



**ISLAMIC REPUBLIC OF AFGHANISTAN
MINISTRY OF ENERGY & WATER (MEW)
PRE-QUALIFICATION DOCUMENT**

**DEVELOPMENT OF 40 MW SOLAR POWER GENERATION FACILITY WITH
GRID SYSTEM AT HISAR-E-SHAHI INDUSTRIAL PARK OF NANAGRAHAR,
AFGHANISTAN**

Prequalification Notice reference number : [MEW/PPP/BOT/OT/1398/013]

Issue date : 21st August 2019

This document complies with the Public Private Partnership Law of 5th Septembers 2018, issue no 1322. This Prequalification Document is not an agreement and is not an offer by the Entity, the Directorate General of PPP, or any of their respective Representatives, to Registered Entities, Applicants or any other person. The purpose of this Prequalification Document is to provide Registered Entities and Applicants with information to assist the formulation of their Prequalification Response.

The Entity, the Directorate General PPP and their respective Representatives:

- *state that assumptions, assessments, statements and information contained in the Prequalification Document may not be complete, accurate or adequate. Each Registered Entity and Applicant should, therefore, conduct its own investigation and analysis and should check the accuracy, reliability and completeness of the information in this Prequalification Document and obtain independent advice from appropriate sources*
- *make no representation or warranty (express or implied) as to the accuracy, adequacy or completeness of this Prequalification Document or any responses to requests for clarifications made by the Registered Entities or Applicants; and*

shall not be liable to any Applicant or Registered Entity, for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Prequalification Document or otherwise, including without limitation: the accuracy, adequacy, correctness, completeness or reliability of the Prequalification Document or any information contained within it; any omission, mistake or error on the part of a Registered Entity or Applicant; or the Entity's or Directorate General PPP's responses to queries or requests for clarifications made by the Registered Entities or Applicants; or any assessment, assumption, statement or information contained therein or deemed to form part of this Prequalification Document or arising in any way from participating in the bidding process.

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PART A – INTRODUCTION

Ministry of Energy & Water (MEW) (the Entity or the Contracting Authority) is seeking responses to this Prequalification Document [MEW/PPP/BOT/OT/1398/013]] and intends to prequalify eligible firms for a Proposed Public-Private Partnership Agreement according to PPP law and Power Service Regulatory Act to carry out the Project, *Development of 40 MW Solar PV with Grid System (the Project)*, as more fully described in Part F of this Prequalification Document, through a competitive process that is in compliance with the PPP Law. The first step in the competitive process is the prequalification of Applicants or potential Bidders based on their submission of Prequalification Responses in response to this Prequalification Document.

MEW is now hereby inviting all interested Applicants to submit their Prequalification Responses in accordance to the terms and conditions and guidelines of this Prequalification Document for the purpose of shortlisting and subsequently issuance of a Request for Proposal for evaluation of Proposals and award of a PPP Agreement to carry out the Project A pre-application meeting with the Entity will be held on 18th September 2019. All prospective Applicants are invited to attend in order to be briefed on the project and the prequalification process.

PART B - PROCUREMENT PROCESS

1. OVERVIEW OF THE BIDDING PROCESS FOR THE PROJECT

1.1 Registration and Data Room

- (a) The bidding phase of the Project began with the advertisement of this Prequalification.
- (b) All interested parties are required to register in order to participate in the bidding process. Registration shall be performed in accordance with the instructions set out on the notice of this Prequalification and shall be completed no later than [2.00 pm] AFT one business day prior to the Prequalification Response Submission Date.

Notwithstanding anything to the contrary in this Prequalification Document or the notice of this Prequalification, in the case of a Consortium, where the Lead Member of the Consortium has registered in accordance with the instructions set out in the notice of this Prequalification, and has notified the Entity in writing by email and/or letter to the address set out in this document, the full name and registered address of each Non-Lead Member of its Consortium, each Consortium Member of that Consortium shall be deemed to be a Registered Entity for the purposes of this Prequalification.

- (c) Only Registered Entities (or in the case of a Prequalification Response by a Consortium, only Consortia whose Consortium Members are Registered Entities) shall be permitted to submit an Application.
- (d) The Entity has set up a Data Room for the Project to share documents and communicate with the Registered Entities and Applicants. During the Prequalification Stage, the Data Room shall contain this Prequalification Document, any Addenda or Corrigenda and any other relevant information for the Prequalification Stage of the bidding process. The Data Room can be accessed through registration process at <http://www.ppp.mof.gov.af>.
- (e) The notice of invitation to the Pre-Application Meeting shall be sent by email to Registered Entities.

- (f) Shortlisted Bidders will be notified of the relevant details for access to the data room established for the RFP Stage.

1.2 The bidding Process

- (a) The bidding process follows as below:

(i) Prequalification

- (A) During the Prequalification Stage, the Registered Entities will submit their Prequalification Responses in accordance with the terms and conditions of this Prequalification Document. The Prequalification Responses shall be evaluated on the basis of the pre-determined Pre-qualification Requirements set out in PART E. The pre-qualified Applicants will then be shortlisted in accordance with the shortlisting criteria and process set out in this document. For the purposes of ensuring the quality of the Shortlisted Bidders that progress to the RFP Stage, the number of Shortlisted Bidders is limited to a maximum of [6 (Six)].
- (B) The Prequalification Stage is a stand-alone and independent stage that is complete once the Shortlisted Bidders are identified by the Entity and all Applicants have received notification of the results of the Prequalification Stage from the Entity.

(ii) RFP

- (A) The RFP Stage is the competitive procurement process that follows the Prequalification Stage and is intended to result in the selection of a Preferred Bidder. Only the Shortlisted Bidders will be invited to submit Proposals during the RFP Stage. The RFP will provide details on the technical and financial Proposals required to be submitted. Proposals shall be opened and evaluated in accordance with the terms of the RFP and the Preferred Bidder will be selected, based upon the submitted Proposals and the evaluation criteria set out in the RFP.
- (B) A Bid Security will need to be submitted at the RFP Stage.
- (C) Once selected, the Entity will finalise and sign the PPP Agreement with the Project Company to implement the Project.

1.3 Responsibility of Applicants

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

- (a) conduct its own investigation and analysis of the Project and the laws applicable to this Prequalification Document, the bidding process for the Project and the Project;
- (b) check the accuracy, reliability and completeness of the information in this Prequalification Document; and

- (c) obtain independent advice from appropriate sources which may include but shall not be limited to its own independent financial, legal, accounting, engineering, technical or other experts.

1.4 **Pre-Application Meeting**

- (a) A Pre-Application Meeting will be held by the Entity for Registered Entities. The date, time and venue of the Pre-Application Meeting will be notified to Registered Entities using the Authority Communication Protocol. Only Registered Entities shall be allowed to participate in the Pre-Application Meeting. A maximum of [3 (three)] representatives for each Registered Entity shall be allowed to attend the Pre-Application Meeting. The Entity may revise the date, time, venue and/or the number of representatives permitted to attend the Pre-Application Meeting. If the Entity makes any such change it will inform only Registered Entities through the Authority Communication Protocol.
- (b) The Entity shall make arrangements for remote participation with video conferencing / phone dial-in facilities to enable Registered Entities who are unable to attend the Pre-Application Meeting physically to participate. The access details will be provided using the Authority Communication Protocol.
- (c) The purpose of the Pre-Application Meeting shall be to provide further information about the Project and the bidding process. Prior to the Pre-Application Meeting, Registered Entities may submit any questions, requests for clarification and/or suggestions for consideration of the Entity in accordance with section 1.5. Registered Entities will also be free to seek clarifications and make suggestions for consideration by the Entity during the course of the Pre-Application Meeting provided that written responses shall only be given through the Authority Communication Protocol in accordance with section 1.5(c) in response to those questions, requests for clarification and/or suggestions for consideration that are submitted in writing in accordance with section 1.5.
- (d) Any presentation materials presented by the Entity at the Pre-Application Meeting will be sent to the Registered Entities through the Authority Communication Protocol. Any such presentation materials shall not in any event be construed as an agreement, understanding or an instruction by the Entity and nor shall they be binding on the Entity.
- (e) The Entity may provide such clarifications at the Pre-Application Meeting as it deems appropriate provided that any revision to the bidding documents that may become necessary as a result of the Pre-Application Meeting, will be made by the Entity exclusively through the issue of an Addendum and/or Corrigendum in accordance with section 1.6 and not through any clarifications given at the Pre-Application Meeting.
- (f) The Entity further reserves the right to set up one or more follow-up meetings after the initial Pre-Application Meeting, if it deems necessary.

1.5 **Clarification Requests**

- (a) Registered Entities may ask any question or request any clarification with regards to this Prequalification Document, or make any suggestion for consideration by the Entity in writing by e-mail and/or letter to the e-mail or address set out in this document. Registered Entities are encouraged to submit questions, requests for clarification and/or suggestions for consideration at least [7 (seven)] Days prior to the Pre-Application Meeting. Registered Entities may submit questions, requests for clarification and/or

suggestions for consideration after such date but prior to the date falling [14 (fourteen)] Days prior to the Prequalification Response Submission Date. The Entity may, at its sole discretion, elect to accept any question or request for clarification submitted less than [14 (fourteen)] Days prior to the Prequalification Response Submission Date.

- (b) All queries, requests for clarification and/or suggestions for consideration that are submitted by e-mail shall be submitted by the Registered Entity to the Contracting Authority in MS Word format through the following email address which is connected to the Data Room. Registered Entities shall use the template below for submission of queries or requests for clarification:

Subject:		Submission of queries, requests for clarification and/or suggestions for consideration in respect of the Prequalification Document issued for the Development of 40 MW Solar PV with grid system at Hisar-e-Shahi Industrial Park, Afghanistan (the "Project")	
Defined terms:		Unless otherwise defined, capitalised terms used in this submission shall have the meaning given to them in the Prequalification Document.	
Prequalification Response Submission Date:		<u>16th October 2019</u>	
Registered Entity:		[Insert name of Registered Entity]	
Ref. No.	Section of Prequalification Document	Query/ request for clarification/ suggestion for consideration	Proposed drafting amendment* (if any)

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

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

1.6 Addenda and Corrigenda

- (a) Prior to the Prequalification Response Submission Date, the Entity may, for any reason whatsoever, whether on its own initiative or in response to a clarification requested by a Registered Entity or otherwise, amend and/or make corrections to this Prequalification Document. Any amendments and corrections to this Prequalification Document shall be made by Addenda and Corrigenda respectively.
- (b) The Registered Entities will be notified of any Addendum or Corrigendum through the Authority Communication Protocol.
- (c) The Prequalification Document as amended or corrected by an Addendum or Corrigendum will be deemed to be the applicable documentation for purposes of the Prequalification Document Stage.
- (d) The Entity shall ensure that there is a period of at least [14 (Fourteen)] Days or more between the issue of an Addendum or Corrigendum and the Prequalification Response Submission Date.

