bidding process at any time, without incurring any liability to the [name of Bidder].
7. [Name of Bidder], including all of its Consortium Members, and all of the entities it has proposed to comply with the Qualification Requirements under the Instructions to Prospective Bidders, have not at any time (i) engaged in any Corrupt Practice, Fraud, Collusion, Coercion, Undesirable Practice, or Restrictive Practice, (ii) have a Conflict of Interest, (iii) violated the Lock-Up Rules or (iv) have any Outstanding Dispute with government.
8. [Name of Bidder] waives any right to and shall not seek or obtain any restraining order, writ of injunction or prohibition or any other form of coercive judicial, quasi-judicial or administrative writ, process or issuance against the [Contracting Authority] to restrain, prevent, suspend, or in any manner forestall, hinder or render inconvenient the Bidding Process, the award of the contract to the Successful Bidder, and the execution and implementation of the PPP Agreement by the special purpose corporation to be formed by the Successful Bidder. [Name of Bidder] acknowledges that the [Contracting Authority] are undertaking this Bidding in the performance of their functions to ensure the provision of a critical basic necessity and that, therefore, the Project is of paramount public interest and importance and that the

[Contracting Authority] will suffer serious and irreparable damage on account of any breach by [*name of Bidder*] of these undertakings, and agree that the breach of these undertakings shall result in [*name of Bidder*]'s automatic disqualification to bid for the Project.

9. [*Name of Bidder*] agrees to keep its Bid valid [Number] ([\*]) days from the Bids Submission Date.
10. In the event that [*name of Bidder*] is declared as the Successful Bidder, [*name of Bidder*] agrees to comply with the requirements of Section [\*] of the Request for Bids and the special purpose corporation which it shall form shall execute the final [Type of the agreement] Agreement with the [Contracting Authority] within the deadlines set in the Request for Bids.

[*Date and Place of Execution.*]

For and on behalf of [*Name of Bidder/Name of Consortium and List of Consortium Members*]

By:

[*Name, Designation and Signature of Authorized Representative*]

## ANNEX TP<sub>2</sub> – AUTHORITY TO SUBMIT BID AND DESIGNATION OF AUTHORIZED REPRESENTATIVE (FOR BIDDERS WHICH ARE PARTNERSHIPS OR CORPORATIONS)

[To be submitted by all Bidders which are partnerships or corporations.]

[Letterhead]

I, [name], after having been duly sworn according to law, hereby depose and state that:

1. I am a [Uganda] citizen, of legal age and a resident of [address];
2. I am the duly elected [corporate secretary or equivalent officer] of [name of Bidder] (the "Bidder"), a [corporation/partnership] organized and existing under and by virtue of the laws of [Uganda];
3. At a regular/special meeting of the [authorized body] of the Bidder, held on [date] at [place], in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

RESOLVED, AS IT IS HEREBY RESOLVED, that [name of Bidder] (the "Bidder") be, and is, authorized to submit its Bid for the [Name of the project] (hereinafter called the "Project");

RESOLVED FURTHER, that in the event the Bidder is declared as the Successful Bidder, it (and the special purpose corporation it shall form) commits to fulfil all of the requirements in the Request for Bids, including the submission and completion of the Post-Award Requirements within [Number] ([\*]) calendar days from its official receipt of the Notice of Award, and the signing of the PPP Agreement with the [Contracting Authority] within [Number] ([\*]) calendar days after being notified by the [Contracting Authority] that it has complied with the Post-Award Requirements;

RESOLVED FURTHER, that [name of Bidder's representative(s)] be and is hereby appointed as the authorized representative of the Bidder for the second stage of the Bidding Process (that is, from the date of issuance by the Contracting Authority of the notice of the Pre-Qualification to the Bidders until the signing of the [Type of the agreement] Agreement by the special purpose corporation to be formed by the Successful Bidder or the lapse of [Number] ([\*]) days after the Bids Submission Date), authorized to execute, sign, and receive documents for, and otherwise act in the name of, the Bidder.

RESOLVED, FINALLY, that any and all acts done and/or performed by [name of Bidder's representative] under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

4. These resolutions have not been revoked, amended or modified and remain valid and binding on the Bidder;
5. That the above resolutions are in accordance with the records of the Bidder.

[Place, Date of Execution].

