



REQUEST FOR PROPOSAL

PROCUREMENT, INSTALLATION, O&M OF WATER METERS IN LAHORE ON PUBLIC PRIVATE PARTNERSHIP (PPP)

Water and Sanitation Agency (WASA), Lahore, Government of Punjab, Pakistan is undertaking the Procurement, Installation, O&M of Water Meters in Lahore on Build Operate Transfer (BOT) under Public Private Partnership (PPP) in accordance with PPP Act 2019.

WASA, Lahore is now soliciting proposals from well reputed national and International Firms, Joint Ventures (JV)/ Consortia to undertake the Procurement, Installation, O&M of 711,265 (tentative quantity) Water Meters project on BOT (PPP) mode.

The following shall be kept in view while submitting the proposals;

1. Firms, JV/Consortia shall provide undertaking to set up Assembly Plant in Pakistan.
2. WASA shall provide project site free of encumbrances to concessionaire.
3. The firms, JV/Consortia shall be responsible for Investment, Procurement, Testing, Calibration, Installation, provision of meter reading (AMR) and Operation & Maintenance of Water Meters under Build Operate Transfer (BOT) Model of Two (02) years installation period and Ten (10) years concession period.
4. Documents are immediately available in the office of **Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan** WASA during office hours upto **August 31, 2020** against written request and payment of PKR 10,000 (Pak Rupees Ten Thousand) non-refundable fee in the shape of fee challan.
5. The Documents contains RFP (Prequalification, Technical and Financial Proposals), Project Information Memorandum and Draft Concession Agreement.
6. Pre-bid Meeting will be held on **September 07, 2020 at 1100 hours PST** in the committee room of WASA, Head Office and only those firms who purchased the documents will be allowed to attend the pre-bid meeting.
7. The firm will be selected through **Single Stage Three Envelop** bidding procedure in accordance with PPP Act 2019.
8. WASA will not be responsible for any cost or expenses incurred by the bidders in connection with preparation or submission of bids.
9. All Bids must be accompanied by a Bid Security of PKR 250 Million/- in the form of CDR/Bank Guarantee/Demand Draft/Pay Order in favor of Director P&S, WASA.
10. RFP comprising of Pre-Qualification Proposal Technical and Financial Proposals in separate sealed envelopes, clearly marked "**Procurement, Installation, O&M of Water Meters under BOT (PPP)**" should must reach the **Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan** not later than **October 01, 2020 upto 1200 hours PST and Prequalification Proposal will be opened on the same day and same venue at 12:30 in the presence of bidders / representative who chose to attend.**
11. Further information / clarification may be obtained from Dy Managing Director, Engineering on any working day during working hours upto **September 07, 2020.**

DEPUTY MANAGING DIRECTOR (ENGG.)

WASA Head Office, Zahoor Elahi Road, Near Main Market, B-Block, Gulberg-II, Lahore, Pakistan
E-mail: dmdengglhrwasa@gmail.com Website: <http://www.wasa.punjab.gov.pk>

WORLD

Ambassador: 'It's UK that has changed'

Liu Xiaoming stresses mutual respect, and urges London to see 'real Xinjiang'

By HAN BAOYI in London
hanbaoyi@mail.chinadailyuk.com

The United Kingdom should take full responsibility for current difficulties in the China-UK relationship, Beijing's top diplomat in London said in an online news conference on Thursday.

Liu Xiaoming, China's ambassador to the UK, condemned what he described as the UK's "blatant interference" in China's affairs recently, particularly relating to the Hong Kong Special Administrative Region and the Xinjiang Uyghur autonomous region.

He said the UK's interference in China's internal affairs had "seriously poisoned the atmosphere" of the bilateral relationship.

Citing State Councilor and Foreign Minister Wang Yi's telephone call with British Foreign Secretary Dominic Raab on Tuesday, Liu said: "For the UK, China is an opportunity, rather than a threat, a factor for growth, rather than a cause for decline, a solution, rather than a challenge or a risk."

Asked if China and the UK will experience "warm economic ties" and "cold political relations", Liu said Beijing has no intention of politicizing economic affairs, but that trust and credibility are important for countries engaging with each other.

"China has not changed. It's the UK that's changed," he said.

"Economic ties and political relations are related. You need to have a good atmosphere to engage with each other," said Liu, adding that Chinese businesses have expressed concern about investment risks and security issues in the wake of

the UK banning Huawei from participating in its 5G networks.

"The issue of Huawei is not about how the UK sees and deals with a Chinese company," he said. "It is about how the UK sees and deals with China."

Liu stressed that a "sound and safe" China-UK relationship must be based on three principles: Respect for each other, engagement in mutually beneficial cooperation, and the seeking of common ground despite differences. And he clarified recent remarks he made that had been misinterpreted that included mention of "consequences" for the UK if it treats China as a "hostile" country.

"We made no threats. We threaten nobody," he said.

Liu also shared several videos of what he said is the "real Xinjiang", a part of China that has had problems in the past with terrorism, separatism, and extremism but that is now a stable place, where people can live a better life regardless of their ethnic or religious background. He said there are many "fallacies and lies" in the Western media related to Xinjiang.

"Some Western countries have been using Xinjiang-related issues to try to discredit China and interfere in China's internal affairs," he said.

"Regrettably, the UK is one of them."

Instead, Liu called on London to "view the progress and achievements" made in Xinjiang from a comprehensive and objective perspective, to stop making irresponsible remarks about Xinjiang, and to stop using Xinjiang to interfere in China's internal affairs.

Festival fun



Children ride on a carousel during the Muslim festival of Eid al-Adha, or Feast of Sacrifice, in Kabul on Friday, amid subdued celebrations in Afghanistan due to the spread of the coronavirus.

MOHAMMAD ISMAIL / REUTERS

US experts weigh in on HK poll delay

By LIU YINMENG in Los Angeles
teresaliu@chinadailyusa.com

As Hong Kong battles a major flare-up in coronavirus cases, some experts in the United States have voiced their support for a postponement of elections for the region's Legislative Council in September.

Carrie Lam Cheng Yuet-ngor, chief executive of the Hong Kong Special Administrative Region, said on Friday that the 2020 Legislative Council election for the region will be postponed from Sept 6 due to the spike in coronavirus cases.

James C. Hsiung, a professor of politics and international law at New York University, said that postponing the poll, under the present conditions, is necessary. However, objections to any such move can be expected in Hong Kong or elsewhere.

"Opponents of a postponement may pick on the 'waiting out' over the new security law for Hong Kong as a reason why they were opposed to the delay. But the truth is the law has already been in place since June," Hsiung told China Daily.

"And, let me point out, as a result of the sabotaging efforts by the law's critics, distorting it as a 'crackdown' on the SAR's autonomy, it has

evoked a fusillade of bad reactions from foreign sources," Hsiung said.

Three countries have annulled their extradition treaties with the SAR, Hsiung said. The administration of US President Donald Trump has revoked the preferential tariff treatment and other benefits that Hong Kong had enjoyed from the United States. All this has left Hong Kong enmeshed in an atmosphere of foreign intimidation, Hsiung said.

While those supporting the postponement cite public health concerns, some opposition figures suggest that their rivals want to wait it out, giving more time for the anger felt by some over the newly imposed National Security Law to subside.

200,000 voters

Jon Taylor, professor at the University of Texas in San Antonio, said a series of issues that have dominated Hong Kong politics aren't going to disappear just because the election is postponed.

"In fact, it could be argued that a delay not only would give Hong Kong authorities time to get a better handle on the virus, but also give as many as 200,000 to 300,000 eligible voters who have been unable to cross the border into Hong Kong since the Lunar New Year the chance to return, undergo the 14-day mandatory quarantine, and then participate in the election," he said.