1.7 **Responsibility for Responding costs**

- (a) Each Registered Entity and Applicant shall bear all costs associated with its participation in the bidding process, its evaluation of this Prequalification Document and the preparation and submission of its Prequalification Response, including all costs and expenses related to its involvement in but not limited to the following:
 - (i) site visits and inspections and any other due diligence;
 - (ii) information gathering processes and appointment of advisers and consultants;
 - (iii) preparation and submission of responses to questions or requests for clarification from the Entity;
 - (iv) preparation and submission to the Entity of queries and requests for clarification;
 - (v) attendance at the Pre-Application Meeting and any follow-on meetings scheduled by the Entity; and
 - (vi) preparation, collection and submission of the Letter of Application, all Forms and all required supporting documents or information.
- (b) The Entity shall not be held responsible for or in any way be held liable to pay any costs or expenses of any Registered Entity or Applicant, regardless of the conduct or outcome of the bidding process and regardless of whether a Registered Entity submits a Prequalification Response.
- (c) The Applicant's participation and involvement in any stage of the Tender Process is at the Applicant's sole risk, cost and expense. The Entity will not be responsible for, nor pay for, any expense or loss that may be incurred by Applicants in relation to the preparation or submission of their Prequalification Response or taking part in the Tender Process regardless of the outcome of Prequalification Response evaluation.
- (d) The Entity is not liable to the Applicant for any costs on the basis of any contractual, promissory, restitutionary or other grounds whatsoever as a consequence of any matter

relating to the Applicant's participation in the Tender Process, including, without limitation, instances where:

- (i) the Applicant is not prequalified; or
- (ii) the Entity exercises any right under this Prequalification Document or at law.

1.8 **Applicant's representation**

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

- (a) made a complete and careful examination of this Prequalification Document;
- (b) accepted the Prequalification Document and the terms and conditions governing the bidding process;
- (c) acknowledged that it does not have a Conflict of Interest;
- (d) satisfied itself about all matters, things and information necessary and required for submitting an informed Prequalification Response in accordance with the terms and conditions of this Prequalification Document;
- (e) acknowledged and agreed that the Entity, the *Directorate General PPP*, Da Afghanistan Brishna Sherkat (Distribution Company) and their respective Representatives shall not be liable to any Applicant or Registered Entity, for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Prequalification Document or otherwise, including without limitation: the accuracy, adequacy, correctness, completeness or reliability of the Prequalification Document or any information contained within it; any omission, mistake or error on the part of a Registered Entity or Applicant; or the Entity's or *Directorate General PPP* or Da Afghanistan Brishna Sherkat (Distribution Company) responses to queries or requests for clarifications made by the Registered Entities or Applicants; or any assessment, assumption, statement or information contained therein or deemed to form part of this Prequalification Document or arising in any way from participating in the bidding process, nor shall this be a ground for termination of the PPP Contract; and
- (f) agreed to be bound by the undertakings provided by it under the terms and conditions stated in this Prequalification Document.

PART C – DETAILS**1. Entity**

Ministry of Energy & Water (MEW)

2. Entity's Contact Officer

Name and title	Faridullah Sharfmal Renewable Energy Director
Address for correspondence by post	Ministry of Energy & Water Darulaman Road, Sanatoruim Kabul, Afghanistan
Email address	faridullah.sharafmal87@gmail.com

3. Source of Funds

To be detailed out at the RFP stage

4. Indicative timetable

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

Activity	Date
Prequalification Notice issued	<i>21st August 2019</i>
Pre-application meeting	<i>18th September 2019</i>
End of period for questions or requests for information (see clause 3.2 of Part D)	<i>14 days before the Submission Date for the Prequalification Response in accordance with clause 3.2 of Part D.</i>
[Deadline for Entity to respond to any questions or requests for information (see clause 3.2) of Part D]	<i>7 days before the Submission Date for the Prequalification Response [in accordance with clause 3.2 of Part D].</i>
Formal notification of prequalified Applicants	<i>12th November 2019</i>
Expected date for issue of Request for Proposal	<i>19th November 2019</i>
Expected date for submission of Tenders	<i>14th January 2020</i>
Formal notification of the Preferred Bidder	<i>11th February 2020</i>
Expected date of Contract Close (Signing of PPP Agreement)	<i>10th March 2020</i>

5. Language of Prequalification Responses

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

6. Submission of Prequalification Responses

Hard copy submission only

Address	<i>Ministry of Energy & Water Darulaman Road, Sanatoruim Kabul, Afghanistan</i>
Timing of Submission	<i>2.00 pm on 16th October 2019 AFT</i>
Information to be marked on package containing the Prequalification Responses	<i>Project Name</i>
Other requirements	

7. Prequalification Response Submission Date

- (a) Prequalification Responses shall be submitted on or before **14:00** hours AFT, on **16th October 2019** (the "**Prequalification Response Submission Date**") to the address provided in section 20(h)(ii) above, in the manner and form as detailed in this Prequalification Document.
- (b) It is the sole responsibility of each Applicant to make sure that: its Prequalification Response is delivered on or before the Prequalification Response Submission Date; and an acknowledgment of submission is requested and received from the Entity.
- (c) The Entity may, in its sole discretion, extend the Prequalification Response Submission Date by issuing an Addendum to all Registered Entities.

8. Changes to an Applicant

- (a) Subject to section 1.8(b) below:
 - (i) a change in the composition of a Consortium that is an Applicant; or
 - (ii) a change in the composition of an Applicant that is a single entity from a single entity Applicant to a Consortium Applicant,

will not be permitted by the Entity after the Prequalification Response Submission Date.

- (b) A change in the composition of an Applicant, either as a result of addition of a new Non-Lead Member, substitution of an existing Non-Lead Member with a new member, withdrawal of a Non-Lead Member and/or a change in the respective shareholdings in the

proposed Project Company, may be permitted by the Entity after the Prequalification Stage but before the submission of the Proposals at the RFP Stage only where:

- (i) the Lead Member continues to be the Lead Member of the Consortium or in the case of a single entity Applicant that intends to change its composition to be a Consortium Applicant, the single entity Applicant is the Lead Member of the Consortium and the Consortium otherwise satisfies all the Legal Pre-qualification Requirements;
 - (ii) the Consortium continues to have or has no more than [5 (five)] Consortium Members composed only of the Lead Member and Non-Lead Members;
 - (iii) the substitute (in cases where a new member is replacing an existing Non-Lead Member or is joining with a single entity Applicant to form a Consortium) satisfies the Legal Pre-qualification Requirements and all other applicable requirements of this Prequalification Document and to the extent the new Non-Lead Member is at least equal, in terms of the capacity of the Consortium Member who is sought to be substituted to fulfil Shortlisting Criteria,
 - (iv) the new Non-Lead Member(s) expressly adopt(s) the Prequalification Response already made on behalf of the Applicant as if it were a party to it originally and submits Form 7, Form 8, Form 9, revised particulars of the Reference Project under Form 4; and
 - (v) the new composition of the Applicant is at least equal to the entire previous composition of the Applicant in terms of capacity to fulfil the Technical Pre-qualification Requirements and the Financial Pre-qualification Requirements and Shortlisting Score and the modified Applicant continues to satisfy the Legal Pre-qualification Requirements and all other requirements of this Prequalification Document.
- (c) Approval for a change in the composition of an Applicant shall be at the sole discretion of the Entity and must be approved by the Entity in writing.
 - (d) The modified Applicant shall be required to submit each Form, together with all supporting documents and information that requires amendment as a result of the change, at the time specified in the RFP.
 - (e) Any change in the composition of an Applicant other than as set out above shall lead to the rejection of the Prequalification Response and/or Proposal and forfeiture of the Bid Security, if any.
 - (f) Subject to section 1.8(b) above, Applicants will not be able to change their composition after the Prequalification Response Submission Date for Proposals up to the signing of the PPP Contract. After the execution of the PPP Contract, any change in the equity of the Project Company shall be subject to the terms and conditions of the PPP Contract.
 - (g) The Applicant shall be required to submit each Form, together with all supporting documents and information that requires amendment as a result of the change, at the time specified in the RFP.

9. Joint and several liability

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

10. Joint Venture Agreement

- (a) A letter of intent to execute a Joint Venture Agreement (“JVA”) in the event of a successful bid shall be signed by all Consortium Members and submitted with the Prequalification Response. The letter of intent shall include, among other things, a description of the objectives of the joint venture, the proposed management structure, the contribution of each participant to the joint venture operations, the commitment of the participants to joint and several liability for performance of the Contract, recourse or sanctions within the joint venture in the event of default or withdrawal of any participant, and arrangements for providing the required indemnities.

11. Dissolution of Joint Venture

- (a) The pre-qualification of a joint venture does not prequalify any of its participants to submit a bid individually or as a participant in any other joint venture or association. In case of dissolution of a joint venture prior to the submission of bids, any of the constituent firms may prequalify if they meet all of the prequalification requirements, subject to the written approval of the Entity.

PART D – CONDITIONS OF PREQUALIFICATION RESPONSE TO PREQUALIFY

1. INTERPRETATION

1.1 Definitions

1.1.1 In this Prequalification Document, unless a contrary intention is apparent:

"Addenda" or "Addendum" means an amendment or supplement to this Prequalification Document issued by the Entity to the Registered Entities prior to the Prequalification Response Submission Date in accordance with the terms of this Prequalification Document and which shall, once issued, be read together with this Prequalification Document;

"Affiliate" means in relation to an Applicant or Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant or Consortium Member. The expression "control" means, with respect to a person or entity, the ability (directly or indirectly) to direct or cause the direction of the votes attaching to the majority of its issued shares or interests or carrying voting rights, or to appoint or remove or cause the appointment or removal of those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body) or to otherwise direct its management and policies by operation of law or legal agreement;

"AFT" means Afghanistan Time;

"Appendix" means the appendix to this Prequalification Document;

"Applicant"¹ means a Person who is considering submitting a Prequalification Response or which submits a Prequalification Response pursuant to this Tender Process.

"Authority Communication Protocol" means the mode of communication used by the Entity to communicate with Registered Entities and Applicants in respect of this Prequalification Document, which includes posting the information to the Data Room and/or communicating in writing through email/letter but excludes any oral communications;

"Bid" means any bid to perform the Public-Private Partnership Agreement to be submitted to the Entity by a Bidder prequalified pursuant to this Prequalification Document.

"Bid Security" means the security that needs to be submitted at the time of submission of the Proposal pursuant to the RFP;

"Conflict of Interest" has the meaning given in section 3.5;

"Consortium" is a group of Registered Entities coming together to submit a Prequalification Response;

"Consortium Member" means a member of a Consortium (including both a Lead Member and a Non-Lead Member);

¹ All shareholders whether individual or under a Consortium group shall disclose ultimate parent companies and when necessary it should be clarified whether formal parent company guarantees will be granted for project funding obligations. The evaluation of each individual shareholder shall include such "parent" shareholders.

"Contact Officer" means the person so designated in Section 2.

"Contract Performance Criteria" shall mean the criteria set out in section 10.3.2

"Corrigenda" or **"Corrigendum"** means a correction of any errors in this Prequalification Document issued by the Entity to the Registered Entities prior to the Prequalification Response Submission Date in accordance with the terms of section 3.7 and which shall, once issued, be read together with this Prequalification Document;

"Data Room" refers to an online virtual data room located at <http://www.ppp.mof.gov.af> and providing certain information and documents relevant to the Project and this Prequalification Document;

"Day" means a calendar day;

"Eligible Project" has the meaning given in section 10.3.3(c) and **"Eligible Projects"** means all or more than one of them (as the context requires);

"Eligible Project Nominee" has the meaning given in section 10.3.3;

"Eligible Projects Criteria" means the criteria set out in section 10.3.3;

"Entity" means the Contracting Authority, i.e. Government of the Islamic Republic of Afghanistan represented by the Ministry of Energy and Water or MEW ;

"Entity's Representative" means the representative designated by the Entity in accordance with the terms of section 10.3 as the person to whom all correspondence from an Applicant or Registered Entity to the Contracting Authority shall be addressed;

"EPC" means engineering, procurement and construction;

"Evaluation Panel" has the meaning given to it in clause 6.2.1.