\_\_\_\_\_  
[Corporate Secretary or Equivalent Officer]

**ANNEX TP<sub>3</sub> – CONSORTIUM MEMBER’S AUTHORITY TO PARTICIPATE IN THE CONSORTIUM AND SUBMIT A BID AND DESIGNATION OF LEAD MEMBER AND AUTHORIZED REPRESENTATIVE OF CONSORTIUM (FOR BIDDERS WHICH ARE CONSORTIA)**

*[To be submitted by each Consortium Member]*

*[Letterhead]*

**SWORN CERTIFICATION OF RESOLUTIONS**

I, *[corporate secretary or equivalent officer]*, after having been duly sworn according to law, hereby depose and state that:

1. I am a *[Uganda]* citizen, of legal age and a resident of *[address]*;
2. I am the duly elected *[corporate secretary or equivalent officer]* of *[Consortium Member]* (the "Firm"), a *[corporation/partnership]* organized and existing under and by virtue of the laws of *[Uganda]*;
3. At a regular/special meeting of the authorized body of the Firm, held on *[date]* at *[place]*, in which meeting a quorum was present and acting throughout, the following resolutions were unanimously passed and approved:

RESOLVED, AS IT IS HEREBY RESOLVED, that the Firm be, and is, authorized to participate, through a Consortium consisting of the following Members and their respective nationalities and percentage interests in the Consortium, in the Bidding Process for the financing, design, construction, operation and maintenance of the *[Name of the project]* (hereinafter called the "**Project**"):

Name of Consortium Member	Nationality	% Interest

RESOLVED FURTHER, that the Firm authorizes the Consortium described above to submit a Bid for the Project;

RESOLVED FURTHER, that the Firm shall maintain its percentage interest in the Consortium until the signing of the *[Type of the agreement]* Agreement, in accordance with the Lock-Up Rules, and thereafter shall comply with the requirements and restrictions on changes in ownership of the Concessionaire as stated in the PPP Agreement;

RESOLVED FURTHER, that in the event that the Consortium is declared as the Successful Bidder, the Firm will cooperate with the other *[Type of the agreement]* Members to register a domestic corporation with the Uganda Securities Exchange and comply with all of the other requirements specified in the Request for Bids, the Notice of Award and the *[Type of the agreement]* Agreement;

RESOLVED FURTHER, that the Firm jointly and severally binds itself with the Consortium Members listed above in undertaking the obligations of the Consortium in the Bid for the Project until, if the Consortium is selected as the Successful Bidder, the special purpose corporation formed by the Consortium signs the *[Type of the agreement]* Agreement, or if the Consortium is not declared as the Successful Bidder within

[Number] ([\*]) days after the Bids Submission Date, until [Number] ([\*]) days after the Bids Submission Date;

RESOLVED FURTHER, that [*name of Firm's representative*] be and is hereby appointed as the authorized representative of the Firm in the second stage of the Bidding Process (that is, from the date of issuance by the Contracting Authority of the notice of the Pre-Qualification to the Bidders until the signing of the [Type of the agreement] Agreement by the special purpose corporation to be formed by the Successful Bidder or the lapse of [Number] ([\*]) days from the Bids Submission Date), authorized to execute, sign, and receive documents for, and otherwise act in the name of, the Firm;

RESOLVED FURTHER, that the Firm in the exercise of its interest in the Consortium hereby:

- (a) designates [*name of Lead Member of Consortium*] as Lead Member of the Consortium with the authority to represent the Consortium during the second stage of the Bidding Process for the Project;
- (b) authorizes [*name of authorized representative of the Consortium*] as representative of the Consortium in relation to the second stage of the Bidding Process for the Project, and for such purpose shall have the authority to execute, sign and receive documents for, and otherwise act in the name of the Consortium.

RESOLVED, FINALLY, that any and all acts done and/or performed by [*name of Lead Member of Consortium*] and [*name of authorized representative of the Consortium*] under and by virtue of this resolution be, as they are hereby, confirmed and ratified.

4. These resolutions have not been revoked, amended or modified and remain valid and binding on the Firm; and

5. That the above resolutions are in accordance with the records of the Firm.

[Place, Date of Execution.]

---

[Corporate Secretary or Equivalent Officer]

## ANNEX TP<sub>4</sub> – BUSINESS STRUCTURE

[This Annex TP<sub>4</sub> is required if the Bidder is a Consortium. Note that for all items of this Annex TP<sub>4</sub>, the Consortium should include: (i) Consortium Members and Affiliates proposed and submitted by the Consortium in Annex [\*] of the RFBP during Qualification Documents Submission Date; (ii) Subcontractors proposed and submitted by the Consortium in Annex [\*] of the RFQ during Qualification Documents Submission Date which the Consortium engages for the Project; and (iii) all new Consortium Member, Affiliate or Subcontractor replacing a Consortium Member, Affiliate or Subcontractor that was proposed to meet any of the Technical Qualification Requirements, if any. Note that pre-qualified Subcontractors which will not be engaged for the Project need not be included in this Annex TP<sub>4</sub>.]

[Required Attachments for each new Consortium Member, Affiliate or Subcontractor replacing a Consortium Member, Affiliate or Subcontractor that was proposed to meet any of the Technical Qualification Requirements:

- a. Basic Information Sheet using the form in Annex [\*] of the RFQ, including the required attachments to Annex [\*];
- b. Certificate of incorporation for corporations or articles of partnership for partnerships in accordance with Section [\*] and Annex [\*] of the RFQ; and
- c. Annexes [\*], as may be relevant, if the new Consortium Member, Affiliate or Subcontractor is replacing a Consortium Member, Affiliate or Subcontractor which was proposed to meet any of the Technical Qualification Requirements.]