Census statistics showed that 541,900 Hong Kong residents were living in Guangdong province as of the middle of last year. Under the city's laws, the HKSAR chief executive has the right to direct a short postponement of a general election if the authorities deem that it is likely to be obstructed or seriously affected by a riot, mass violence or any danger to public health or safety.

Hsiung suggested that the Hong

Kong government should put to good use any time gains from a postponement by ending the pandemic in its third-wave attack.

"Knowing this, the opponents to the electoral postponement in Hong Kong will have an additional reason why they did not want the electoral delay, which would only give the (HKSAR) government extra time to contain the pandemic. In other words, they care more about their own electoral votes than the welfare of the common population in Hong Kong in the face of the viral attack."

Richard Becker, West Coast coordinator of the civil rights group Act Now to Stop War and End Terrorism, said there's no question that the US administration is continuing to escalate its meddling in China's internal affairs, adding that some US leaders are engaging in actions that are counter to their espousal of human rights and free speech in Hong Kong.

He noted that numerous primary races in the US had been postponed due to the coronavirus outbreak.

"Hong Kong is a part of China. This is a regional election in one part of China that is being postponed. Many elections in the US have been postponed because of the epidemic; many, many, primary elections leading up to this year's presidential election," said Becker.

Liu Qing, president of the Southern California chapter of the China Council for the Promotion of Peaceful National Reunification, said delays have occurred in the past in the city and are in line with the HKSAR Basic Law.

"Although the National Security Law for Hong Kong has been released, it would still take some time for order and harmony to be restored in Hong Kong society. Given this and the recent resurgence in coronavirus cases, I think a delay is a reasonable decision to make in this situation."

Trump floats idea to postpone election

WASHINGTON — US President Donald Trump on Thursday raised the idea of delaying the Nov 3 elections, an idea immediately rejected by both Democrats and his fellow Republicans in Congress — the sole branch of government with the authority to make such a change.

Critics and even Trump's allies dismissed the notion as an attempt to distract from devastating economic news.

Trump's statement on Twitter came as the United States is enduring a multipronged, once-in-a-generation crisis: A coronavirus pandemic that has claimed more than 150,000 lives, a crippling recession sparked by the outbreak, and nationwide protests against police violence and racism.

Trump, who opinion polls show trailing Democratic challenger Joe Biden, said he would not trust the results of an election that included widespread mail voting — a measure that many observers see as critical given the coronavirus pandemic. Without evidence, he claimed that ramped-up mail voting would be rife with fraud, but praised absentee voting, which is also done by mail.

"With Universal Mail-In Voting (not Absentee Voting, which is good), 2020 will be the most inaccurate & fraudulent election in history. It will be a great embarrassment to the USA," Trump wrote on Twitter. "Delay the Election until people can properly, securely and safely vote???"

Most US states are expanding access to mail-in voting in order to allow voters to cast their ballots safely in the November election in light of the pandemic.

At a White House news conference later in the day, Trump did not repeat his call for an election delay, but said he was worried about fraud and a long wait for results from counting mail ballots.

"Do I want to see a date change? No. But I don't want to see a crooked election," he said.

Multiple congressional Republicans — including Senate Majority Leader Mitch McConnell — rejected the idea.

Democratic US Representative Zoe Lofgren, who chairs the House of Representatives committee overseeing election security, also rejected any delay.

Investors are increasingly preparing for the risk of a contested US presidential election, worried that an ugly political situation will create volatility across markets.

AGENCIES—XINHUA

ISLAMIC REPUBLIC OF PAKISTAN WATER AND SANITATION AGENCY (WASA), LAHORE GOVT. OF THE PUNJAB INTERNATIONAL COMPETITIVE BIDDING (ICB) REQUEST FOR PROPOSAL PROCUREMENT, INSTALLATION, O&M OF WATER METERS IN LAHORE ON PUBLIC PRIVATE PARTNERSHIP (PPP)

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WHO calls for attention on care facilities

By CHEN WEIHUA in Brussels
chenweihua@chinadaily.com.cn

The World Health Organization has called for special attention to long-term care facilities, which have recorded a disproportionately high number of deaths due to COVID-19.

In many countries, more than 40 percent of coronavirus-related deaths have been linked to long-term care facilities, and up to 80 percent in some high-income countries, according to the WHO.

"We must all learn to live with the virus, and to take the steps necessary to live our lives, while protecting ourselves and others — especially those at highest risk of COVID-19," WHO Director-General Tedros Adhanom Ghebreyesus told a virtual news conference from Geneva on Thursday.

He noted the vulnerability of older people, especially those living in long-term care facilities.

The WHO released a policy brief last week on preventing and managing COVID-19 in long-term care facilities. It lists key actions that must be taken by policymakers and national and local authorities to protect older people.

Thursday marks six months since the WHO declared the novel coronavirus a public health emergency of international concern, the highest level of alarm under international regulations.



Lily Hendrickx, 83, a resident at a nursing home, enjoy hugs with Marie-Christine Desoer, director of the residence, through a divider made with plastic sheets in Peruwelz, Belgium, on July 1. YVES HERMAN / REUTERS

The New York Times reported that by July 23, 59,000 deaths and 335,000 cases were detected in US long-term care facilities, accounting for 42 percent of the total deaths and 8 percent of the cases.

The virus has claimed more than 150,000 lives in the US, by far the highest death toll in the world, with more than half a million fatalities around the globe.

There were 72,238 new infections officially recorded in the US on Thursday, meaning the country has seen nearly 4.5 million infections since the beginning of the pandemic.

In Europe, countries such as Belgium, France, Ireland, Norway and

Spain saw more than half of their COVID-19 deaths coming from long-term care facilities, according to the European Center for Disease Prevention and Control.

Tedros warned that young people are at risk, too. "One of the challenges we face is convincing younger people of this risk," he said, adding that evidence suggests that spikes of cases in some countries are being driven in part by younger people letting down their guard during the northern hemisphere summer.

"Young people can be infected; young people can die; and young people can transmit the virus to others," Tedros said.

KT honoured for Hope probe coverage

Staff Reporter

DUBAI — More than 1.5 billion people closely followed the UAE's Hope probe journey — from its arrival in Japan in April to its historic launch on July 20 — through the extensive coverage it garnered from media outfits around the world.

The UAE Government on Sunday revealed the impressive media mileage that the Emirates Mars Mission (EMM) received, as it thanked news outlets, TV stations, institutions and other channels for its outstanding coverage of the first interplanetary mission of the Arab world.

Mohammed bin Abdullah Al Gergawi, UAE Minister of Cabinet Affairs and the Future (right), honoured *Khaleej Times* for its extensive pre-, live and post-event coverage of the historic Hope probe launch. The newspaper's

in-depth reports, analysis and exclusive interviews chronicled the mission as millions of people read, watched and talked about it.

"Local engagement on digital media platforms exceeded 95 per cent in the hour scheduled for launch, and 97 per cent in the first 12 hours post-launch," a government statement said.

Mustafa Al Zarooni, UAE Editor of *Khaleej Times*, who received the certificate on the newspaper's behalf, said: "*Khaleej Times* has been at the forefront of covering major events in the UAE and globally for over four decades. As the nation's first English newspaper, we feel the pulse of the people and understand the vision of the leadership like no other. We are grateful for this honour and look forward to greater achievements for the Emirati people and the Arab world."

reporters@khaleejtimes.com



Mustafa Al Zarooni receives a certificate of appreciation on *Khaleej Times*' behalf from Mohammed bin Abdullah Al Gergawi during a ceremony on Sunday.

TOURISM BOOST

Free Covid-19 tests for hotel employees in RAK

Staff Reporter

RAS AL KHAIMAH — Employees working at hotels in Ras Al Khaimah are being screened for Covid-19 for free, under an initiative led by the emirate's tourism authority.