"Financial Nominee" has the meaning given in section 10.2.2;

"Financial Pre-qualification Requirements" means the financial pre-qualification requirements to be satisfied by Applicants, as set out in section 10.2;

"Forms" means forms 1 to 12 as set out in the Appendix and **"Form"** means any one of them;

"Government" means the Government of Afghanistan;

"Intellectual Property Rights" includes copyright and neighbouring rights, and all proprietary rights in relation to inventions (including patents) registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"Lead Member" with respect to a Consortium means the Consortium Member:

who has entered into or will enter into an agreement with the remaining Consortium Members to have at least [26% (twenty six per cent)] equity shareholding in the Project Company;

who is or will be the largest shareholder in the Project Company; and

who is authorised by all other Consortium Members to be responsible for the bidding process for the Project on behalf of the Consortium;

"Legal Pre-qualification Requirements" means the legal pre-qualification requirements to be satisfied by Applicants, as set out in section 10.1;

"Non-Lead Member" means a Consortium Member who has entered into or will enter into an agreement with the remaining Consortium Members to hold at least [10% (ten per cent)]² equity shareholding in the Project Company;

"Person" or **"Persons"** shall include natural persons, individuals, firms, bodies corporate, unincorporated associations, partnerships, joint ventures, trusts or other entities or organisations of any kind.

"PPP" means Public Private Partnership;

"PPP Contract" means the contract to be entered into by the Entity and the Project Company for implementation of the Project;

"PPP Law" means the Public Private Partnership Law of 5th September 2018, issue no 1322 as amended from time to time including consolidations, amendments and replacements thereof.

"Pre-Application Meeting" means a meeting held by the Entity with the Registered Entities in relation to this Prequalification Document, as described in section 1.4;

"Preferred Bidder" means the Shortlisted Bidder chosen by the Entity with the intention to implement the Project following evaluation of the Proposals submitted in respect to the RFP based on the pre-established evaluation criteria;

"Prequalification Evaluation Criteria" means the criteria set out in Part E.

"Prequalification Document" means this document (comprising each of the parts identified in clause 2.1) and any other documents so designated by the Entity.

"Prequalification Response" means an Application (including the Letter of Application and all the Forms and supporting documents and information, as set out in appendix 1 submitted by an Applicant to the Entity in accordance with the terms of this Prequalification Document and which is submitted by the Applicant for the purposes of being pre-qualified and shortlisted for the Project;

"Prequalification Response Submission Date" has the meaning given in section 7;

"Pre-qualified Applicants" means an applicant that has satisfied all the Pre-qualification Requirements set out in sections 10.1 to 10.3, as defined in section 0;

"Pre-qualification Requirements" means the Legal Pre-qualification Requirements, the Technical Pre-qualification Requirements and the Financial Pre-qualification Requirements and

"Pre-qualification Requirement" means any of them;

"Project Company" means the special purpose company to be duly incorporated under the laws of Afghanistan by the Preferred Bidder either prior to or shortly after execution of the PPP Contract (and in any case no later than the time prescribed in the LoA) for the purposes of delivery of the Project;

"Proposal" means a Shortlisted Bidder's written offer in response to the terms and conditions set out in the RFP for the Project;

"Proposed Public-Private Partnership Agreement" means the agreement proposed to be entered with respect to the Public-Private Partnership Project that this Prequalification Document relates to.

"Public Official" means a member of the public service or other Person employed by the Entity.

"Project" means this proposed project described in Part F.

"Reference Project" means a project submitted by the Applicant for the purposes of satisfying the Eligible Projects Criteria and Shortlisting Criteria as an Eligible Project;

"Reference Project Total Project Cost" means, in relation to a Reference Project, the aggregate actual costs, expenses and fees properly incurred in connection with the design, construction, testing and commissioning of that Reference Project and the financing of the same (including interest) and related consultancy fees incurred during the applicable construction period;

"Registered Entities" means interested parties registered with the Contracting Authority in the manner described in section 1.1;

"Relevant Inflation Index" means, in relation to a Reference Project, the historical annual inflation rate of the country in which that Reference Project is located using the indicator "inflation, consumer prices (annual 4.4 % as on 2016 data)" from the World Bank Databank (<http://databank.worldbank.org/data/home.aspx>) as the source;

"Request for Proposal" or "RFP" means the request for proposal document issued by the Entity in respect of the Project;

"RFP Stage" means the stage of the bidding process for the Project where the Shortlisted Bidders submit their Proposals in response to the RFP;

"Section" means a section of this Prequalification Document;

"Shortlisted Bidder" means an Applicant who has submitted a Prequalification Response and has been pre-qualified and shortlisted by the Entity to submit a Proposal in response to the RFP, in accordance with section 11;

"Shortlisting Score" has the meaning given in section 11.2;

"State" means the government of the Islamic Republic of Afghanistan.

"Technical Pre-qualification Requirements" means the technical pre-qualification requirements to be satisfied by Applicants, as set out in section 10.3.1; and

"Tender Process" means the procurement process described in the Prequalification Document.

"USD" or "US Dollar" means the lawful currency of the United States of America.

1.2 Interpretation

1.2.1 In this Prequalification Document, unless expressly provided otherwise:

- (a) a reference to a "clause", "Item" or "Part" is a reference to a clause, an Item or a Part, as the case may be, of this Prequalification Document;
- (b) a reference to "include", "includes", "including" or "such as" is to be construed without limitation;
- (c) a reference to "written" or "in writing" means any expression consisting of words or figures that can be read, reproduced and subsequently communicated and it may include information transmitted and stored by electronic means; and
- (d) the term "may" when used in the context of a power or right exercisable by the Entity means that the Entity can, exercise that right or power in its absolute and unfettered discretion and the Entity has no obligation to the Applicants to do so.

1.2.2 Capitalised terms used in this Prequalification Document have defined meanings which are set out in clause 1.1. Capitalised terms defined elsewhere in this Prequalification Document but not referred to in clause 1.1 have the same meaning wherever used throughout this Prequalification Document. Capitalised terms not defined in this Prequalification Document but defined in the Proposed Public-Private Partnership Agreement have the meaning given in the Proposed Public-Private Partnership Agreement.

1.3 Application of these Conditions

1.3.1 The Applicant's participation in this Tender Process is subject to compliance with the conditions contained in this Part D and the applicable law, including the PPP Law And Power Service Regulatory Law.

1.3.2 By submitting a Prequalification Response, all Applicants represent and agree that they accept the conditions contained in Part D.

1.3.3 The conditions contained in Part D apply to:

- (a) this Prequalification Document and any other information given, received or made available in connection with the Prequalification Document, including any revisions or addenda;
- (b) the Tender Process; and
- (c) any communications (including any clarifications, presentations, meetings or negotiations) relating to the Prequalification Document or the Tender Process.

1.4 Source of Funds

1.4.1 The source of funds for this project will be as specified in the RFP

2. PREQUALIFICATION DOCUMENT

2.1 Structure of Prequalification Document

2.1.1 The Prequalification Document comprises the following sections:

- (a) Part A – Introduction: contains an overview of the opportunity presented in the Prequalification Document;
- (b) Part B – Tender Process: contains an overview of the proposed Tender Process for the Public-Private Partnership Project;
- (c) Part C – Details: contains specific information for the prequalification process;
- (d) Part D – Conditions of Responding: sets out the rules applying to the Prequalification Document and to the prequalification process;
- (e) Part E - describes the Prequalification Evaluation Criteria [and Evaluation Procedure] which will be applied in respect of the evaluation of Prequalification Responses which are submitted to the Entity;
- (f) Part F – describes the Scope of proposed PPP Project
- (g) Part G – Form of Prequalification Response: specifies the form of and information to be provided in a Prequalification Response.

2.2 Accuracy of Prequalification Document

- 2.2.1 While all due care has been taken in connection with the preparation of the Prequalification Document, the Entity makes no representations or warranties that the content of this Prequalification Document or any information communicated to or provided to Applicants during the Tender Process, is, or will be, accurate, current or complete. The Entity and its officers, employees, agents, consultants, contractors and advisers will not be liable with respect to any information communicated or provided which is not accurate, current or complete.
- 2.2.2 If an Applicant finds or reasonably believes it has found any discrepancy, ambiguity, error or inconsistency in this Prequalification Document or any other information provided by the Entity (other than minor typographical matters), the Applicant must promptly notify in writing under clause 3.2 of such discrepancy, ambiguity, error or inconsistency to give the Entity an opportunity to consider what corrective action is necessary (if any).

2.3 Amendments to Prequalification Document

- 2.3.1 The Entity may amend the Prequalification Document at any time prior to the twelfth day before the deadline for submission of Prequalification Responses or Due Date, including to correct any errors and discrepancies, by issuing addenda. Applicants will have no claim against the Entity, its officers, employees, agents, consultants, contractors or advisers in connection with the exercise of, or failure to exercise, such right.
- 2.3.2 If the Entity amends the Prequalification Document under clause 2.3.1, it may extend the Prequalification Responses Submission Date.

2.4 Licence to use Intellectual Property Rights

- 2.4.1 Persons obtaining or receiving the Prequalification Document and any other documents issued in relation to the Tender Process may use the Prequalification Document and such documents only for the purpose of preparing a Prequalification Responses.
- 2.4.2 Such Intellectual Property Rights as may exist in this Prequalification Document and any other documents provided to Applicants by or on behalf of the Entity in connection with

the Tender Process are owned by, and remain the property of, the Entity except to the extent expressly provided otherwise.]

3. COMMUNICATIONS DURING THE TENDER PROCESS

3.1 Contact Officer

- 3.1.1 All communications relating to this Prequalification Document and the Tender Process must be directed to the Contact Officer and through the Authority Communication Protocol.

3.2 Requests for clarification of the Prequalification Document

- 3.2.1 Any questions or requests for necessary information or clarification in connection with the Prequalification Document must be submitted to the Contact Officer as per the Authority Communication Protocol and no later than 7 days before the Prequalification Responses Submission Date. The Entity is not obliged to respond to any question or request after this date.
- 3.2.2 Any question or request for information or clarification by an Applicant to the Entity will be deemed to have been received only upon written confirmation of receipt by the Contact Officer or from the Date Room. If an Applicant has not received confirmation of receipt of its communication within 7 days of its communication, the Applicant must make reasonable efforts to obtain such confirmation.

3.3 Unauthorised communications

- 3.3.1 Communications in respect of this Prequalification Document and Tender Process with Entity representatives including any staff, consultant, advisor assisting the Entity with the Tender Process are not permitted during the Tender Process except as provided in clauses 3.2. Nothing in this clause 3.3 is intended to prevent communications with staff of, or consultants to, the Entity to the extent that such communications do not relate to this Prequalification Document or the Tender Process.
- 3.3.2 Unauthorised communications with such Persons may lead to disqualification of an Applicant.