Name of Consortium: \_\_\_\_\_

1. Consortium Members

	Lead Member	Other Member	Other Member	Other Member
Name				
Percentage Interest in the Consortium				
Type of Legal Entity (corporation/ partnership)				

2. Contact Information of Consortium Members

a. Lead Member	
b. Address	
c. Website	
d. Contact Person	
i. Telephone	
ii. Fax	
iii. E-mail	

a. Consortium Member	
b. Address	
c. Website	
d. Contact Person	
i. Telephone	
ii. Fax	
iii. E-mail	



a. Consortium Member	
b. Address	
c. Website	
d. Contact Person	
i. Telephone	
ii. Fax	
iii. E-mail	

3. Entity which fulfils the [Project specific experience requirement 1]

a. Name of Entity	
b. Consortium Member to which this entity is related	
c. Relationship to Consortium Member	
d. Address	
e. Website	
f. Contact Person	
i. Telephone	
ii. Fax	
iii. E-mail	

4. Entity which fulfils the [Project specific experience requirement 2]

a. Name of Entity	
b. Consortium Member to which this entity is related	
c. Relationship to Consortium Member	
d. Address	
e. Website	
f. Contact Person	
i. Telephone	
ii. Fax	
iii. E-mail	

For and on behalf of [*Name of Consortium and Lead Member*]

[*Signature of Authorized Representative*]

\_\_\_\_\_  
[*Name, Title, and Date*]

## ANNEX TP5: ACCEPTANCE AND COMPLIANCE LETTER

*[Letterhead]*

[date]

[Contracting Authority]  
[Full address]

Attention: [Title, Name]  
Chairman  
Contracting Authority

### **Acceptance and Compliance Letter**

---

[Bidder's name] hereby declares, represents, and warrants that: (i) it has read and understood each and every section and page of the Bidding Documents, its provisions, terms and conditions, and any amendment, supplement, or modification thereto, including Supplemental Bid Bulletins, as well as the decisions of the Pre-qualification Tender Committee; (ii) it accepts and agrees to be bound and fully abide by and comply with the terms and conditions of the Bidding Documents and any amendment, supplement, or modification thereto, including Supplemental Bid Bulletins, as well as the decisions of the Contracting Authority; and (iii) the Technical Bid is in full compliance with the Annexes of this RFB, the MPR, and the [Type of the agreement] Agreement.

Yours truly,

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

---

(Name, Title, and Date)

## ANNEX TP6 – FORM OF BID SECURITY

[Letterhead of Issuing Bank]

[Contracting Authority]  
Uganda

Place: [•]

Standby Letter of Credit No. [•]

Date: [•]

Dear Sirs:

We, [•], a corporation organized and existing under the laws of the Government of Uganda (the "**Issuer**"), hereby establish our Irrevocable Standby Letter of Credit No. [•] (the "**Letter of Credit**") in your favour and for the account of [insert name of Bidder or Consortium's Lead Member] (the "**Bidder**") relating to the obligations of the Bidder under the Request for Bids of the [Name of the project], which shall be valid and effective until [•]. Capitalized terms used in this Letter of Credit shall have the meanings given to them in the Request for Bids except as otherwise expressly defined herein.

1. The maximum aggregate amount available under this Letter of Credit is [Amount Ugandan Shilling (UGX [\*])/United States Dollars (USD)] (the "**Stated Amount**").
2. Subject to the other provisions of this Letter of Credit, the [Contracting Authority] is hereby irrevocably authorized to make one drawing for the entire Stated Amount under this Letter of Credit by presenting to the Issuer, at its address set forth above, a demand for payment from the [Contracting Authority] in substantially the form attached as Annex A, duly completed, and that is in the form of a letter on the [Contracting Authority]'s letterhead signed by any of its authorized signatories.
3. The Issuer shall be deemed to have honoured a drawing hereunder if the Issuer deposits the amount of such drawing in the account (the "**Designated Account**") designated by the [Contracting Authority] in accordance with Schedule A. Any such drawing made hereunder shall be free and clear of all interest and charges and any sums due to the Issuer.
4. We hereby agree to honour the drawing hereunder made in compliance with this Letter of Credit notwithstanding any objection that the Bidder might raise against the [Contracting Authority]'s entitlement to payment, by transferring in immediately available funds to the Designated Account the amount specified in a demand for payment at the opening of business on the first or second Business Day succeeding the date of such demand. As used herein, the term "**Business Day**" means any day other than (i) a Saturday or Sunday or (ii) a day on which banking institutions in Uganda are authorized or obligated by law or executive order to remain closed.
5. If the demand for payment hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give prompt notice (but within the first Business Day succeeding the date of such demand) to the [Contracting Authority] that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold the documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, the [Contracting Authority] may attempt to correct the non-conforming demand and re-submit such demand in accordance with the terms and conditions hereof.