The Ras Al Khaimah Tourism Development Authority (RAKTDA) has partnered with the National Crisis and Emergency Management Authority and Ras Al Khaimah Preventive Medicine Department to roll out this mass testing programme that would ensure safety for both hotel guests and employees.

The initiative comes as restrictions on domestic and international tourism are eased,

and the number of people visiting Ras Al Khaimah continues to rise.

Supervised by the RAKTDA, screenings are being done across the 45 hotels in the emirate as part of the authority's 'Stay Safe' hotel certification.

"The ongoing testing for hospitality staff is an important step in our efforts to reaffirm that the emirate has taken and continues to take extensive measures to prioritise the safety and wellbeing of guests and residents," said Raki Phillips, CEO of RAKTDA.

"These measures ensure that our sector partners can continue to operate successfully as we enter the 'new normal'."

reporters@khaleejtimes.com

JOINT INITIATIVE

178 Indians fly home for free on special flight

Staff Reporter

RAS AL KHAIMAH — Some 178 Kannadigas stranded in the country were recently flown home on the second chartered flight arranged by the Thumbay Group in the UAE and the Bearys Cultural Forum (BCF) Trust in Mangalore, India.

On board the flight that took off from Ras Al Khaimah International Airport were passengers that included the elderly, pregnant women, kids and those in need of urgent medical attention because of chronic illnesses. Some also lost their jobs and were facing visa issues.

It was the second in the series of flights organised by the group, with the first one repatriating 186 on July 21. The next flight under the joint initiative is scheduled on August 10, and a few more are expected to follow in the coming weeks. Implemented under

the leadership of Dr Thumbay Moideen, founder president of Thumbay Group and founder patron of BCF, and Dr B K Yusuf, president of BCF, these flights were arranged purely for charity, with all necessary steps taken to ensure the safety of passengers.

Thumbay Group assigned its fleet of buses to transport the passengers free of charge from their residences in Dubai, Sharjah and Ajman to the airport. Organisers also provided free meals and refreshments, in addition to PPE kits and face shields.

Among those present at the airport to see the passengers off were Dr Yusuf; Dr Kaup Mohammed, BCF general secretary; other officials of the BCF; as well as Thumbay Group's representatives Farhad C, director of the hospitality division, and Farwaz P.C., COO of the construction division.

reporters@khaleejtimes.com



CHARITY: Organisers provided passengers with free meals and refreshments, in addition to PPE kits and face shields.

3 centres for Dh50 Covid-19 tests to open in Abu Dhabi

Ismail Sebugwaawo

ABU DHABI — Three new Covid-19 testing centres will soon open in the Capital, allowing residents to get rapid laser tests done for only Dh50. Once up and running, these facilities would offer relief to Abu Dhabi residents who wish to travel outside the emirate as they are required to present a negative test result upon their return.

To be operated by Abu Dhabi Health Services (Seha), the three centres will be located in Zayed Sports City, Corniche area, and Hili area in Al Ain. Residents would have to book appointments through Seha's smart application before coming for tests. Slots will be available daily starting August 1, according to a local newspaper paper which quoted Seha.

These facilities will be using DPI laser-based technology for the rapid Covid-19 tests, similar to those carried out at the Ghanoot centre on Dubai-Abu Dhabi border.

Only those who test negative will be given results, allowing them to re-enter Abu Dhabi within 48 hours from the time of testing.

"In case the DPI testing showed a necessity to conduct a PCR test, the patient will have to be subjected to it at the same centre for Dh320," authorities said. Then,



LASER TESTS: Residents who get screened at the rapid Covid-19 testing centre on the Dubai-Abu Dhabi border receive results in five minutes. The same laser-based technology will be used in the Seha-run facilities that will be opened soon. — Photo by Juidin Bernarrd

the person will be advised to stay home until the test result is released.

Officials said the DPI testing can be done only to adults and children aged 12 years and older. Those who wish to get screened must present their original Emirates ID at the testing facility, along with the QR code for the appointment.

Appointments on the Seha smart app can be done for an individual or a group of up to three people or five people from one family, including domestic workers.

ismail@khaleejtimes.com

HOW TO GET SCREENED AT THE NEW FACILITIES

WHERE TO FIND THEM

- Zayed Sports City
- Corniche area
- Hili area in Al Ain

WHEN TO BOOK

AUGUST 1
Start of appointments

HOW TESTS WILL BE CONDUCTED

- Residents will have to book appointments via the **Seha smart app**
- On the day of the appointment, they must present their **original Emirates ID** at the testing facility, along with the QR code for the booking
- Only those who **test negative** will be given results, allowing them to re-enter Abu Dhabi within 48 hours from the time of testing
- If the DPI testing showed it's necessary to conduct a **PCR test**, the patient will have to be subjected to it at the same centre for Dh320

ECO-TOURISM

Dubai's desert sanctuary attracted 238,000 visitors last year: Report

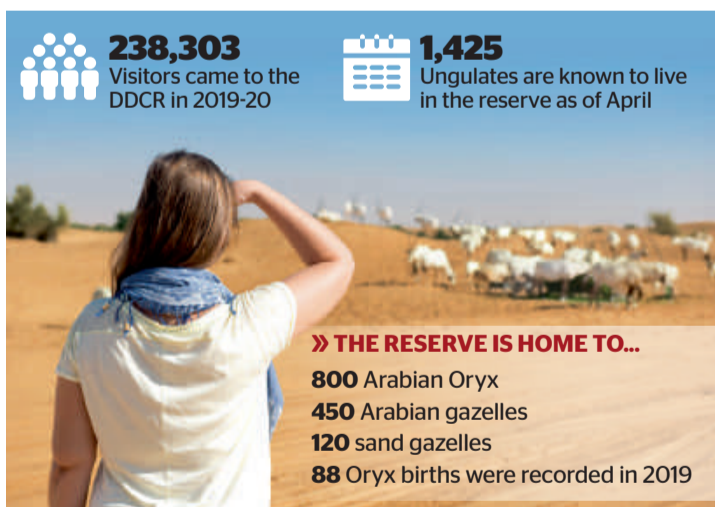
Staff Reporter

DUBAI — Dubai may have wowed the world with its skyscrapers and man-made islands, but beyond its bright city lights, a well-loved wildlife haven thrives. Last year, the Dubai Desert Conservation Reserve (DDCR) has attracted over 238,000 visitors from across the globe.

Covering a 225sqkm area and making up five per cent of the entire emirate, the reserve forms the biggest piece of land which Dubai has dedicated to a single project. It is home to 800 Arabian Oryx; 450 Arabian gazelles and approximately 120 sand gazelles as of March this year. In 2019, 88 Oryx births were recorded in the sanctuary.

These figures were compiled in the first DDCR annual report, which was released recently as the Emirates Group celebrates 20 years of partnership with the reserve.

A small area of the DDCR is allotted to tourism activity under



careful monitoring. And in the past year, 238,303 visitors came to experience spectacular dune drives, desert safaris and Arabian experiences at the reserve. Well-trained guides help them learn more about the desert's natural habitat, heritage and wildlife, and the importance of conservation.

"The DDCR provides a balance to Dubai's growth and rapid urbanisation, ensuring the conservation of our desert areas and unique wildlife," said Sheikh Ahmed bin Saeed Al Maktoum, Emirates Group Chairman and Chief Executive.

reporters@khaleejtimes.com

PROTECTING WILDLIFE

4 fined Dh10k for sneaking into Sharjah reserve

Staff Reporter

SHARJAH — The Environment and Protected Areas Authority (EPAA) in Sharjah recently arrested four people who sneaked into the Alqum Protected Area for violating several hunting protocols.

Hana Saif Al Suwaidi, chairperson of the EPAA, said that despite clear signage throughout the reserve — stating that entry is denied without prior official permission — they had "encountered infiltration from some individu-

als, ignoring all these guidelines, putting the wildlife in the reserve at risk".