3.4 Improper conduct

- 3.4.1 Applicants and their respective officers, employees, agents, subcontractors, consultants and advisers must observe the highest standard of ethics and must not:
- (a) directly or indirectly through a third party seek to influence any representative of the Entity;
 - (b) seek or obtain the assistance of officers, employees, agents, consultants, contractors or advisers of the Entity;
 - (c) engage in obstructive practice, corrupt practice, fraudulent practice or coercive practice;
 - (d) engage in any collusive practice or any other similar conduct with any other Applicant or any other Person,

in respect of any aspect of this Tender Process.

3.4.2 For the purposes of clause 3.4.1:

- (a) **"corrupt practice"** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a Public Official in the process of procurement of a Public-Private Partnership Project or a Public Contract or execution of a Public-Private Partnership Agreement or a Public Contract;
- (b) **"fraudulent practice"** means a misrepresentation or omission of facts in order to influence a process of procurement of a Public-Private Partnership Project or a Public Contract, or the execution of a Public-Private Partnership Agreement or a Public Contract;
- (c) **"coercive practice"** means harming or threatening to harm, directly or indirectly, Persons or their property to influence their participation in the process of procurement of a Public-Private Partnership Project or a Public Contract, or affect the execution of a Public-Private Partnership Agreement or a Public Contract;
- (d) **"collusive practice"** means a scheme or arrangement between two or more Applicants, with or without the knowledge of the Entity or any other procuring entity, designed to establish Prequalification Responses prices at artificial, non-competitive levels; and
- (e) **"obstructive practice"** means:
 - (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators to materially impede an investigation by the State into allegations of a Corrupt Practice, Fraudulent Practice, Coercive Practice or Collusive Practice;
 - (ii) threatening, harassing or intimidating any party, including but not limited to a State or Entity official, to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (iii) engaging in acts intended to materially impede the exercise of the State's and Entity's inspection and audit rights.

3.4.3 Without limiting any other remedies available to it under law or contract, the Entity shall immediately disqualify an Applicant that it believes has engaged in any conduct prohibited by this clause 3.4 in respect of this Tender Process.

3.5 Conflict of Interest

- 3.5.1 An Applicant must not, and must ensure that its officers, employees, agents, subcontractors, consultants and advisers do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of the Entity and the Applicant's interests during the Tender Process.
- 3.5.2 An actual, potential or perceived conflict of interest may arise in situations including where an Applicant obtains an unfair advantage in the Tender Process:
 - (a) by obtaining information, access to or any advantage or other assistance from a Person employed by, or otherwise involved or connected with, the Entity and/or the State;
 - (b) through any position which any officer, employee, agent, subcontractor, consultant or adviser of an Applicant holds with the Entity and/or the State;

- (c) by the involvement of an Applicant, or any officer, employee, agent, subcontractor, consultant or adviser of an Applicant, in the preparation or conduct of the Tender Process; or
- (d) by the involvement of an Applicant in other work for the Entity and/or the State.

3.5.3 Applicants must provide in their completed Form of Prequalification Responses in Part G details of any positions, interests, relationships or clients or other matters which may or do give rise to an actual, potential or perceived conflict of interest.

3.5.4 If the Applicant submits its Prequalification Responses and a conflict of interest subsequently arises, or is likely to arise, which was not disclosed in the Prequalification Responses, the Applicant must notify the Entity immediately in writing of that conflict.

3.5.5 The Entity may do any one or more of the following:

- (a) disqualify an Applicant from the Tender Process if the Applicant fails to notify the Entity of any actual, potential or perceived conflict of interest;
- (b) disqualify an Applicant from the Tender Process if the Applicant has notified the Entity of an actual, potential or perceived conflict of interest and the Applicant has failed to resolve such conflict of interest to the satisfaction of the Entity following such notification; or
- (c) cancel the Tender Process because of any actual, potential or perceived conflict of interest.

4. SUBMISSION OF PREQUALIFICATION RESPONSES

4.1 Submission

4.1.1 Prequalification Responses must be submitted by the Prequalification Responses Submission Date or Due Date. The Entity may amend the Prequalification Responses Submission Date for any reason which it considers necessary by providing written notice to all Applicants.

4.2 Currency amounts

4.2.1 Any amount of money specified in a Prequalification Responses must be expressed in:

- (a) the currency recognised as legal tender in the Islamic Republic of Afghanistan; and
- (b) The exchange rate in the event that the Applicants need to convert foreign currency amounts, shall be those rates listed [at http://dab.gov.af/en/DAB/currency](http://dab.gov.af/en/DAB/currency) as on the date of the issue of the Prequalification Document. The Applicant must state the relevant currency and the exchange rate applied for any converted sums.
- (c) The Entity reserves the right to make arithmetical corrections in respect of all figures contained in any Prequalification Response if there is an arithmetical error.
- (d) digits and then set out in full in written form and the written form will prevail in case of any conflict between the two.

4.3 **Late Prequalification Response**

Prequalification Responses or Applications submitted after the Prequalification Response Submission Date or submitted at a location or in a manner that is contrary to that specified in the Prequalification Document shall be disqualified from the Tender Process and shall be returned to the Applicant without being opened. The Entity will not return the other Prequalification Responses or any information provided along therewith by an Applicant. However, Prequalification Responses that have been duly withdrawn under section 4.4, may be collected by the Applicant or their authorised representatives on or after the Prequalification Response Submission Date. If the Prequalification Responses are not collected within [30 (thirty)] Days of the Prequalification Response Submission Date, the Entity reserves the right to dispose of the Prequalification Response.

4.4 **Modifications, substitutions or withdrawal of Prequalification Responses**

- (a) The Applicant may modify, substitute or withdraw its Prequalification Response after submission, provided that a written notice of the modification, substitution or withdrawal is received by the Entity prior to the Prequalification Response Submission Date. No Prequalification Response shall be modified, substituted or withdrawn by the Applicant after the Prequalification Response Submission Date.
- (b) The modification, substitution or withdrawal notice shall be prepared, signed, sealed, marked, and delivered, in an original version, copies and electronic versions, in accordance with section 4.5, with the envelopes being additionally marked as "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.
- (c) Any modification, substitution or withdrawal of the Prequalification Response or additional information supplied subsequent to the Prequalification Response Submission Date, unless the same has been expressly sought by the Entity, shall be disregarded.

4.5 **Signing, sealing, and marking of Prequalification Responses**

- (a) Applicants must submit 1 (one) original and [5 (five)] copies of their Application in the form described in section 6.
- (b) The Application shall be in written form, printed either in standard A4 paper, bound together in ring binders or folders and be fully paginated.
- (c) The original of a Prequalification Response must be clearly marked "ORIGINAL" ("**Original Prequalification Response**") and the other copies marked "COPY" ("**Copy Prequalification Responses**"). In the event of any discrepancies between the Original Prequalification Response and the Copy Prequalification Responses, the Original Prequalification Response shall prevail.
- (d) The Original Prequalification Response shall be signed by the authorised representative of the Applicant who shall also initial each page of the Original Prequalification Response, in each case in blue or black ink. Any alterations, omissions, additions or any other amendments made to the Original Prequalification Response shall be initialled by the authorised representative of the Applicant.
- (e) The Applicant shall seal: the Original Prequalification Response in an envelope marking the envelope as "ORIGINAL"; and the Copy Prequalification Responses in envelopes marking the envelopes as "COPIES".

- (f) Additionally, [2 (two)] electronic versions of the Prequalification Response shall be provided on compact discs, suitable for electronic reproduction in PDF format and two electronic versions of the Prequalification Response shall be provided on memory sticks, suitable for electronic reproduction in PDF format.
- (g) The Applicant shall prepare an outer envelope or package, which shall contain:
- (i) the envelopes marked ORIGINAL and COPIES prepared in accordance with section 4.5(c) and
 - (ii) the compact discs and memory sticks prepared in accordance with section 4.5(f)
- (h) Each Package shall:
- (i) have the Prequalification Submission Identification Sheet, in the form set out in Form 1, affixed to the outside along with a duplicate for receipt of submission which shall:
 - (A) clearly be marked "Prequalification Response for Qualification for DEVELOPMENT OF 40 MW SOLAR PV AT HISHAR-E-SHAHI INDUSTRIAL PARK, AFGHANISTAN;
 - (B) clearly indicate the name and address of the Applicant; and
 - (C) indicate the Prequalification Response Submission Date on the right hand corner;
 - (ii) be addressed and submitted to:

Designation:	<i>Renewable Energy Director</i>
Address:	<i>Ministry of Energy & Water Darulaman Road, Sanatoruim Kabul, Afghanistan</i>

; and

- (iii) be individually sealed.

If a Package and each envelope enclosed within it are not sealed and marked as instructed above, the Entity assumes no responsibility for the misplacement or premature opening of the contents of the Prequalification Response submitted and subsequent losses, if any, suffered by the Applicant.

- (i) The Applicant may deliver or submit the Prequalification Response either through pre-paid courier or in person, at the address as provided in section 20(h)(ii). Prequalification Responses submitted by any other means, shall not be accepted and shall be rejected.

5. PREPARATION OF PREQUALIFICATION RESPONSES

5.1 Applicants' Responsibilities

5.1.1 Applicants are responsible for:

- (a) examining this Prequalification Document and any documents referenced or attached to this Prequalification Document and any other information made available by the Entity to Applicants in connection with this Prequalification Document;
- (b) fully informing themselves in relation to all matters arising from this Prequalification Document;
- (c) ensuring that their Prequalification Responses are accurate and complete; and
- (d) ensuring that they comply with all applicable laws with regard to the Tender Process.

5.2 Preparation of Prequalification Responses

5.2.1 Applicants must ensure that:

- (a) their Prequalification Response is presented in the required format as set out in Part G; and
- (b) all the questions and forms in Part G are completed and contain all the information requested in Part G.

5.3 Incomplete Prequalification Responses, illegible content, alteration and erasures

- 5.3.1 The Entity may reject any Prequalification Responses that are incomplete or evaluate them solely on the information contained in the Prequalification Response.
- 5.3.2 Any hand-written changes or other handwritten alterations or erasures contained in a Prequalification Responses by an Applicant must be initialled by that Applicant. The Entity may exclude Prequalification Responses from consideration if they contain amendments that are not initialled or information that is not legible.
- 5.3.3 The Entity reserves the right to waive deviations/omissions if these do not materially affect the capability of an Applicant to perform the Proposed Public-Private Partnership Agreement.

5.4 Disclosure of Prequalification Responses contents and Prequalification Responses information

- 5.4.1 Prequalification Responses will be treated as confidential by the Entity. The Entity will not disclose Prequalification Response contents and Prequalification Response information reasonably designated as confidential by the Applicant, except:
 - (a) as required by law;
 - (b) for the purpose of investigations by State authorities having relevant jurisdiction;
 - (c) to external consultants and advisers of the Entity engaged to assist with the Tender Process; or

- (d) to other State departments or agencies in connection with the subject matter of the Tender Process.

5.5 Use of Prequalification Responses

- 5.5.1 Upon submission all Prequalification Responses become the property of the Entity. Applicants will retain all ownership rights in any Intellectual Property Rights contained in the Prequalification Response. The submission of a Prequalification Response does not transfer to the Entity any ownership interest in the Applicant's Intellectual Property Rights, or give the Entity any rights in relation to the Prequalification Response, except as expressly set out below.
- 5.5.2 Each Applicant, by submission of their Prequalification Response, is deemed to have licensed the Entity to reproduce the whole, or any portion, of their Prequalification Response for the purposes of enabling the Entity to evaluate the Prequalification Response.