6. This Letter of Credit shall expire, unless otherwise extended in accordance with the provisions hereof, on the earliest of (i) [Time], at the place of presentation on [*insert date: Bids Submission Date + 180 days*], (ii) the date on which we have honoured a drawing in an amount equal to the Stated Amount, or (iii) the date when we receive a written notice from the [Contracting Authority] that a replacement letter of credit, which is in full force and effect, has been substituted for this letter of credit (the "**Expiration Date**").
7. All documents presented to the Issuer in connection with a drawing hereunder, as well as all notices and other communications to the Issuer in respect of this Letter of Credit, shall be in writing and addressed and presented to the Issuer at its address set forth above. Such documents, notices, and communications shall make specific reference to this Letter of Credit by number. Such documents, notices, and other communications may be delivered or sent by courier to the Issuer at its address set forth above, or at such other address as the Issuer shall have specified in writing to the [Contracting Authority], or sent to the Issuer by fax to the following number:

Fax No. [•] (Answerback: [•]).

8. This Letter of Credit may not be cancelled or amended without the prior written consent of the Issuer and the [Contracting Authority].
9. This Letter of Credit sets forth our undertaking and our agreement with the [Contracting Authority] and such undertaking and such agreement may not in any way be modified, amended, amplified, or limited by reference to any other document, instrument, or agreement referred to herein.
10. The Issuer hereby agrees that it shall have no recourse to the [Contracting Authority] if the Bidder fails at any time to pay any amounts, which may from time to time be due and payable by it to the Issuer in relation to this Letter of Credit.
11. References in this Letter of Credit to the Request for Bids or any other document or instrument, except to the Annexes hereto, are for identification purposes only. The Request for Bids and such other documents and instruments are not incorporated herein, nor are they made a part of this Letter of Credit.
12. This Letter of Credit is issued subject to the provisions of which are incorporated into this Letter of Credit, except to the extent superseded by the express terms and conditions of this Letter of Credit.
13. To the extent that the provisions of this Letter of Credit are not governed by Uganda Law, this Letter of Credit shall be governed by the laws of Uganda and construed in accordance with said laws, without regard to principles of conflicts of law.

IN WITNESS WHEREOF, we have caused these presents to be executed in our name and our corporate seal to be affixed by our attorney-in-fact on this [•] day of [•] [Year].

[Issuer]

By

---

## SCHEDULE A TO ANNEX TP6 – DEMAND FOR PAYMENT

To: [Name of Issuer]

[Address]

Attn: [•]

Re: Irrevocable Standby Letter of Credit No. [•]

The undersigned, a duly authorized officer of the [Contracting Authority], makes reference to the Request for Bids of the [Name of the project] ("**Project**").

1. The [Contracting Authority] hereby demands payment (the "**Drawing**") under the Letter of Credit in the amount of [insert amount] in order to satisfy liabilities of the Bidder under the Request for Bids.
2. The amount of the Drawing does not exceed the Stated Amount.

Please wire transfer the amount of the Drawing to [account details to be inserted by the [Contracting Authority]] (the "**Designated Account**").

IN WITNESS WHEREOF, the [Contracting Authority] has executed and delivered this certificate as of this [•] day of [•], 20[•].

DEPARTMENT OF [Contracting Authority]

By: \_\_\_\_\_

Name:

Title:

## ANNEX TP7 – FORM OF WILLINGNESS TO LEND

[Name of Institution]

[Date]

[ ]

Gentlemen:

In connection with the participation of [name of Bidder] (“Bidder”) in the Bidding Process for the [Name of the project], we wish to express our interest and willingness to provide or arrange the following credit facility/ies for the special purpose corporation that the Bidder will incorporate, if and when it is declared by the [Contracting Authority] as the Successful Bidder, with the following indicative terms:

<b>Type of Facility</b>	
<b>Amount</b>	
<b>Interest Rate</b>	
<b>Tenor and Grace Period (if any)</b>	
<b>Repayment Schedule</b>	
<b>Subordination</b>	
<b>Other Relevant Information</b>	

We acknowledge that all of the terms and conditions of the final draft of the PPP Agreement, including all of its annexes, as of the Bids Submission Date are no longer subject to any amendments or revisions.

Very truly yours,

[Signature of Authorized Representative]

\_\_\_\_\_

[Name]

[Designation]

## ANNEX TP8 - UPDATED PROJECT IMPLEMENTATION PLAN

1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.
2. Within the period provided in the [Type of the agreement] Agreement, the Bidder will submit the Project Implementation Plan including the required attachments to the Program Office for acceptance. The accepted Project Implementation Plan will become part of the [Type of the agreement] Agreement as [Type of the agreement] Annex.
3. The Project Implementation Plan is included as a required document to signal the importance the government gives to a well-organized implementation of the Project. The Bidder is requested to build on its Project Implementation Plan as submitted at the Pre-Qualification stage and improve on it in line with the required contents of the Project Implementation Plan as stated below.
4. The Project Implementation Plan should demonstrate the approach and methodology that will ensure:
  - a) [Project specific]
5. Furthermore, the Project Implementation Plan should describe the Bidder's proposals on the following subjects:
  - a) [Project specific]
6. The Project Implementation Plan should not be longer than [\*] pages. The bidder should ensure that: (i) all boxes are completely filled up, (ii) the Updated Project Implementation Plan is in line with the Draft [Type of the agreement] Agreement.
7. With regard to the professional and well-structured organization, the Bidder should:
  - a) Describe the project organization it intends to set up for this project in terms of number of staff, names of staff if possible, capability of staff, experience of staff and location of staff;