Al Suwaidi added that the violators were caught carrying fish and mud crabs in large quantities and, therefore, made to undergo legal questioning. The offenders were each issued a fine of Dh10,000.

Alqum Protected Area, located in the coastal areas of Kalba city, is known for its diverse ecosystems, such as sea water mangroves, swamps and salt marshes and mudflats, which provide a

suitable environment for breeding several types of species.

Penalties for causing harm to the nature and wildlife in the emirate are issued by the Executive Council in Sharjah. These can include damages caused to the soil or vegetation, or for cutting down trees. The council also issues fines for disposal of waste from construction sites or dumping wastewater and oils used in sewage networks into these areas.

reporters@khaleejtimes.com

ISLAMIC REPUBLIC OF PAKISTAN
WATER AND SANITATION AGENCY (WASA), LAHORE
GOVT. OF THE PUNJAB

INTERNATIONAL COMPETITIVE BIDDING (ICB)

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3. The firms, JV/Consortia shall be responsible for Investment, Procurement, Testing, Calibration, Installation, provision of meter reading (AMR) and Operation & Maintenance of Water Meters under Build Operate Transfer (BOT) Model of Two (02) years installation period and Ten (10) years concession period.
4. Documents are immediately available in the office of **Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan** WASA during office hours upto **August 15, 2020** against written request and payment of PKR 10,000 (Pak Rupees Ten Thousand) non-refundable fee in the shape of fee challan.
5. The Documents contains RFP (Prequalification, Technical and Financial Proposals), Project Information Memorandum and Draft Concession Agreement.
6. Pre-bid Meeting will be held on **August 21, 2020 at 1100 hours PST** in the committee room of WASA, Head Office and only those firms who purchased the documents will be allowed to attend the pre-bid meeting.
7. The firm will be selected through **Single Stage Three Envelop** bidding procedure in accordance with PPP Act 2019.
8. WASA will not be responsible for any cost or expenses incurred by the bidders in connection with preparation or submission of bids.
9. All Bids must be accompanied by a Bid Security of PKR 250 Million/- in the form of CDR/Bank Guarantee/Demand Draft/Pay Order in favor of Director P&S, WASA.
10. RFP comprising of Pre-Qualification Proposal Technical and Financial Proposals in separate sealed envelopes, clearly marked "**Procurement, Installation, O&M of Water Meters under BOT (PPP)**" should must reach the **Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan** not later than **September 15, 2020 upto 1200 hours PST** and **Prequalification Proposal will be opened on the same day and same venue at 12:30** in the presence of bidders / representative who chose to attend.
11. Further information / clarification may be obtained from Dy Managing Director, Engineering on any working day during working hours upto **August 21, 2020**.

DEPUTY MANAGING DIRECTOR (ENGG.)

IPL-6138

WASA Head Office, Zahoor Elahi Road, Near Main Market, B-Block, Gulberg-II, Lahore, Pakistan

E-mail: dmdengglhrwasa@gmail.com Website: <http://www.wasa.punjab.gov.pk>

کورونا وائرس، کھراؤ نہیں، احتیاطی تدابیر اپنائیں! | کھائے، پئے، دھوئے، وقت روئے، شہر سے باہر نہ جائیں



ISLAMIC REPUBLIC OF PAKISTAN
WATER AND SANITATION AGENCY (WASA), LAHORE
GOVT. OF THE PUNJAB
INTERNATIONAL COMPETITIVE BIDDING (ICB)



REQUEST FOR PROPOSAL

PROCUREMENT, INSTALLATION, O&M OF WATER METERS IN LAHORE ON PUBLIC PRIVATE PARTNERSHIP (PPP)

Water and Sanitation Agency (WASA), Lahore, Government of Punjab, Pakistan is undertaking the Procurement, Installation, O&M of Water Meters in Lahore on Build Operate Transfer (BOT) under Public Private Partnership (PPP) in accordance with PPP Act 2019.

WASA, Lahore is now soliciting proposals from well reputed national and international firms, Joint Ventures (JV) / Consortia to undertake the Procurement, Installation, O&M of 711,265 (tentative quantity) Water Meters project on BOT (PPP) mode.

The following shall be kept in view while submitting the proposals;

1. Firms, JV/Consortia shall provide undertaking to set up Assembly Plant in Pakistan.
2. WASA shall provide project site free of encumbrances to concessionaire.
3. The firms, JV/Consortia shall be responsible for Investment, Procurement, Testing, Calibration, Installation, provision of meter reading (AMR) and Operation & Maintenance of Water Meters under Build Operate Transfer (BOT) Model of Two (02) years installation period and Ten (10) years concession period.
4. Documents are immediately available in the office of Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan WASA during office hours upto August 15, 2020 against written request and payment of PKR 10,000 (Pak Rupees Ten Thousand) non-refundable fee in the shape of fee challan.
5. The Documents contains RFP (Prequalification, Technical and Financial Proposals), Project Information Memorandum and Draft Concession Agreement.
6. Pre-bid Meeting will be held on August 21, 2020 at 1100 hours PST in the committee room of WASA, Head Office and only those firms who purchased the documents will be allowed to attend the pre-bid meeting.
7. The firm will be selected through Single Stage Three Envelop bidding procedure in accordance with PPP Act 2019.
8. WASA will not be responsible for any cost or expenses incurred by the bidders in connection with preparation or submission of bids.
9. All Bids must be accompanied by a Bid Security of PKR 250 Million/- in the form of COR/Bank Guarantee/Demand Draft/Pay Order in favor of Director P&S, WASA.
10. RFP comprising of Pre-Qualification Proposal Technical and Financial Proposals in separate sealed envelopes, clearly marked "Procurement, Installation, O&M of Water Meters under BOT (PPP)" should must reach the Director Procurement & Stores, 59-F Gulshan-e-Ravi Lahore, Pakistan not later than September 15, 2020 upto 1200 hours PST and Prequalification Proposal will be opened on the same day and same venue at 12:30 in the presence of bidders / representative who chose to attend.
11. Further information / clarification may be obtained from Dy Managing Director, Engineering on any working day during working hours upto August 21, 2020.

DEPUTY MANAGING DIRECTOR (ENGG.)

WASA Head Office, Zahoor Elahi Road, Near Main Market, B-Block, Gulberg-II, Lahore, Pakistan

E-mail: dmdengglhrwasa@gmail.com Website: <http://www.wasa.punjab.gov.pk>

(IPL-6138-C)



**WASA
LAHORE**

**WATER AND SANITATION AGENCY
LAHORE DEVELOPMENT
AUTHORITY**

CORRIGENDUM

SUBJECT:- PROCUREMENT, INSTALLATION, O&M OF WATER METERS IN LAHORE ON PUBLIC PRIVATE PARTNERSHIP (PPP).

Request For Proposal was published in Daily "Express" and "The Nation" dated 22-07-2020 vide IPL No.6138, the errata No. wise changes in schedule shall be followed as given below:

4. Documents are available upto 31-08-2020 instead of 15-08-2020
5. Pre-bid meeting will be held on 07-09-2020 instead of 21-08-2020
10. RFP comprising of prequalification proposal, technical and financial proposal in separate envelop should reach not later than 01-10-2020 upto 12:00 hours PST instead of 15-09-2020 and prequalification proposal will be open in same day and same venue at 12:30 hours PST in the presence of bidder / representative who chose to attend.
11. Clarification / information may be obtained upto 07-09-2020 instead of 21-08-2020

Other terms & conditions shall remain unaltered.

Deputy Managing Director (Engg)

(IPL-6582-C)

WASA, LDA Lahore.