5.6 Disqualification of Applicants

- 5.6.1 An Applicant will be disqualified from the Tender Process if:
 - (a) the Applicant is insolvent or has become bankrupt;
 - (b) the Applicant has undergone or completed guardianship, bankruptcy proceedings or has been placed under liquidation by court order;
 - (c) the business of the Applicant is being run by a court or by a judicial agent or an administrator whether voluntarily or by court decision;
 - (d) the Applicant's business activities have been suspended by a court decision;
 - (e) the Applicant has tax debts, debts arising from the non-payment of social security contributions or is in debt of any nature to the Islamic Republic of Afghanistan;
 - (f) the Applicant does not have the legal capacity to enter into the Public-Private Partnership Agreement;
 - (g) the Applicant has, or directors or officers of the Applicant with powers of representation, decision or control have, been convicted in any jurisdiction, by a final court order in the preceding five years for criminal offences in relation to their business or professional behaviour or in relation to the making of false statements or giving of incorrect or misleading information on their qualifications with a view to entering into a contract with any public institution;
 - (h) the Applicant has been disqualified or sanctioned in the preceding five years as a result of administrative suspensions or licensing procedures in the Islamic Republic of Afghanistan and such disqualification or sanction is relevant to the Public-Private Partnership Agreement which is being procured;
 - (i) the Applicant is disqualified on any of the grounds specified in the Prequalification Document or any other document issued in respect of this Tender Process;
 - (j) the Applicant has, or directors or officers of the Applicant with powers of representation, decision or control have, been convicted in any jurisdiction by a final court order in the preceding five years for any coercive practice, collusive practice, corrupt practice or fraudulent practice or obstructive practice;

- (k) the Applicant has, or directors or officers of the Applicant with powers of representation, decision or control have, been convicted in any jurisdiction by a final court order in the preceding five years for money laundering, an offence in connection with the proceeds of drug trafficking, a terrorism offence or offence linked to terrorism offences, terrorist financing, or child labour or other forms of trafficking in human beings;
- (l) the Applicant has, at any time, submitted false information or submitted falsified or erroneous certificates containing material errors or omissions to any public institution in the Islamic Republic of Afghanistan; or
- (m) the Applicant fails, following any request by the Entity for further information or proof of the statements made by the Applicant in its Prequalification Responses, to provide such information or proof within the period requested by the Entity.

5.6.2 The Entity may:

- (a) apply to the relevant competent authority to obtain further information regarding the Applicant and, in particular details, of any court orders or decisions or any convictions for the offences listed in clause 5.6.1 if the Entity considers it needs such information to decide on any disqualification referred to in clause 5.6.1; and
- (b) require the Applicant to provide such information as the Entity considers it needs to decide on any disqualification referred to in clause 5.6.1.

6. EVALUATION OF PREQUALIFICATION RESPONSES

6.1 Prequalification Response opening process

- 6.1.1 The Entity will delegate the receipt and opening of Prequalification Responses to [*a Prequalification Response opening panel/the Evaluation Panel*].

6.2 Evaluation process

- 6.2.1 The Entity will appoint an Evaluation Panel to evaluate the Prequalification Responses.
- 6.2.2 The Evaluation Panel will evaluate each Prequalification Response using the Prequalification Evaluation Criteria and evaluation procedure specified in Part E. Additional requirements for joint ventures are given in clause 7.
- 6.2.3 Applicants will be evaluated based on the qualifications of:
 - (a) the Applicant; and
 - (b) nominated Affiliates only with respect to matters set out in the Prequalification Evaluation Criteria in Part G.
- 6.2.4 It is clarified that the Evaluation Panel have the right to ask the Applicants for clarification of the information they have provided

7. PREQUALIFICATION OF APPLICANTS

7.1 Notification of Prequalification

- 7.1.1 Following the evaluation of Prequalification Responses, the Entity will inform all Applicants in writing of the names of those Applicants that have been prequalified.
- 7.1.2 As soon as possible after the notification of the results of the prequalification, the Entity shall invite bids from all the Applicants that have been prequalified.
- 7.1.3 Within 7 days of being notified of the identity of the prequalified Applicant, an Applicant who was not prequalified may submit a request in writing to the Entity to ascertain the reasons why it was not prequalified.
- 7.1.4 The Entity will within 14 days of the date on which it received a request in writing from an Applicant who was not prequalified inform the Applicant of the reasons why it was not prequalified.
- 7.1.5 An Entity may withhold any information to be provided in accordance with clause 7.1.4 where the disclosure of such information:
 - (a) would impede law enforcement;
 - (b) would otherwise be contrary to the public interest;
 - (c) would prejudice the legitimate commercial interests of any Applicant; or
 - (d) might prejudice fair competition between Applicants.

8. ENTITY'S RIGHTS

8.1 Rights

- 8.1.1 Notwithstanding anything else in this Prequalification Document, and without limiting its rights at law or otherwise, the Entity may at any time, and without liability to any Applicant, by written notice:
 - (a) reject all Bids at any time before award of the Proposed PPP Agreement;
 - (b) terminate, cease to proceed with, defer or suspend the Tender Process at any time before award of the Proposed Public-Private Partnership Agreement;
 - (c) vary any element of the Tender Process;
 - (d) cancel the Tender Process at any stage if there has been any breach of the PPP Law which undermines the integrity of the Tender Process;
 - (e) require additional information or clarification from any Applicant or any other Person or provide additional information or clarification;
 - (f) call for new Prequalification Responses; or
 - (g) reject any Prequalification Response that does not comply with the requirements of this Prequalification Document.

- 8.1.2 Subject to the PPP Law and all applicable laws of the Islamic Republic of Afghanistan, the Entity will not be liable to an Applicant in any way when it exercises its rights under clause 8.1.1.

9. GOVERNING LAW

9.1 Law

- 9.1.1 Each Applicant must comply with the PPP Law, Power Service Regulatory Law and all applicable laws of the Islamic Republic of Afghanistan, in preparing and submitting its Prequalification Responses and in taking part in the Tender Process.

PART E –PREQUALIFICATION EVALUATION CRITERIA AND EVALUATION PROCEDURE

10. PRE-QUALIFICATION REQUIREMENTS

In order to progress to the shortlisting stage, Applicants must satisfy all the Pre-qualification Requirements set out in sections 10.1 to 10.3. Applicants must submit a complete Prequalification Response, including all required Forms and supporting documents and information, in accordance with this section and otherwise in accordance with the terms and conditions of this Prequalification Document, in order to demonstrate that it satisfies such Pre-qualification Requirements. The bidders who will have conflict of Interest will not be eligible to bid, and also those bidders who are debarred or committed any criminal act will also be ineligible to bid. Furthermore, the bidders who will be submitting their response as JV, association or consortium, must submit documents to prove their commitment for performing the project.

10.1 Legal Pre-qualification Requirements

10.1.1 Nature of an Applicant

- (a) The Applicant must be either:
 - (i) a single entity corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile; or
 - (ii) a Consortium where each Consortium Member is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile.
- (b) An Applicant and in the case of a Consortium, each Consortium Member, shall not be entitled to submit another Prequalification Response either individually or as a Consortium Member of any other Consortium and shall not be entitled to participate in more than one Consortium bidding for the Project at the Prequalification Document Stage. Furthermore, an Applicant can submit only one Prequalification Response in response to this Prequalification Document. In the event that an entity applying individually or as a Consortium Member participates in more than one Prequalification Response, all the Prequalification Responses with that entity's participation will be deemed invalid.

10.1.2 Authorisation of nominated representative

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

10.1.3 Additional Legal Pre-qualification Requirements applicable to Consortia

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

- (a) the Consortium shall not have more than 5 (five) Consortium Members (including the Lead Member);
- (b) the Consortium shall have a Lead Member that:
 - (i) will hold at least 26% (twenty-six percent) equity shareholding in the Project Company if the Applicant is appointed as Preferred Bidder;
 - (ii) will be the largest shareholder in the Project Company if the Applicant is appointed as Preferred Bidder;
 - (iii) has been duly authorised under a letter of authorisation(s) to represent and irrevocably bind any and all Consortium Members, and conduct all business for and on behalf of any and all the Consortium Members, during the bidding process for the Project, as evidenced by Form X (Letter of Authorisation for Lead Member of Consortium) accompanied by supporting evidence of the due authority of the signatory/ signatories to the letter of authorisation(s); and
 - (iv) has been designated by the Consortium as the Lead Member;
- (c) each Non-Lead Member of the Consortium will hold at least 10% (Ten percent) equity shareholding in the Project Company if the Applicant is appointed as Preferred Bidder; and
- (d) the roles and responsibilities of each Consortium Member with reference to the financial, technical, operation and maintenance obligations of the Project have been defined. The bidders who will be submitting their response as JV, association or consortium, must submit documents to prove their commitment for performing the project.

10.2 Financial Pre-qualification Requirements

10.2.1 Financial Pre-qualification Requirements

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

- (a) the Applicant/Financial Nominee must have had a net worth (being the total amount of all assets minus all liabilities, as stated in the audited balance sheet) of at least 80 million US Dollars (USD Eighty million) (or its equivalent in another currency) at the end of each of the most recent 3 (three) full financial years falling prior to the Prequalification Response Submission Date, as evidenced by certified copies of audited financial statements;
- (b) the Applicant/Financial Nominee must have been profitable and a going concern in each of the most recent 3 (three) full financial years falling prior to the Prequalification Response Submission Date, as evidenced by certified copies of audited financial statements; and

- (c) the Applicant/Financial Nominee must be able to demonstrate that it has raised at least 30 million US dollars (USD \$ Thirty million) (or its equivalent in another currency) in third party debt (A long term liability a business takes on by borrowing money from any banking/non-banking financial institution) for 1 (one) project in the 3 (three) year period falling prior to and ending on the Prequalification Response Submission Date.

OR

the Applicant/Financial Nominee must be able to demonstrate that it has an annual turnover of at least 50 million US dollars (USD \$ Fifty million) (or its equivalent in another currency) in the most recent 3 (three) full financial years falling prior to and ending on the Prequalification Response Submission Date, as evidenced by certified copies of audited financial statements.

AND

- (d) the Applicant/Financial Nominee must have had a Free Cash Flow to Equity (FCFE) as per the following calculations and as per the audited balance sheet) of at least 20 million US Dollars (USD Twenty million) (or its equivalent in another currency) at the end of each of the most recent 2 (two) full financial years falling prior to the Prequalification Response Submission Date, as evidenced by certified copies of audited financial statements;

FREE CASH FLOW TO EQUITY (FCFE) =

PROFIT AFTER TAX + DEPRECIATION - INCREASE IN NET WORKING CAPITAL
(CURRENT ASSETS - CURRENT LIABILITIES) – CAPITAL EXPENDITURE + NEW DEBT
TAKEN – DEBT REPAYED

- (e) In case of Applicant to meet the Financial Pre-Qualification Requirements, each of the consortium member's (when Applicant is a Consortium) financial capacity shall be considered based on the pro-rata of its proposed shareholding in the consortium

10.2.2 Financial Nominee

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

- (a) the Applicant itself (if the Applicant is a single entity);
- (b) the Lead Member (if the Applicant is a Consortium); or any of the consortium member

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

10.2.3 Additional Financial Pre-qualification Requirements applicable to Consortia

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

each Non-Financial Nominee Member of the Consortium must have had a net worth (being the total amount of all assets minus all liabilities, as stated in the audited balance

sheet) of at least 8 million US Dollars (USD \$ Eight Million) (or its equivalent in another currency) at the end of each of the most recent 3 (three) full financial years falling prior to the Prequalification Response Submission Date, as evidenced by certified copies of audited financial statements;

10.3 Technical Pre-qualification Requirements

10.3.1 Technical Pre-qualification Requirements

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

- (a) the Contract Performance Criteria; and
- (b) the Eligible Projects Criteria.