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

- b) [Project specific requirements]

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

**ANNEX TP9 - UPDATED AUTHORITY RISK MANAGEMENT PLAN**

- 1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the Business Structure (Annex TP1) or the authorized representative of the Bidder.
- 2. The Authority Risk Management Plan is included as a required document to signal the importance the government gives to the management by the [Name of the project] of the risks that will remain with the government.
- 3. The Authority Risk Management Plan should demonstrate its methodology and approach to mitigate and manage the residual risks that may affect the government and the [Name of the public authority]).
- 4. The Authority Risk Management Plan should not be longer than [\*] pages.
- 5. The Authority Risk Management Plan should not go into any risks that are associated with the tender procedure itself. The Authority Risk Management Plan concerns only the mitigating measures that the [Name of the project and Successful Bidder] can take to mitigate the residual risk to the government and the [Name of the public authority] after signing of the contract. The Authority Risk Management Plan should be in line with the Draft [Type of the agreement] Agreement.
- 6. Risks that need to be covered in the Authority Risk Management Plan are:
  - a. [Project specific]

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

---



## ANNEX TP10 - UPDATED PROJECT DEVELOPMENT PLAN

1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.
2. The Project Development Plan is included as a required document to substantiate the feasibility of the Business Plan (see Annex TP12) by the [Name of the project and Successful Bidder] with regard to the commercial potential of the [Name of the project].
3. The Project Development Plan should not be longer than [\*] pages.
4. The Project Development Plan should demonstrate the strategy on a number of issues that will determine whether the [Name of the project] will be developed to its full potential. The Project Development Plan should cover the action plan on:
  - a. [Project specific]

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

---

## **ANNEX TP11 - CONCEPTUAL ENGINEERING DESIGN [IF NECESSARY]**

1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the (updated) Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.
2. Within the period provided in the PPP Agreement, the Bidder will submit the Detailed Engineering Design to the [Contracting Authority] for Acceptance. The Detailed Engineering Design builds on the Conceptual Engineering Design and is described in the MPR. The accepted Detailed Engineering Design will become part of the PPP Agreement as a Concessionaire Annex.
3. The Conceptual Engineering Design is included as a required document to show 1) the Technical Soundness of the [Name of Project] and the compliance of the system with the MPR, and 2) the Operational Feasibility of the [Name of Project] through proven systems and compliance with the MPR.
4. [include further specific requirements of conceptual engineering design]

## ANNEX TP12 - BUSINESS PLAN

1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the (updated) Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.
2. The Business Plan details the Bidder's approach to the Project and outlines the investment plan, the maintenance costs, the operational costs, the revenue generation, etc. for the entire life of the concession.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

3. The Business plan shall also quantify the Bidders' Project Development Plan.

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

4. [Project specific]

[Fill in the box. Use additional pages as necessary. All relevant responses to this item must appear here. If a key portion of the response also appears in a different section of your submission, reproduce it here as well, avoid incorporation by reference.]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

### **ANNEX TP<sub>13</sub> – LOCAL CONTENT PLAN**

1. To be submitted by the Bidder, and to be signed by all entities listed in all sections of the (updated) Business Structure (Annex TP<sub>1</sub> or Annex TP<sub>4</sub>) or the authorized representative of the Bidder.
2. The Local Content Plan is included as a required document to show 1) the plan for transferring knowledge to Ugandan nationals, and 2) plan for including Ugandan nationals in the implementation of the [Name of Project].

## **ANNEX FP1 - BID PRICE**

To be submitted by the Bidder, and to be signed by all entities listed in all sections of the (updated) Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.

[include project specific bid price evaluation methodology and calculations]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

---

(Name, Title, and Date)

## ANNEX FP2 - FINANCIAL MODEL REQUIREMENTS [IF APPLICABLE]

To be submitted by the Bidder, and to be signed by all entities listed in all sections of the (updated) Business Structure (Annex TP1 or Annex TP4) or the authorized representative of the Bidder.