Procurement, Installation and Operation & Maintenance of
Water Meters under PPP

Market Consultation Project Information Memorandum

February 2020



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Foreword

Water Metering Project is one of Government of Punjab top priorities for investment and **benefits from the Punjab Government's funding support.**

Throughout the development of the Water Metering Project the Transaction Advisor has taken into account the views of industry and funders leading to the current proposals, which are explained in this Memorandum. In reaching this position, where we are at the cusp of delivery, the project has demonstrated resilience against an economic situation and water crisis Pakistan is facing.

A key factor in our successful preparation has been the readiness of the Council to adapt to these changing market and political conditions. The high proportion of private finance secured through toll revenue continues to safeguard the project from the budget cuts now taking place across the public sector. The Council is committed to securing the best value from its tolling strategy and has considered at some length the views of the market towards achieving this aim.

A key development aimed at securing value and ensuring that the project remains affordable has been the move away from a concession structure. The current plan is to launch procurement based on a Build, Operate and Transfer (BOT) contract where meter installment revenue risk will be taken by the WASA, supported by the Punjab Government.

We recognize that a move to a BOT contract, where payments are linked to the proper functioning of the meters, presents the best option for a robust competition and securing value for money.

However, this BOT under PPP Act 2019 requires private sector partner, the Project Company, to bring competence and expertise in supporting the WASA/Government of Punjab in the delivery of a viable project that achieves all our objectives. Securing the



water meters that meets our requirements at minimum cost and per month installment is the principal objective along with other economic benefits but it is also, essential that the Project Company offers a service that is integrated with the operation and maintenance and the management of the revenue risk retained by the WASA/Government of Punjab. Such a partnership will be robust and last for many years.

Water Metering Project offers considerable scope for innovation and effective risk control through the interaction of meter technology, capital and operation costs assessed in whole life terms. We look forward to the comments received that will assist the project team to refine our plans so that we gain maximum value from an efficient procurement process.

Your contribution to this consultation is appreciated greatly. Kind regards

Managing Director WASA Lahore



1. Introduction

1.1 The Water Metering Project

- i. The Procurement, Installation and Operation & Maintenance of Water Meters Project (“the Project”) is a Public Privat Partnership (“PPP”) project to be undertaken on Build, Operate and Transfer (“BOT”) Mode.
- ii. Punjab Public Private Partnership Authority (PPPA) through Water and Sanitation Agency, Lahore (“the WASA”), the Contracting Authority, is looking to enter into a competitive procurement process with a view to awarding a concession for the Project for a period currently envisaged to be 10 years with 2 years installation time.

1.2 **Purpose of this Project Information Memorandum (“PIM”)**

The WASA/Government of Punjab wish to procure the Project in a way that is commercially attractive to the market and meets the WASA's/ Government of Punjab objectives. This document forms part of an ongoing process of interaction between the WASA/Government of Punjab and interested parties and has been prepared to inform interested parties as to the Project’s development and invite response on the approach proposed to be taken to specific aspects.



1.3 Timetable

The roads shows were proposed at the initial stage but due to COVID-19, the said process was not possible and following is a summary of the WASA/Government of Punjab proposed timetable in relation to market engagement through formal procurement process.

Action	Date
Issuance of PIM	July 10, 2020
Publication of Pre- Qualification Process	July 15, 2020



2. Project Parties

2.1 Contracting Authority

The Contracting Authority for the Project is PPP Authority through WASA in accordance with PPP Act 2019. WASA is a unitary authority, responsible for all local government services specially Water Supply and Sanitation within the borough.

2.2 The delivery teams

- a) The Project is being delivered by a dedicated core team of Punjab Public Private Partnership Cell, PPP Authority, Water and Sanitation Agency, Risk Management Unit, and other stakeholders of Punjab Government.
- b) The Council is supported by a team of Transaction Advisor.

Advisor	Project Role
International Consulting Associates Pvt Limited formerly Grant Thornton Consulting	Transaction Advisory up to Financial Close



3. Project Description

3.1 WASA Lahore

Lahore is the 2nd largest city of Pakistan and capital city of the Punjab Province. It is situated at the bank of river Ravi. The population of this District is more than 10.00 Million and the area is about 1,772- Sq.KM. Water and Sanitation Agency (WASA) Lahore is the subsidiary agency of Lahore Development Authority (LDA) created under Section 10 (2) of the LDA Act, 1975 to perform all functions and exercise powers with regard to water supply, sewerage and drainage with power to collect rates, fees and charges for water supply, sewerage & drainage, and is the second largest water utility of Pakistan as a regulated monopoly for water supply & sewerage services in the City, operating in the area of more than 350-Sq.Km, through 596 Tube Wells, about 5,400-Km water supply lines and about 4000-Km Sewerage Network.

3.2 Project Area

Lahore is the 2nd largest city of Pakistan & capital of the Punjab Province. It is situated at the bank of river Ravi. The overall population of this District is 11,126,285 and the area is about 1772km². The project area corresponds to 6 towns in Lahore district which includes Aziz Bhatti Town, Ravi Town, Nishtar Town, Shalimar Town, Data Ganj Baksh Town, and Allama Iqbal Town. Under this project 711,265 meters will be installed.



3.3 Need Analysis

Before proceeding with the Project, the need analysis was done with the purpose to understand the current scenario of provision of Project Background. Due to ever increasing number of tube wells, the water table is depleting rapidly. The current declining rate is more than 1-Meter Per Annum. Keeping in view that the strata / aquifer of Lahore is not being recharged adequately due to less infiltration of rainwater and lack of flood / flow in the River Ravi since the dam has been built in the upper stream (in India) of river Ravi there is a dire need to conserve the ground water resources.

The indiscriminate and unplanned exploitation of water resources may result in severe water shortages in future. Furthermore, the International

Water Management Institute has predicted severe water shortage in the country by



the year 2025, that will even threaten the sustainability of agriculture.

Excessive withdrawal of ground water has localized or area-wide degradation impacts on the quality of groundwater in addition to intrusion of wastes or chemicals. *(Falling water tables increase the cost of pumping, as more energy is required to pump deep water. This led to the wastage of additional resources and revenue.)*

WASA Lahore is facing severe problems regarding Non-Revenue Water (NRW). According to a study conducted by JICA in 2010 it was estimated that more than 50% of water produced is not contributing to any revenue generation. The current water supply system of WASA is based on the over exploration of ground water and unmetered water supply due to which water losses are enormous. In the absence of water meters, it is impossible to estimate the supply and demand of the water resources. This results in the over abstraction of ground water as abstracted amount of ground water and supplied amount of water cannot be assessed without metering. In order to conserve water resources and to reduce the declining rate of Ground Water Table it is necessary to reduce the

water losses. This can be done by water metering as reduction in the water losses will reduce the stress on the aquifer and may avoid excessive pumping / extraction of water.

Currently only 40,000 meters are installed in Water Supply System of WASA Lahore. The Current billing system of WASA mainly relies on the fixed tariff slabs based on the plot size of the residential and commercial buildings.

WASA has kept tariffs well below the cost recovery level, relying on heavy loans and subsidies. This arrangement is now becoming increasingly unsustainable, because the environmental cost of extracting water is increasing as well as WASA is facing severe financial constraints which may led to poor service and



underinvestment.

Also, the water is underpriced and under-valued due to which People tend to use the water extravagantly rather than to use it cautiously. This leads to more demand of water quantity than actual requirement. Due to unmetered water supply and low Tariff, the per capita consumption of water is very high as it would be in the case of water metering.

This higher consumption of water puts an extra burden on the water aquifer. So, in order to discourage the excessive water usage, it is necessary to meter the water connection so the consumer will use the appropriate amount of water and shall avoid the wastage of water resources. Hence in order to have an estimate and to get an idea regarding amount of water produced and consumed by different end users there is a dire need to have metered water supply.

Due to above factors there is no other option than to take necessary steps to promote judicious use of water, which can only be inculcated through water metering practices.