10.3.2 Contract Performance Criteria

- (a) The Applicant or, if the Applicant is a Consortium, each and all Consortium Members, shall not have been the subject of any court or arbitral award decision determined against the Applicant or Consortium Member (as applicable) in respect of any material contract to which the Applicant or Consortium Member was a party during the 5 (five) years falling prior to and ending on the Prequalification Response Submission Date, for which the Applicant or Consortium Member was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the Applicant or Consortium Member (as applicable).

10.3.3 Eligible Projects Criteria

- (a) The Applicant must have developed and commissioned at least 2 (two) Eligible Projects.
- (b) Each Applicant shall be permitted to submit up to a maximum of 5 (five) Reference Projects as potential Eligible Projects.
- (c) An Eligible Project is a project:
 - (i) involving the installation of power plant having minimum of 40 MW Solar PV
 - (ii) that was completed and opened to operations during the 10 (ten) years falling prior to and ending on the Prequalification Response Submission Date;
 - (iii) with a Reference Project Total Project Cost of at least USD 40 million (Forty million US Dollars), provided that the amount of the Reference Project Total Project Cost shall be inflated using the Relevant Inflation Index from the year in which construction started until the year in which the Prequalification Response Submission Date falls; and
 - (iv) for which the Applicant or any of its consortium members (for consortium) held at least a 26% (twenty six per cent) equity shareholding in the relevant special purpose vehicle, joint venture

company, partnership or other corporation or business organisation with primary responsibility for:

- (i) the design, procurement, development, testing and commissioning obligations, in the case of an Eligible Project undertaken on an EPC basis; or
- (ii) the design, procurement, development, testing and commissioning, financing and operation and maintenance obligations, in the case of an Eligible Project undertaken on a PPP basis.

11. SHORTLISTING CRITERIA AND PROCESS

An Applicant that satisfies all the Pre-qualification Requirements set out in sections 10.1 to 10.3 ("Pre-qualified Applicant") shall progress to the shortlisting stage described in this section 11.

11.1 Short-listing Number

If the number of Pre-qualified Applicants is 6 (six) or less, all Pre-qualified Applicants shall be shortlisted to submit a Proposal in response to the RFP as the "Shortlisted Bidders".

If the number of Pre-qualified Applicants is greater than 6 (six), then the shortlisting process set out in sections 11.2 to 11.4 shall apply.

11.2 Shortlisting Score

The Prequalification Response of each Pre-qualified Applicant shall be evaluated against the shortlisting criteria set out in section 11.3 ("Shortlisting Criteria") and each Pre-qualified Applicant shall be awarded a shortlisting score ("Shortlisting Score") equal to the aggregate number of marks awarded against the Shortlisting Criteria.

11.3 Shortlisting Criteria

11.3.1 Shortlisting Criteria "A" – number of Eligible Projects

Subject to section 10.3.3(b) above, each Pre-qualified Applicant will be awarded 5 (five) marks for each Eligible Project submitted by the Pre-qualified Applicant.

11.3.2 Shortlisting Criteria "B" – Solar Plant with Grid System

Subject to section 10.3.3(b) above, each Pre-qualified Applicant will be awarded an additional 3 (three) marks for each Eligible Project submitted by the Pre-qualified Applicant that is a Power Plant with Grid system having at least 35 MW (thirty five MW) capacity

11.3.3 Shortlisting Criteria "C" – PPP projects

- (a) Subject to section 10.3.3(b) above, each Pre-qualified Applicant will be awarded an additional 7 (seven) marks for each Eligible Project submitted by the Pre-qualified

Applicant that was implemented³ on a PPP basis (including design, procurement, development, testing and commissioning, financing and operation and maintenance responsibility).

- (b) Subject to section 10.3.3(b) above, each Pre-qualified Applicant will be awarded an additional 10 (ten) marks if more than one Eligible Project submitted by the Pre-qualified Applicant was implemented on a PPP basis (including design, procurement, development, testing and commissioning, financing and operation and maintenance responsibility) and such Eligible Projects were located in more than one jurisdiction (in aggregate).

11.4 Maximum Allowed number of Reference Projects

One Eligible Project may meet multiple Shortlisting Criteria. Applicants are encouraged to submit the maximum allowed number of Reference Projects (being up to 5 (five) Reference Projects for the purposes of satisfying the Eligible Projects Criteria and Shortlisting Criteria "A" to "C")

11.5 Example Shortlisting Score calculation

By way of example for illustration purposes only:

- 11.5.1 a Pre-qualified Applicant that submits 5 (five) Eligible Projects, 2 (two) of which involve a Power Plant with Grid system having a minimum capacity of ... MW and 3 (three) on a PPP basis, of which 2 (two) were located in the same jurisdiction and one (1) which was performed in another jurisdiction, will be awarded the following Shortlisting Score:

Shortlisting Score for the Pre-qualified Applicant = $(5 \times 5) + (2 \times 3) + (3 \times 7) + 10 = 62$

- 11.5.2 a Pre-qualified Applicant that submits 5 (five) Eligible Projects, none of which involve a Power Plant with Grid system with minimum capacity of ... MW but all of which were undertaken on a PPP basis located in the same jurisdiction will be awarded the following Shortlisting Score:

Shortlisting Score for the Pre-qualified Applicant = $(5 \times 5) + (0 \times 3) + (5 \times 7) + 0 = 60$

Pre-qualified applicants shall be ranked on the basis of their shortlisting scores and the 6 (six) highest ranked pre-qualified applicants shall be shortlisted to submit a proposal in response to the RFP as the "shortlisted bidders". In the event of a tie in the shortlisting scores of 2 (two) or more pre-qualified applicants, the sum of the reference project total project cost of all eligible projects submitted by each of the tied pre-qualified applicants shall be calculated and the tied pre-qualified applicants with the higher aggregate reference project total project cost shall be ranked higher.

³ Only projects, which will be in operation stage will be accepted as implemented projects.

PART F – SCOPE OF PROPOSED PUBLIC-PRIVATE PARTNERSHIP PROJECT

12. BACKGROUND OF THE PROJECT

Afghanistan is rich in energy resources, both fossil fuels based and renewables. However, the country still depends heavily on imported electricity and fuels and has one of the lowest per capita consumption of electricity in the world. Renewable energy sector development is one of the priority areas for the government, for immediate purpose of providing access to modern energy to remote and rural population and for medium to long term purpose of providing energy security to the country. Over the past decade, movement in the renewable energy space has been towards greater presence of renewable energy as a means to solve livelihoods and economic crises, as well as a shift towards supporting enterprise demand. There is a tangible shift towards MW scale interventions that can not only meet consumptive loads but also drive productive loads.

In Afghanistan, total consumption of energy is more than 2.8 bn kw-h/year against the total generation of 1bn kw-h/year. The deficit is more than 62%. Per capita energy consumption in Afghanistan is 81kw-h, which is almost lowest in the world. Even today, only 30% energy access to rural area and 65% energy access to urban area. Good percentage of foreign currency invested on power import from neighbour countries on higher cost.

Afghanistan is potential land to generate the renewable energy. It was estimated approximate 222GW solar energy, 66GW Wind Energy and 23GW Hydro power is required to bridge the gap between energy generation and energy consumption, many solar and wind power projects are planned for energy, balance for self-reliant on energy and save foreign exchange being invested on energy import .

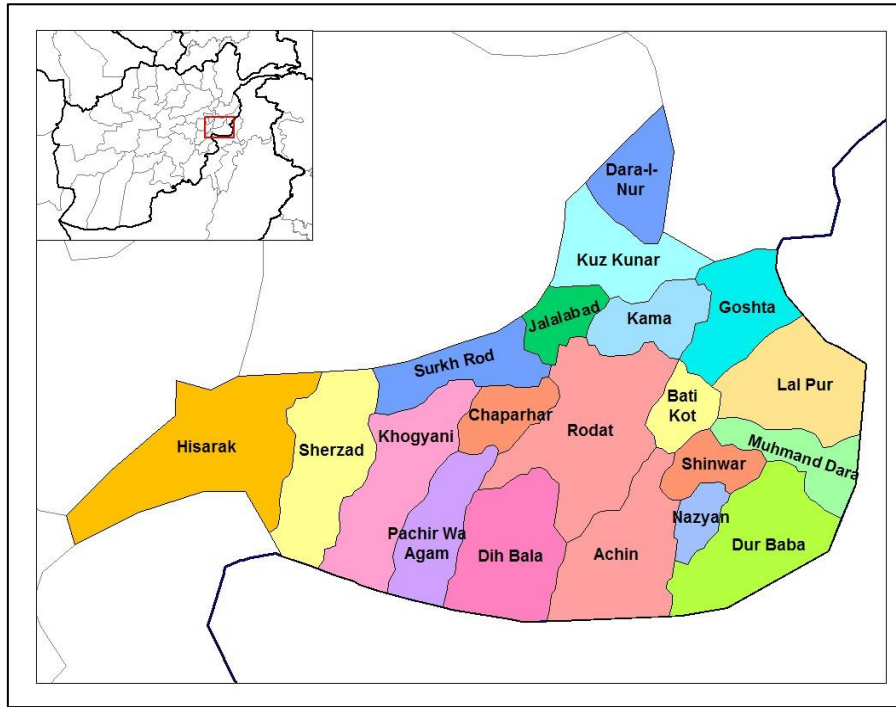
Hisar-e-Shahi Industrial Park is one of the selected project sites for project development in Afghanistan. The purpose of developing a renewable energy power project at Hisar-e-Shahi is mainly due to absence of electricity and thus none of the industries has established although plots have been allocated for them. In order to sustain expansion, a reliable and ample power supply will be necessary in the area. In fact, power demand for Hisar-e-Shahi Industrial park is estimated approximately 82 MW of which 40 MW is estimated for first phase and rest for the second phase.it has been proposed that power plant will only cater industries operational from morning 7am to 5 pm