1. The Financial Model is a Microsoft Excel workbook (English Version 2007 and newer) that contains all investment, operating and financing cash flows on a quarterly basis throughout the PPP Agreement.
2. All inputs are to be clearly marked.
3. The workbook must be free from passwords (both on workbook, sheet and cell level) and may not contain any hidden sheets or cells.
4. The workbook must be free of circle references and should not contain any links to external documents.
5. The Financial Model should be in line with the PPP Agreement.
6. The Financial Model should be fully consistent with the Technical Bid of the Bidder.
7. The Financial Model should be expressed in real [month / year] and nominal values, taking into account the indexation formulae of the PPP Agreement.
8. The Financial Model should provide for clear projections and/or results on:
  - a. The Project IRR (both pre-tax and post-tax)
  - b. The Post-tax pure equity IRR
  - c. The Post-tax blended equity IRR
  - d. The Weighted Average Cost of Capital
  - e. Annual financial statements;
  - f. Applicable financial ratios.
9. The Financial Model must be accompanied by clear user instructions on how to use and optimise the Model and a data and assumptions book describing the assumptions and workings of the Financial Model. Without being exhaustive, these user instructions should allow for scenario runs with the Financial Model and assessment of the main results of the Financial Model under different assumptions.
10. [fill in other specific requirements tailored to the project specific requirements]

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

---

### **ANNEX 1- TECHNICAL BID CRITERIA**

[Fill in project specific technical bid criteria, including requirement of meeting MPR]

### **ANNEX 2: MINIMUM PERFORMANCE REQUIREMENTS (MPR)**

[Include Project Specific MPR or refer to relevant Annex in the draft PPP agreement]

### **ANNEX 3: FORM OF BIDDER'S COMMENTS**

Name of Bidder:

<b>Section and Page</b>	<b>Comment/Suggested Revision</b>	<b>Explanation for the Comments/Suggested Revision</b>

For and on behalf of (Name of Bidder/  
if Consortium, Name of Consortium)

(Signature of Authorized Representative)

\_\_\_\_\_  
(Name, Title, and Date)

## ANNEX 4 – FORM OF CONSTRUCTION PERFORMANCE SECURITY

### Construction Performance Security

To: Department of [Contracting Authority] (the "**Beneficiary**")

[Date]

Irrevocable Standby Letter of Credit No. [●]

At the request of the [Concessionaire] (the "**Applicant**"), we, [name of the bank] with address at [address of bank], a corporation organized and existing under the laws of Uganda (the "**Issuing Bank**") issue this irrevocable, standby letter of credit ("**Letter of Credit**") in your favour for [insert value] ("**Face Value**") effective from [insert date] on the following terms and conditions:

#### 1. Definitions

Except as provided below, or to the extent that the context requires otherwise, words and expressions defined in the [Type of the agreement] Agreement shall have the same meaning in this Letter of Credit:

"**Agreement**" the [Type of the agreement] Agreement dated [●] entered into between the Government of Uganda, acting through its [Contracting Authority], the [Name of the Authority] and the [Concessionaire].

"**Business Day**" means a day (other than Saturday and Sunday) on which commercial banks are open for general commercial business in the city of [Name of the city].

"**Demand**" means a demand for a payment under this Letter of Credit in the form of the Schedule to this Letter of Credit under Clause 5.

"**Expiry Date**" means the date falling [●] days/months from the date of issue of this Letter of Credit.

#### 2. Issuing Bank's Agreement

- (a) The Beneficiary may request drawing or drawings under this Letter of Credit by submitting to the Issuing Bank a duly completed Demand. All Demands must be received by the Issuing Bank, as stated in Clause 5, before close of banking hours on or before the Expiry Date.
- (b) Subject to the terms of this Letter of Credit, the Beneficiary may request partial and/or multiple drawings under this Letter of Credit by submitting a Demand in relation to each such drawing.
- (c) Subject to the terms of this Letter of Credit, the Issuing Bank unconditionally and irrevocably undertakes to the Beneficiary (or such other payee or payees as the Beneficiary specifies in the Demand) that it will pay to the Beneficiary (or such other payee or payees) the amount demanded in that Demand upon the due presentation by the Beneficiary of the Demand to the Issuing Bank.
- (d) We hereby agree to honour each Demand hereunder made in compliance with this Letter of Credit notwithstanding any objection that the Applicant might raise against the Beneficiary's entitlement to payment at the opening of business on the first or second Business Day succeeding the date of the Demand.



- (e) The Face Value of this Letter of Credit shall be automatically reinstated upon the Issuing Bank's payment against any drawing made by the Beneficiary, by the amount so paid under this Letter of Credit.
- (f) The Letter of Credit shall not be discharged by any change in the Issuing Bank's constitution, the constitution of Beneficiary or that of the Applicant or change in applicable laws.
- (g) All charges, fees, commission and other costs associated with the opening, amendment and renewal or any other act related to this Letter of Credit shall be paid by the Applicant. Failure of the Applicant to make such payments shall not affect our obligation under this Letter of Credit and the Beneficiary shall be paid the money due to it under this Letter of Credit without any deduction.