3.4 Project Objective

- Water Conservation-Rationalizing water usage through metering connections leading to curtailing water wastage
- Minimizing Water Production Cost- Expected lower electricity costs a consequence of less water extraction required.
- Increasing WASA Revenues -Minimizing Non-Revenue Water, help understand the actual Consumption and consequently increasing water revenue
- Rationalizing water pricing – Based on actual water usage and cost of water supplied



- Reducing WASA reliance on Government subsidies-with higher revenues and lower costs
- The project has a high VfM in favor of the PPP mode
- The Project EIRR is high

3.5 Legal and Policy Due Diligence

At present, it is contemplated that WASA will be the concession granting authority under the terms of the draft concession agreement.

WASA is a statutory agency established under Section 10(2) of the Lahore Development Authority Act 1975 (the “LDA Act”). The following section of the LDA Act sets out the terms of establishment of WASA (Relevant part of Section 10 of the LDA Act):

“10. Delegation. –

(1) The Authority may, by general or special order, delegate to the Director-General, a committee constituted under section 12, an Agency, a member or an officer of the Authority, any of its powers, duties or functions under this Act or the rules made thereunder subject to such conditions as it may deem fit to impose.

(2) The Authority shall establish, by special order, an Agency, hereinafter called the Water and Sanitation Agency.”

Section 6 (3) of the LDA Act further sets out powers of the Lahore Development Authority (LDA). Similar powers are exercisable by WASA. WASA as per provisions of the foregoing Section 10 (3) of the LDA Act. Section 6 (3) expressly allows the LDA to enter into contracts and grant any concessions. Likewise, by virtue of Section 10 (3) WASA is also allowed to enter into contracts.

The Managing Director of WASA may exercise such powers as are prescribed by the Government of Punjab.



Provision of public services and infrastructure has traditionally been the exclusive domain of the government. However, with increasing population pressure, urbanization, and other developmental trends, the government's ability to adequately address public needs through traditional means has been severely stretched. This has led governments across the world to increasingly look to the private sector to provide supplementary infrastructure investments and public services through public-private partnerships (PPPs). The water metering project is fully in compliance with the Punjab Public Private Partnership Act 2019.

3.6 Social and Environment Safeguard Analysis

The Due Diligence of Environmental Sensitivity is carried out for the project on the basis of anticipated baseline through secondary information and understanding project scope based on information and documents provided.

Pakistan Environmental Protection Act (PEPA), 1997 (amended 2012), is the key act in the environmental arena. Under this Act, it requires that no industry or project can be set up in in the country without the clearance from Environment Protection Department, Punjab.

According to Review of IEE and EIA Regulations, 2000, EPD Punjab, water meter installation project fall under the “Schedule I: Category J”. According to it, any other project for which filing of an IEE is required by the Federal Agency under sub regulation (2) of Regulation 5.

The environmental sensitivity of water meter installation project has been assessed based on secondary information being provided.

It has been assessed that:

- By installation of water meters people will use water in a better and conscious way because they have to pay for it. In this way, it will reduce



the water demand. It will result in lower production of water which is directly related to power consumption. It will also save groundwater resources.

- By installing water meters, people will use minimum water which will result in low wastewater production. This will eventually result in low water pollution and low cost will be required for its treatment.
- The project is expected to open additional sources of occupation and income to local residents during supply, Installation, operation and maintenance of water meters.
- The air quality of the project area will not be affected during project activities, as minimal or temporary dust will be created during excavation (if any).
- There will be no ecological impact, as disturbance to native flora and fauna during the installation of water meters will be avoided.
- The project will not generate wastewater. However, little amount of water will be used and consumed in the clay preparation for flooring.
- Occupation health and safety problems during project activities will be anticipated.
- Currently, fixed water bill system in correspondence to specific area of built structure is operating. Social impact may arise due to equitable system of charging customers, by paying for what they use. It will be anticipated by raising awareness among public regarding exploitation of water resources and lowering of Lahore's water table.

Environmental Management Plan will be formulated at execution stage but it is foreseen that water meter installation project will not cause as such adverse environmental impacts but anticipated impacts are assessed. So, the compliance regarding some environmental aspects will be enforced during installation of water meters.



3.7 Technical Requirements

WASA Lahore provides the technical specification of Water Meters duly approved by the Housing, Urban Development and Public Health Engineering Department (HUD & PHED). The management of WASA Lahore states during the technical due diligence that the water meters specifications of HUD & PHED will prevail but the Smart meters shall be proposed for this transaction. The specifications are generic and same were used for the feasibility study and transaction structuring.

A) Mechanical Water Meters

- I. Technology: Multi Jet Dry Type /Volumetric Rotary Piston/Notating disc with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.
- II. Certifications:
ISO:4064 (International Organization Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC
- III. General Features:
 - + Shall have possibility for both visual and automatic meter reading outputs;
 - + Tamper proof
 - + Provided with non-return wall
 - + Un-affected by grit and particulates
 - + Provided with wire and lead seal
 - + Not affected by magnetic field
- iv. Detailed metrological specifications
 - + Size: 15 mm, 20 mm and 25mm
 - + Accuracy: Class II
 - + Material: Brass/Non-ferrous metal
 - + Protection Class: IP-68
 - + Ambient Temperature: +5° to 55° C
 - + Liquid Temperature: Upto 50° C
 - + Pressure: 16 Bar
 - + Flow rate: Q3/Q1 = 160
 - + Maximum flow rate: m³ /h: Q₃

15mm	20mm	25mm
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2.5	4.0	6.3
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✚ Installation: Any direction.



B. Static Water Meters

- I. Technology: Static Smart Water Meters (ultrasonic technology, electromagnetic, fluidic oscillation with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.
- II. Certifications:
ISO:4064 (International Organization Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC
- III. General Features:
 - + Shall have possibility for both visual and automatic meter reading outputs;
 - + No moving parts
 - + Both visual (LCD) with remote Automated Meter Reading outputs.
 - + As per class 2 of OIML/ ISO specifications (Current)
 - + Tamper proof
 - + Provided with non-return valve
 - + Un-affected by grit and particulates
 - + No reverse flow measurement
 - + Provided with wire and lead seal
- iv. Detailed metrological specifications
 - + Size: 15 mm, 20 mm and 25mm
 - + Accuracy: Class II
 - + Material: Brass/Non-ferrous metal
 - + Protection Class: IP-68
 - + Ambient Temperature: +5° to 55° C
 - + Liquid Temperature: Upto 50° C
 - + Maximum Working Pressure: 16 Bar
 - + Flow rate: Q3/Q1 = 160
 - o Maximum flow rate: m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- + Battery Life: Minimum 10-years
- + Installation: Any direction.