12.1 LOCATION

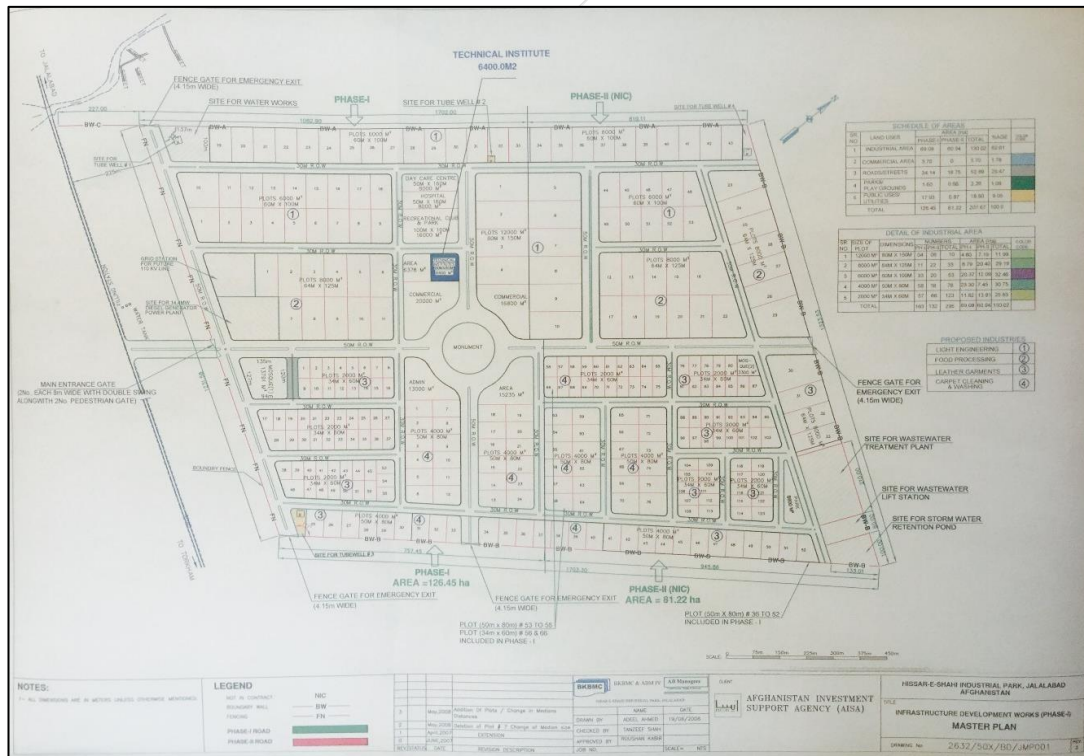
Hisar-E-Shahi Industrial Park is located at 34°19'22.86"N latitude and 70°39'32.23"E longitude in Nangarhar Province, 22 km southeast of Jalalabad City, on Jalalabad-Torkham Highway and it is well connected by roads on the outside and inside of the park. The industrial park is spread over an area of 207 Hectares. It is a property of the Government which is presently used as a temporary refugee camp. There are 295 plots for industries which has been allocated for the proposed industries. None of the industries is established in the Hisar-E-Shahi Industrial Park due to lack of electricity.

The project area is elevated from 465 m to 545 m from the sea level with a gradient of 1.5% to 2 % and the land being almost flat. The climate of the area is typical of a semi-arid steppe climate having mean temperature of the area varying between 0°C to 48°C. Much of the rain falls during the winter season (December to February) and some in summer season (July-September). Site is well connected by roads on the outside and inside of the park. Internal electric distribution network has been constructed however; it is not connected with the city

grid. Electricity grid is located at a distance of 30 Km in Ghawchak Substation having a voltage of 20 kV and capacity being 84 MW.



Nangarhar Province



Plan of Hishar-e-Shahi Industrial Park

ACCESSIBILITY

The site is located on Jalalabad-Torkham Highway and it is well connected by roads on the outside and inside of the park. Internal electric distribution network has been constructed however; it is not connected with the city grid yet . Electricity power Supply (two sets of Diesel Generators of 250kW) for site development work also exists in the area.



Figure: Land inside HIP identified for the installation of solar Plant



Figure: Land outside HIP identified for the installation of Solar Plant

12.2 PURPOSE OF THE PPP

Afghanistan through the Ministry of Energy & Water will enter into a Build-Operate-Transfer Public-Private Partnership model. This PPP Project will serve in Nangarhar

province and is intended to strengthen supply of power to the industries of Hisar-e-Shahi Industrial Park (HIP) and residential units.

The overall purpose of the PPP Project will include built, operation and maintenance services for the solar power plant over a twenty-five (25) year period as specified. This PPP is also intended to ensure the highest-quality of standards for solar system with the available resources, placing emphasis on overall performance and safety.

The term of the Project Agreement will expire 25 years after the anticipated date of the award of the PPP Agreement. It is anticipated that the construction and installation of PV system for the Project will have duration of approximately 9 months.

13. SCOPE OF THE PROJECT

13.1 EQUIPMENT / SERVICES TO BE PROVIDED

- All purchased equipment must be new at time of purchase.
- Design, Manufacture, supply, Erection, Testing, and commissioning including warranties, Operation and Maintenance.
- Miscellaneous work like Fire hydrant system, Safety watch Tower, Evacuation system, Electrical control and security office
- Acceptance of system and performance Guarantee

13.2 FINANCING RESPONSIBILITIES

Financing for the Project, including debt and equity, will be the sole responsibility of the successful bidder.

13.3 HANDBACK OF THE PROJECT

Upon the expiry or early termination of the Project Agreement the Private Operator shall handback the plant to the Authority in accordance with defined hand back requirements which will be set out in the PPP Agreement so that the Authority is able to use and operate the plant following such expiry or termination. There is possibility of extension of the PPP agreement with the Private Operator which in that case the Private Operator would retain the plant for a specific period once again.

PART G – FORM OF PREQUALIFICATION RESPONSES

14. PREQUALIFICATION RESPONSE INSTRUCTIONS

The Applicant's must prepare the Prequalification Response as follows:

- Front cover with Prequalification Documents no., Prequalification Documents Name, Bidder Name, Address, Telephone No., Fax No., Email Address.
- Completed Form of Prequalification Response and all returnable schedules: All responses must be provided within the specified boxes and in accordance with the conditions of Responding (Part D).
- Completed and signed Applicant's Submission Declaration
- Documents identified in checklist.

15. INSTRUCTIONS

- Do not include graphics or data in responses. Where necessary, any graphics or data should be placed at the end of the documents and referred to in the response.
- If required to be submitted electronically, all documents must be virus checked by the Applicant before submission.
- Applicants shall submit any information supplemental to the answers to questions posed in the Form of Prequalification Response in a separately bound document labelled "Supplemental Information".

APPENDIX 1
FORMS

Form 1 -	Prequalification Document Submission Identification Sheet
Form 2 -	Letter of Prequalification Response
Form 3 -	Particulars of Applicant
Form 4 -	Particulars of Eligible Projects
Form 5 -	Financial Capability
Form 6 -	Letter of Authorisation for Lead Member of Consortium
Form 7 -	Authorisation to a representative
Form 8 -	Certificate of Compliance
Form 9 -	Certificate by Affiliate of Applicant or Consortium Member of Willingness to Participate
Form 10 -	Prequalification Response Checklist

FORM 1

PREQUALIFICATION DOCUMENT SUBMISSION IDENTIFICATION SHEET

PREQUALIFICATION RESPONSE SUBMISSION DATE:

Designation:	[●] ⁴
Address:	[●] ⁵

SUBMISSION OF PREQUALIFICATION RESPONSE UNDER THE REQUEST FOR QUALIFICATION FOR THE [●]⁶

Name of Applicant:

Name of Lead Member (if applicable):

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

Address:

Phone Number:

Fax Number:

Email:

Date and Time of Submission of the Prequalification Response:

(For office use only. To be filled in by the Entity on receipt of Prequalification Response)

⁴ **Drafting note:** name of addressee per 20(h)(ii) to be inserted.

⁵ **Drafting note:** address of addressee per 20(h)(ii) to be inserted.

⁶ **Insert Project Description**

FORM 2

LETTER OF APPLICATION⁷

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

To: *[●]*⁸

Dear Sir,

Subject: request for qualification for the *[●]*⁹ ("Prequalification Document")

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

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

1. having reviewed and examined the Prequalification Document and any Addenda and Corrigenda and having fully understood all the information provided therein and in accordance with the same, the Applicant hereby applies to be pre-qualified and shortlisted for the RFP stage of the bidding process, and agrees and undertakes to abide by all the terms and conditions of the Prequalification Document;
2. all statements made and all information and documents provided by the Applicant in or in connection with this Application are true and correct; nothing has been omitted which renders such information misleading; all documents accompanying such Application are true copies of their respective originals; and the Entity may rely on such statements, information and documents when evaluating Prequalification Responses for pre-qualification and shortlisting under the Prequalification Document;
3. the Entity is authorised to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection to this Prequalification Document, and to seek clarification from our accountants and clients regarding any financial and technical aspects of the Prequalification Response. The Applicant and each Consortium Member hereby authorises third parties to supply information required to verify statements and information submitted in its Pre-Qualification Documents. The Applicant shall make available to the Entity any additional information it requests to supplement or verify anything in the Prequalification Response;
4. the Applicant acknowledges the right of the Entity to amend the scope or value of the Project, reject any bid or terminate the bidding process at any time without assigning any reason whatsoever and without incurring any liability, and acknowledges that the Entity is neither bound to accept any Prequalification Response nor invite the Shortlisted Bidders to submit Proposals. The Applicant waives to the fullest extent of the law, its right to seek and obtain a court injunction or restraining order against the Entity to prevent or restrain the Prequalification stage of the bidding process, the holding of the RFP stage of the bidding process, the award of the PPP Contract or any proceedings related thereto;
5. *[the Applicant is not]/[no Consortium Member is]*¹⁰ another Applicant nor a Consortium Member of any other Consortium which is an Applicant for the Project;

⁷ To be provided on letterhead of the Applicant or, in the case of a Consortium, the Lead Member of the Consortium, including full postal address, telephone number and email address.

⁸ **Drafting note:** name and address of addressee per 20(h)(ii) to be inserted.

¹⁰ Delete whichever is not applicable.

6. the Applicant does not have a Conflict of Interest in relation to this Project;
7. if, following submission of this Prequalification Response, any change in facts or circumstances may mean the Applicant would be ineligible or disqualified from the bidding process in accordance with the terms, the Applicant shall inform the Entity of the same immediately;
8. [this Prequalification Response and any subsequent Proposal as well as any resulting PPP Contract shall legally bind all Consortium Members, jointly and severally;]¹¹ and
9. the Entity and its authorised representatives may contact the following persons for further information or clarification:

Key Contact Person:

Name: _____

Designation: _____

Address: _____

Tel No. _____

Mobile _____

Email: _____

(Please fill in details of the key contact person)

Alternative Contact:

Name: _____

Designation: _____

Address: _____

Tel No. _____

Mobile _____

Email: _____

(Please fill in details of an alternative contact person)

¹¹ This may be deleted if the Applicant is a single entity and not a Consortium.

Signed by [*insert name of authorised representative*])
 for and on behalf¹² of [*insert name Applicant, if a single entity or Lead Member, if a Consortium*]:)

Enclosures:

1. Particulars of the Applicant, together with its attachments
2. Particulars of Eligible Projects, together with its attachments
3. Particulars of Financial Capability, together with its attachments
4. [Letter of Authorisation for Lead Member of Consortium]¹³
5. Authorisation(s) to a representative
6. Certificate of Compliance
7. [Certificate by Nominated Contractor of Willingness to Participate]¹⁴
8. [Certificate by Affiliate of Applicant or Consortium Member of Willingness to Participate]¹⁵
9. Prequalification Response Checklist

¹² In case of a Consortium, the authorised representative of the Lead Member should sign.

¹³ Delete in the case of a single entity Applicant.

¹⁴ Delete if not applicable.

¹⁵ Delete if not applicable.