### 3. Renewal and Expiry

- (a) This Letter of Credit shall be renewable at the option of the Issuing Bank and the Issuing Bank shall exercise such option upon receipt of a written request from the Applicant seeking such renewal.
- (b) The Issuing Bank will be released from its obligations under this Letter of Credit on the Expiry Date.
- (c) On the Expiry Date, the obligations of the Issuing Bank under this Letter of Credit will cease with no further liability on the part of the Issuing Bank except for any Demand validly presented under the Letter of Credit that remains unpaid. For the avoidance of doubt, in the event that a Demand has been made on the Issuing Bank prior to the Expiry Date, the Issuing Bank's obligation to pay hereunder shall be deemed accrued notwithstanding that the due date for payment may fall after the Expiry Date.
- (d) When the Issuing Bank is no longer under any further obligations under this Letter of Credit, the Beneficiary must return the original of this Letter of Credit to the Issuing Bank forthwith.

### 4. Payments

All payments under this Letter of Credit shall be made in [Ugandan Shilling/United States Dollars] and for value on the due date to the account of the Beneficiary specified in the Demand.

### 5. Delivery of Demand

- (a) All Demands under this Letter of Credit shall be presented in full compliance with the terms and conditions hereof by hand delivery at the [*place*] office of the Issuing Bank (or such other address of the Issuing Bank as the Issuing Bank may from time to time notify the Beneficiary for this purpose). Any Demand presented after [*Time*] shall be deemed received on the next working day (other than a Saturday or Sunday).
- (b) If a Demand hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give prompt notice (but within the first Business Day succeeding the date of such demand) to the Beneficiary that the Demand was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold the documents at your disposal or return the same to you. Upon being notified that a Demand was not effected in conformity with this Letter of Credit, the Beneficiary may attempt to correct any such non-conforming Demand and re-submit such Demand in accordance with the terms and conditions hereof.

***[Alternate mechanism(s) for presentation of Demands to be agreed on a case by case basis with Issuing Bank and Beneficiary and this Clause will be amended accordingly.]***

## 6. Amendment

- (a) Any amendment or cancellation of this Letter of Credit shall be operative only with the prior written consent of the Beneficiary.
- (b) This Letter of Credit sets forth our undertaking and our agreement with the Beneficiary and such undertaking and such agreement may not in any way be modified, amended, amplified, or limited by reference to any other document, instrument, or agreement referred to herein or their amendments.

## 7. Governing Law

This Letter of Credit is issued subject to the [applicable law]

## 8. Transferable Credit

- (a) This Letter of Credit is a transferable credit.
- (b) This Letter of Credit is transferable any number of times to such person as may be specified in a transfer request provided that (i) this Letter of Credit may only be transferred for the full amount of this Letter of Credit and not in part; and (ii) transfer may only be made to a person or entity who has been appointed as a successor of the Beneficiary.
- (c) Transfer of the Letter of Credit to the successor of the Beneficiary shall be effective only by the presentation to the Issuing Bank of this Letter of Credit accompanied by a transfer request.
- (d) The Issuing Bank shall be obliged to effect the requested transfer unless the Issuing Bank, within [\*] Business Days of receipt of the transfer request objected to the proposed transfer certifying that such transfer would or could reasonably be expected to result in it being in breach of a law or regulation applicable to it.
- (e) If the Issuing Bank objects pursuant to the above clause, it shall promptly notify the Beneficiary and it shall not affect the requested transfer.
- (f) If the Issuing Bank is obliged in accordance with Clause 8(d) above to effect the requested transfer it shall forthwith effect the same to the designated successor of the Beneficiary by endorsing the transfer on the reverse of this Letter of Credit and the transfer shall be effective only on return of this Letter of Credit to the new Beneficiary.
- (g) Neither the Beneficiary nor the successor of the Beneficiary shall be liable to the Issuing Bank for any charges (including commissions, fees, costs and expenses) of the Issuing Bank payable in connection with the transfer. Such charges shall be for the account of the Applicant. The Issuing Bank shall be obliged to effect the transfer regardless of whether or not those charges have been paid by the Applicant.
- (h) No previous Beneficiary shall retain or have the right to make any Demand. All such rights shall be vested solely in the new Beneficiary.

Yours faithfully,

[Issuing Bank]

By:

## SCHEDULE A TO ANNEX 4 – FORM OF DEMAND

To: *[Issuing Bank]*

[Date]

Dear Sirs,

Standby Letter of Credit no. [●] (the "**Letter of Credit**") issued in favour of [●] pursuant to the terms of the [Type of the agreement] Agreement dated [●] between the Applicant and the Beneficiary.

We refer to the Letter of Credit. Terms defined in the Letter of Credit have the same meaning when used in this Demand.

1. We certify that a sum of [●] is due and payable to the Beneficiary by the Applicant in accordance with the terms of the Agreement. We therefore demand payment of the sum of [●]. We therefore demand payment of the sum of *[amount of security]*.
2. Payment should be made to the following account:  
  
Beneficiary:  
Account Number:  
Bank details: Name and address of the Bank, SWIFT Number
3. This Demand is being made in accordance with the terms of the Letter of Credit and the Agreement.