3.8 Transaction Structure:

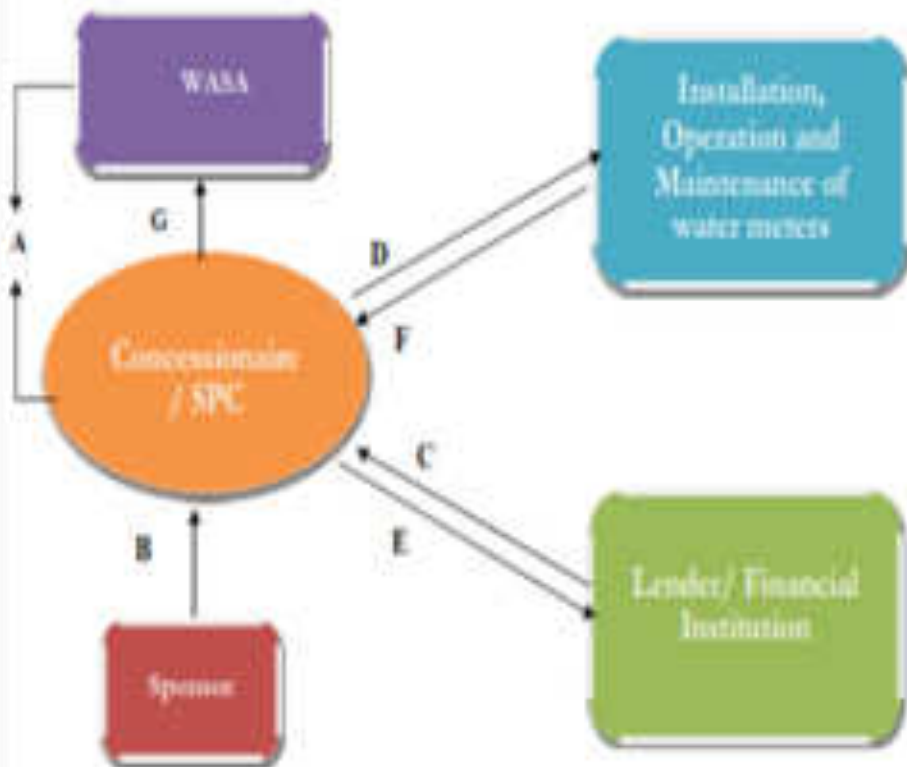
The Project is to be implemented on Build Operate Transfer (BOT) under Public Private Partnership Act 2019. As per BOT the private party will undertake the financing, procurement, installation/construction of the project in addition to its operation and maintenance responsibilities. The private party will operate the facility over a 10-years concession period with 2 years installation time. The Private Party shall be paid on monthly basis by WASA based on the concessionaire invoice submitted and concessionaire invoice confirmed. WASA will be responsible to collect all revenues from the project users/consumers. WASA will pay to private party the agreed charge per operating meter to enable the private party to recover its investment, repay debt and meet all operating and maintenance costs.

The private party transfers Water Meters rights to the WASA/Government Agency at the conclusion of the concession contract. Under this project 711,265 meters will be installed.



Transaction Structure

The structure of the transaction for execution of the Project is illustrated below.



KEY FEATURES

- a) **A:** WASA will provide the rights/concession to private party to install the water meters on concession to the private party for the development of lab and office.
- b) **B:** SPC (Special Purpose Company) shall be formed by the private party.
- c) **C:** SPC shall arrange for lender to provide finance to SPC for execution of the Project.
- d) **D & F:** SPC shall install the water meters in twenty four months by utilizing its equity and debt financing and shall operate and maintain the water meters for the remainder period of concession to recover its investment and earn return thereon.
- e) **E & F:** SPC shall repay the principle and interest to the lender and shall earn return on equity injected by its sponsors.



3.9 Risks and Responsibilities of Each Party

The Project is to be implemented on Build Operate Transfer (BOT) under Public Private Partnership Act 2019. As per BOT the private party will undertake the financing and installation/construction of the project in addition to its operation and maintenance responsibilities. The private party will operate the facility over a 10-year concession period. The Private Party shall be paid on monthly basis to WASA based on the concessionaire invoice submitted and concessionaire invoice confirmed, at WASA discretion, by Independent expert appointed by WASA. WASA will be responsible to collect all revenues from the project users/consumers. WASA will pay to private party the agreed charge per operating meter to enable the private party to recover its investment, repay debt and meet all operating and maintenance costs. The private party transfers Water Meters rights to the WASA/Government Agency at the on the conclusion of the concession contract.



Key Risks and Responsibilities of the Private Party and the WASA/Government Agency				
Sr No	Risks	Private Party	WASA/Government Agency	Mitigation Measures
1)	Commencement risk	No	Yes	The WASA will be responsible for transferring existing asset/concession rights to private party (Rights to install meters). WASA/Government will provide necessary support and facilitate any Government consents/licenses required to successfully implement the project
2)	Operations risk	Yes	No	The Operation and Maintenance of the Water Meters shall be done by private party. All the costs for same shall be reimbursed by the WASA as per Concession Agreement. The concessionaire is paid on the basis of operating meters. It is therefore expected the Private party shall ensure fully



				operational meters at all times
3)	Financial risk	Yes	No	The financial arrangement for the project is the responsibility of Private Party. Any delays in achieving Project Financial close can result in project completion delays, project cost increase and default of the concessionaire. This will be mitigated by the private party satisfying in the bid process commitments from lenders and equity funding available to achieve financial close on concession agreement signing



4)	Payment risk	No	Yes	The risk of collecting revenues of meter Charges/installment from users reside with WASA.
5)	Performance risk	Yes	No	<p>The risk that the water meters perform at required efficiency levels to meet service delivery standard shall reside with private party.</p> <p>Private party shall be paid on the basis of numbers of meters performing at agreed standard levels. It is therefore expected that the private party will ensure required standards of performance at all times.</p>
6)	Change in law risk	No	Yes	<p>Any additional cost incurred by the private party due to change in law shall be reimbursed by WASA. The private party is insulated against this</p>



				risk
7)	Force majeure risk	Yes	Yes	The risks and compensation for any additional costs or losses due to various types of Force Majeure events are agreed to be shared between the parties based on the type of event. Private party may be able to minimize losses where events are insurable. However, in events where occurrence is beyond control of either party as in the case of political and indirect political force majeure events the private party is covered with compensation by Government. Insurance is also available for loss of profit. Cost of insurance coverage could be high for such events
8)	Litigation Risk	No	Yes	Any cost increase and losses incurred due to delays as a consequence



				<p>of legal injunctions for Government actions shall be compensated by the Government to the private party.</p> <p>The meter project has been directed for implementation by the Supreme Court. This mitigates the risk of legal action substantially</p>
9)	Non-Payment of upfront meter charge by consumer	No	Yes	<p>There is risk of inability of WASA to collect the upfront meter charge from consumers. In the event of this happening project cost will need to be covered by the Government as the private party may not be able to raise additional funding. The project may not be implemented if funding is not arranged. This is however mitigated by WASA determination to implement meter project and collect meter charge by enforcing its</p>



Water and Sanitation Agency, Lahore

				authority of water disconnection. Further Government can cover for any shortfalls and request private party to raise additional financing to reimburse Government.
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3.10 Key Performance Indicators

The Key Performance Indicators is better tool for monitoring in PPP execution.

Performance indicators are also helpful in the monitoring and regulation of the operational aspects of water meters. Use of performance indicators would provide incentives (such as success bonus) and/or disincentives (penalties) to bring in efficiency of the water meters operations.

Performance indicators include monitoring of water meters (financial parameters with provisions for price adjustment) and penalty in cases of non-compliance being twice the monthly installment/charge.

The private party shall make sure the meters are successfully working and providing the reading with fully accuracy and efficiency. In case of any in-accuracy that will be reviewed by the Independent Expert, the private party shall be penalized with twice the billed amount. The private party will only be eligible to invoice for the meters which are functioning and giving the reading as per agreed parameters in the concession agreement.



3.11 Procurement Strategy

The procurement strategy will determine that how the private sector partner will be selected, and it focuses on developing an approach to procurement that helps obtain the best VfM. The Transaction Advisors have developed a strategy capable of creating the correct incentives for all the players involved.

Procurement documents comprising of prequalification criteria, technical and financial evaluation criteria and corresponding bidding document (Expression of Interest and Request for Proposal developed as per PPRA Rules, Punjab PPP Act, 2019 and the established practices to ensure maximum participation of the investors ensuring level playing field and transparency.

The private party will be selected by adopting International Competitive Bidding Process and shall be published in the print media, websites of PPRA, PPP Authority, WASA and other possible mediums to reach out to all the potential investors in accordance with applicable laws.