FORM 3
PARTICULARS OF THE APPLICANT

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

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

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

B – Business Structure in the case of a Consortium

	Name of Consortium Member	Proposed role (with reference to the financial, technical, operation and maintenance obligations of the Project as set out in section 10.1.3(d) of the Prequalification Document)	Equity shareholding (%) (in the Project Company if the Applicant is appointed Preferred Bidder)
Lead Member			
Non-Lead Member			
Non-Lead Member			
Non-Lead Member			
Non-Lead Member			

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

Name of Nominated Contractor or Affiliate	Proposed role (with reference to the financial, technical, operation and maintenance obligations of the Project)

FORM 4
PARTICULARS OF ELIGIBLE PROJECTS

Name of Reference Project submitted by the Applicant for the purposes of satisfying the Eligible Projects Criteria and any of the Shortlisting Criteria "A" to "C"	<i>[insert name of the project]</i>
Eligible Project Nominee responsible for the Reference Project	<i>[include name, company registration number and registered address]</i>
Relationship of Eligible Project Nominee to Applicant	<i>[Applicant/Consortium Member/Affiliate] (as applicable)]</i>
Date of EPC or PPP Contract	
Employer/ Contracting Authority	<i>[include full name, company registration number (if applicable) and principal address]</i>
Location of Reference Project	<i>[include town/city, region/state and country]</i>
Description of Reference Project	<i>[installation of solar power plant] [insert other relevant details including carriageway configuration]]</i>
Date Reference Project was completed and opened to operations	
Reference Project Total Project Cost	<i>[insert Reference Project Total Project Cost in accordance with the terms of the Prequalification Document]</i>
Role of Eligible Project Nominee in the Reference Project	
Equity Shareholding of Eligible Project Nominee in the relevant Project Company or EPC Contractor	
Was Reference Project implemented on an EPC or PPP Basis	<i>[EPC/PPP] (delete as appropriate)</i>
Details of Referee for Reference Project	<i>[name and contact details of a referee]</i>
Required attachments to this form:	<p>If the Eligible Project Nominee responsible for the Reference Project is an Affiliate of the Applicant or the Lead Member: (i) certified copy of its certificate of incorporation or registration; and (ii) certified copy of the its latest annual filing with the company or business registry applicable to it in its country of jurisdiction (or equivalent document).</p> <p>Any evidence that may be supplied to support the details of the Reference Project set out in this form. For example, company brochures of the Eligible Project Nominee, links to websites of the Employer/ Contracting Authority or the Eligible Project Nominee describing the Reference Project, reports prepared in respect of the Reference Project.</p>

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

FORM 5
PARTICULARS OF FINANCIAL CAPABILITY

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

B – In the Case of a Consortium, Particulars of Financial Capability of each of the Non-Financial Nominees

Name of Member (Non-Financial Nominee)	<i>[include name, company registration number and registered address]</i>		
Role on the Consortium and Shareholding	<i>[Lead Member / Non-Lead Member (as applicable)] [Shareholding]</i>		
Financial Information	[FY 1]	[FY 2]	[FY 3]
(i) Total Assets			
(ii) Total Liabilities			
(iii) Total Net Worth			
(iv) Annual Turnover			
(v) Profits Before Taxes			
(vi) Profits After Taxes			

FORM 6
LETTER OF AUTHORISATION FOR LEAD MEMBER OF CONSORTIUM¹⁶

Date: [please insert day, month, year]

To: [●]¹⁷

Dear Sir,

Subject: request for qualification for the [●]¹⁸ ("Prequalification Document")

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

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

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

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

Signed by [insert name of authorised
representative of Non-Lead Member])
 for and on behalf of [insert name of Non- Lead
Member]¹⁹:)

¹⁶ To be provided only in the case of a Consortium. This letter of authorisation shall be provided (either individually or jointly) by all the Non-Lead Members nominating the Lead Member of the Consortium.

¹⁷ **Drafting note:** name and address of addressee per 20(h)(ii) to be inserted.

¹⁸ **Drafting note:** insert Project description.

¹⁹ Repeat signature block for each Non-Lead Member if provided jointly.

FORM 7
AUTHORISATION TO A REPRESENTATIVE

IT WAS RESOLVED THAT:

[PLEASE INSERT NAME OF THE AUTHORISED REPRESENTATIVE] ("**Authorised Representative**") of [PLEASE INSERT ADDRESS OF THE AUTHORISED REPRESENTATIVE] be hereby appointed and authorised to act on behalf of [PLEASE INSERT NAME OF THE APPLICANT OR CONSORTIUM MEMBER] ("**Company**") in all matters in connection with the request for qualification for the [●]20 ("Prequalification Document"), including but not limited to: executing and submitting of the Prequalification Response, Proposal and other relevant documents (including power of attorney); participating in the Pre-Application Meeting and other conferences held during the Prequalification or otherwise during the RFP or bid process; providing or submitting queries and requests for clarification to the Entity; providing information and responses to the Entity; representing the Company in all matters before the Entity [and other Consortium Members]21; signing and execution of all contracts including the PPP Contract and undertakings consequent to acceptance of the bid, and generally dealing with the Entity [and other Consortium Members]22 in all matters in connection with the bid for the Project and/ or upon award of the Project to the Company or the Consortium of which the Company is a member; and

all acts, deeds and things lawfully done or caused to be done by the Authorised Representative pursuant to and in exercise of the powers conferred by this resolution be hereby ratified and confirmed.

21 Delete if not applicable.

22 Delete if not applicable.

FORM 8
CERTIFICATE OF COMPLIANCE

1. This certificate is entered into in connection with the request for qualification for the [●]²³ ("**Prequalification Document**"). Terms defined in the Prequalification Document shall have the same meaning when used herein unless otherwise stated.
2. The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS], personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE APPLICANT/CONSORTIUM MEMBER]²⁴, [a company/a partnership]²⁵ duly organised under the laws of [PLEASE INSERT NAME OF THE COUNTRY] ([the "**Applicant**"/[the "**Consortium Member**"]²⁶), hereby certifies that:
 - (a) all statements, representations, information and other matters of fact made in this Prequalification Response including any attachments and enclosures are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such Application are true copies of their respective originals;
 - (b) [it has been nominated as a(n) [Financial Nominee/ [Eligible Project Nominee] for the Applicant and has been allocated the role of *[insert role consistent with part B of Form 3]* in the Project and:
 - (i) is willing to participate in the Project in the role allocated to it in the Prequalification Response;
 - (ii) has the required experience and capacity to under the role allocated to it in the Prequalification Response; and
 - (iii) without limiting the generality of paragraph (a) above, all statements, representations, information and other matters of fact made in the [Particulars of Eligible Projects]/[Particulars of Financial Capability] submitted with the Prequalification Response in respect of [Reference Projects carried out by it]/[its financial capability] are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such particulars are true copies of their respective originals;
 - (c) the [Applicant]/[Consortium Member] is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile;
 - (d) [the [Applicant] [Consortium Member] has agreed that [PLEASE INSERT NAME OF THE LEAD MEMBER] will act as the Lead Member of the Consortium of which we are a Consortium Member]/[the [Applicant] [Consortium Member] has agreed to act as the Lead Member of the Consortium of which we are a Consortium Member]²⁷
 - (e) the [Applicant]/[Consortium Member] is participating in only one Prequalification Response;
 - (f) [the [Applicant]/[Consortium Member] has not been the subject of any court or arbitral award decision determined against the [Applicant]/[Consortium Member] in respect of any material contract to which the [Applicant]/[Consortium Member] was a party during the last 5 (five) years, for which the [Applicant]/[Consortium Member] was or is required to pay damages in an amount

²⁴ Certificate is to be signed by the authorised representative of the Applicant to whom the authority has been granted under the terms of this Prequalification Document. Where this is a Consortium, separate certificates should be signed individually by the authorised representative of the Lead Member and each Non-Lead Member.

²⁵ Delete as appropriate

²⁶ Delete as appropriate

²⁷ Only applicable in the case of an Application by a Consortium. Delete as appropriate.

that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the [Applicant]/[Consortium Member]];²⁸

- (g) the [Applicant]/[Consortium Member]²⁹ does not have a Conflict of Interest as set out in the Prequalification Document;
- (h) the [Applicant]/[Consortium Member]³⁰ has taken steps to ensure its conformity and the conformity of its partners, suppliers, sub-contractors, sub-consultants, officers, employees, agents, service providers and advisers with the provisions under section 9 of the Prequalification Document;
- (i) the [Applicant]/[Consortium Member]³¹ has not, directly or indirectly or through an agent, engaged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process for the Project or in the bidding process for any other project in the previous 3 (three) years and is not otherwise in breach of the terms of section 9; and
- (j) the [Applicant]/[Consortium Member] has complied with and undertakes to continue to comply with the terms and conditions of the Prequalification Document.

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

Signature of authorised representative

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

28 To be included if the Applicant/relevant Consortium Member is an Eligible Projects Nominee and/or a Projects Nominee.
 29 Delete as appropriate
 30 Delete as appropriate
 31 Delete as appropriate

FORM 9

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

1. This certificate is entered into in connection with the request for qualification for the [●]³² through public private partnership ("**Prequalification Document**"). Terms defined in the Prequalification Document shall have the same meaning when used herein unless otherwise stated.
2. The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS], personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE AFFILIATE]³³, [a company/a partnership]³⁴ duly organised under the laws of [PLEASE INSERT NAME OF THE COUNTRY] (the "**Nominated Affiliate**"), hereby certifies that:
 - (a) [it has been nominated as a(n) [Eligible Project Nominee]/ [Financial Nominee] for the Applicant and has been allocated the role of *[insert role consistent with part C of Form 3]* in the Project and:
 - (i) is willing to participate in the Project in the role allocated to it in the Prequalification Response;
 - (ii) has the required experience and capacity to under the role allocated to it in the Prequalification Response; and
 - (iii) without limiting the generality of paragraph (a) above, all statements, representations, information and other matters of fact made in the [Particulars of Eligible Projects]/ [Particulars of Financial Capability] submitted with the Prequalification Response in respect of [Reference Projects carried out by it]/[its financial capability] are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such particulars are true copies of their respective originals;
 - (b) if the Applicant is selected as the Preferred Bidder, the Affiliate intends, subject to agreement of all terms and conditions with the Applicant, to enter into a contract with the Project Company to perform the obligations and assume the attendant liabilities as the *[insert role consistent with part C of Form 3]* for the Project;
 - (c) [if the Applicant is selected as the Preferred Bidder, the Affiliate will contribute sufficient equity to the [Lead Member]/[Applicant] for the purposes of satisfying the [Lead Member's]/[Applicant's] equity commitments to the Project;]³⁵
 - (d) the Affiliate is a corporation or business organisation, duly incorporated or validly existing and duly registered under the laws of its country of domicile;
 - (e) the Affiliate is not participating in any other Prequalification Response, whether as a nominated contractor, a nominated Affiliate, a Consortium Member or Applicant;
 - (f) the Affiliate has not been the subject of any court or arbitral award decision determined against the Affiliate in respect of any material contract to which the Affiliate was a party during the 5 (five) years falling prior to and ending on the Prequalification Response Submission Date, for which the Affiliate was or is required to pay damages in an amount that had or could reasonably be expected to have a material adverse effect on the business or condition (financial or otherwise) of the Affiliate;

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

34 Delete as appropriate.

35 Delete if not the Financial Nominee. If a Consortium, retain the reference to Lead Member. If a single entity, retain the reference to Applicant.

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

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

Signature of authorised representative

Signature of witness

Name of witness

Address of witness

.....

.....

Occupation of witness

FORM 10
PREQUALIFICATION RESPONSE CHECKLIST

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