Yours faithfully,

(Authorised Signatory)  
For  
[Beneficiary]

## 5. Heads of Terms of PPP Agreement

Item	Contents
Involved parties	- ... - ...
Project Description	- ...
Obligations of the Private Contractor	<i>What is the scope of activities of:</i>  Private Party vs. Contracting Authority? Design ... .. Financing ... ..
Obligations of the Contracting Authority/Authorities	Construction ... .. Operation ... .. Maintenance ... .. Permits ... .. Assistance ... .. Ownership ... .. ROW acquisition ... .. Etc. ... ..
Contract Period	Contract Period length? Start date? Potential to extend contract length? At whose initiative?
Conditions Precedent	Conditions precedent for Contracting Authority Conditions precedent for Private Party
Summary Risk Matrix	First summary risk matrix highlighting risk allocation between government and private partner. Most of risks in the summary risk matrix will be elaborated in the following sections of the Heads of Terms.
Rights of the Private Party	What are the rights of the Private Party, depending on the nature and content of the Project? <ul style="list-style-type: none"> <li>• Access to the site</li> <li>• Use of existing assets</li> <li>• Making structural changes in existing assets</li> </ul>
Capital lock-up rules	Restrictions on transfers of shares in the SPC (per section 20(b) of the PPP Act only allowed after approval of the Minister of the contracting authority and the Minister responsible for finance)
Financing requirements	Obligation of private party to finance the investment in project assets Deadline for financial close Minimum gearing Co-financing by contracting authority or other government entity (if applicable) Procedure for refinancing Security package/direct agreements
Design and Construction	What is the contribution of the contracting authority in the design? <ul style="list-style-type: none"> <li>• Output Specifications</li> </ul>

	<ul style="list-style-type: none"> <li>• Conceptual Design</li> <li>• Procedural approvals and licensing</li> </ul> <p>Design and construction milestones How to treat design changes? What are the obligations of the Private Contractor concerning construction? Are variations allowed? Procedural treatment of variations Impact on the fees Delays Defects Testing and inspections</p>
Operations and Maintenance	<p>What are the operational rights granted to the Private Contractor (further development of the asset, commercial exploitation, etc.)? Role of the Contracting Authority during the contract period Requirement of operational performance security from Private Contractor Operations and maintenance milestones</p>
Project Assets and ownerships	<p>Who will own the existing assets? Who will own the new assets being created? When will ownership of the project assets transfer?</p>
Fees, Charges, Indices, Contingencies (Payment Mechanism)	<p>Which sources of revenues will the Private Party have? In case of user charges:</p> <ul style="list-style-type: none"> <li>• Fee structure</li> <li>• Min/max allowable rate</li> <li>• Indexation/escalation arrangements</li> <li>• Revenue sharing mechanisms</li> </ul> <p>In case of payments from Government:</p> <ul style="list-style-type: none"> <li>• Fixed periodic payments Variable depending on asset usage</li> <li>• Indexation/escalation arrangements</li> <li>• Use of milestone payments</li> <li>• Applicable index formula</li> <li>• Institution handling payment</li> </ul> <p>When will payments be made? Which account(s) should the payments be routed from?</p>
Bonus/Penalty regime (Performance Mechanism)	<ul style="list-style-type: none"> <li>• Output standards</li> <li>• Structure of penalties linked to performance below norms</li> <li>• Bonus structures linked to performance</li> <li>• Monitoring and performance evaluation framework for measuring performance</li> </ul>
Insurance and guarantee requirements	<p>Which risks must be insured? By Private Party? By Government? Requirement of construction performance security from Private Party?</p>
Force Majeure and consequences	<ul style="list-style-type: none"> <li>• Definition of force majeure and consequences of force majeure</li> </ul>
Default and Termination	<ul style="list-style-type: none"> <li>• Events of Default and termination</li> </ul>

	<ul style="list-style-type: none"> <li>• Consequences of Termination, including Payments Formulas</li> <li>• Buy-out Price Formulas</li> <li>• Etc.</li> </ul>
Delays/supervening events and consequences	<ul style="list-style-type: none"> <li>• How will delays be dealt with?</li> <li>• How will compensation be dealt with?</li> </ul>
Handback	<ul style="list-style-type: none"> <li>• Gradual build-up of handback security</li> <li>• Maintenance requirements preceding handback</li> <li>• Asset quality requirements at handback</li> <li>• Other requirements at transfer (knowledge transfer, transfer of books and accounting, etc.)</li> </ul>
Dispute Resolution Framework	<ul style="list-style-type: none"> <li>• Procedure on a dispute</li> <li>• Mechanism for resolving a dispute</li> </ul>
Governing Law	The Laws of Uganda
Jurisdiction	Courts that will have jurisdiction on matters related to the contract
Appointment of Independent Expert	Procedure for the appointment of the Independent Expert
Liabilities	Liabilities of each party, including liabilities to third parties
Protection of user's interests	Framework for protection of the rights of the users and beneficiaries of the project, including redressal of their grievances, framework to ensure that the services are not disrupted etc.
Boilerplate Clauses	These are standard clauses included in all PPP agreements