Some of the salient features of the Punjab Procurement Law / Rules are:

- ✚ Issuance and Solicitation of RFP Documents to Interested Parties
- ✚ Evaluation of Pre-Qualification Documents
- ✚ Evaluation of Technical and Financial Proposals
- ✚ Award of Contract
- ✚ Finalization of Concession Agreement
- ✚ Signing of Concession Agreement with Private Party



3.12 Bid Evaluation and Award Criteria

The bidding in case of this Project more likely to be carried out in accordance with The Punjab Public Private Partnership Act, 2019 i.e. Single Stage Three Envelope Bidding as provided under Section 16 of The Punjab PPP Act 2019.

After the pre-qualification, technical bids of prequalified bidders will be opened and evaluated, then financial bids of technically responsive bidders will be opened and evaluated.

The qualifying score in the technical bid would be 65%. All the bidders who will be able to secure 65%, the financial bids of those will be opened and evaluated on following 3 parameters;

1. Viability Gap Fund (VGF)
2. Meter Installment Per Month
3. Total Capital Cost of the Project

The bid will be awarded to lowest qualified bidder based on least cost method.



REQUEST FOR PROPOSAL (RFP)

FOR THE PROJECT TITLE

“PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF
WATER METERS IN LAHORE ”

UNDER PUBLIC PRIVATE PARTNERSHIP
ON
BUILD-OPERATE-TRANSFER BASIS

Punjab Public Private Partnership Authority

through

Water and Sanitation Agency (WASA), Lahore

31-B Zahoor Elahi Rd, Block B Gulberg 2, Lahore, Punjab, Pakistan

February 2020



REQUEST FOR PROPOSAL

PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE



Disclaimer

Water and Sanitation Agency (“WASA”) was established by Lahore Development Authority in 1976 for the planning, designing, development and maintenance of water supply sewerage and draining system in Lahore. Various Directorates were established to accomplish the assignment. An essential component of this mandate is the delivery of a safe, reliable and efficient water supply to satisfy the demand of all sectors. In light of the foregoing, **the Punjab Public Private Partnership Authority (the “Authority”)** hereby invites Proposals/bids through this Request for Proposal (RFP) from the interested domestic and international firms, JV/Consortia for the PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE on “**Single Stage Three Envelope**” on Build-Operate-Transfer (BOT) basis in accordance with the Punjab Public Private Partnership Act, 2019.

The technical evaluation criteria were prepared by Water and Sanitation Agency, Risk Management Unit (RMU) PPP cell, P&D Punjab and approved by PPP Monitoring and Policy Board. This RFP is an invitation to bid and does not constitute any commitment on the part of Authority to enter into any binding relationship and/or contract between the Authority and the Bidder(s). In event that any omissions, deletions, alterations are required to be made to this RFP, the Authority reserves the right to do the same (as and when required prior to the bids opening). However, the Bidders will be informed accordingly of the same as expeditiously as possible. The Authority reserves the right to withdraw from the process or any part thereof or to vary any of its terms at any time without assigning any reason whatsoever. No financial or other obligation, whatsoever shall accrue to the Authority or WASA in such an event.

The assumptions, facts, statements, representations etc. made in this document are correct to the best of the Authority’s knowledge and belief, the same are provided for general information to interested parties and do not purport to be comprehensive or contain all of the information that such Bidder may desire with respect to the Project. Each Bidder is advised to conduct its own due diligence, research and analysis and check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP. The Bidders are required to undertake their independent assessment and to seek independent professional advice on any or all aspects of the RFP. No decision should be based solely on the basis of the information provided by the RFP. The Authority shall not be responsible in any manner whatsoever for any statements, opinions or information provided in the RFP.

All information submitted in response to the RFP becomes the property of the Authority. While the Authority shall take reasonable care and diligence for maintaining the confidentiality of such information, it will not accept any responsibility for the same including of any trade secrets or proprietary data submitted to the Authority.

In submitting a proposal in response to this RFP, each Bidder certifies that it understands, accepts and agrees to the disclaimers set forth above. Nothing contained in any other provision of the RFP nor any statements made orally or in writing by any person or party shall have the effect of negating or suspending any of the disclaimers set forth in this disclaimer.



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Acronyms

BOEC	Bid Opening and Evaluation Committee
BOT	Build Operate Transfer
COD	Commercial Operations Date
CV	Curriculum Vitae
JV	Joint Venture
KIBOR	Karachi Interbank Offer Rate
Km	Kilometres
M ³	Cubic meter
NPV	Net Present Value
PPP	Public Private Partnership
PKR	Pakistan Rupees
RFP	Request for Proposal
SBP	State Bank of Pakistan
SPC	Special Purpose Company
WASA	Water and Sanitation Agency Lahore



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Definitions & Interpretations

1. Definitions:
 - 1.1. "Authority" means the Punjab Public Private Partnership Authority set up pursuant to Section 8 of the PPP Act.
 - 1.2. "**Best Evaluated Bid**" means a Bid conforming to the evaluation criteria as provided for in the Bidding Documents and which attains the lowest financial score according to the formula set forth in Section C of this RFP.
 - 1.3. "Bid/Proposal" means the Pre-Qualification Documents, Technical and Financial Proposals and other related documents submitted by the Bidders in response to issuance of this Request for Proposal (RFP).
 - 1.4. "Bidders" mean all parties submitting Bids in response to this RFP who have duly purchased the Bidding Documents from the Authority and have got their names entered in the bid register of the Authority.
 - 1.5. "Bidding Process" shall mean the entire process commencing from issuance of RFP until signing of Concession Agreement with the Concessionaire.
 - 1.6. "Bidding Documents" means a document or a set of documents prescribing the quantity, quality, characteristics, conditions and procedures of the transactions prior to the actual procurement and also on the basis of which the Bidders will prepare their Bids.
 - 1.7. "**Bid Security**" means the bank guarantee (refundable), for a sum of PKR 250 Million in favour of Director P&S, WASA in a form and manner annexed hereto in Form 2 of Section D "**Bid Forms**", issued from a scheduled bank of Pakistan having at least AA rating, submitted together with the Bid to secure the obligations of the Bidder participating in the Bidding Process.
 - 1.8. "**Bid Submission Date**" means the date on or before which Proposals can be submitted as described in this RFP.
 - 1.9. "Concession" means the concession to be granted to the Concessionaire by the Authority pursuant to the Concession Agreement as referred to in this RFP.
 - 1.10. "Concession Agreement" means the agreement governing the relationship between WASA and the Concessionaire that is substantially and materially based on the attached Draft Concession Agreement.
 - 1.11. "**Concessionaire**" means the Special Purpose Company set up by the successful Bidder which will enter into the Concession Agreement;
 - 1.12. "**Government**" means Government of Punjab, Pakistan;



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- 1.13. **“Mis-procurement”** means any action or omission during the Bidding Process that was carried out in contravention of any provision of the laws, rules, regulations, orders or instructions of public procurement laws in Pakistan or any other law in respect of or related to public procurement and declared to be such by the Authority.
- 1.14. **“Project”** means the **“PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE , Lahore, Pakistan”** through the execution of the Concession Agreement between the Authority through WASA Lahore and the Concessionaire on BOT mode as per the PPP Act, 2019.
- 1.15. **“Project Site”** means the site mentioned in Clause 5 of Section A of this RFP.
- 1.16. **“PPP Act”** means Punjab Public Private Partnership Act, 2019 or any amendments made from time to time

All terms and conditions not defined herein shall bear the same meaning as set out in the Draft Concession Agreement



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2. Interpretations:

In this RFP, unless the context otherwise requires:

- 2.1. any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- 2.2. the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- 2.3. the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this RFP;
- 2.4. the words "include" and "including" are to be construed without limitation;
- 2.5. references to "construction" include investigation, design, engineering, procurement, delivery, transportation, installation, processing, testing, commissioning and other activities incidental to the construction;
- 2.6. any reference to any period of time shall mean a reference to that according to Pakistan Standard Time;
- 2.7. any reference to day shall mean a reference to a calendar day;
- 2.8. any reference to month shall mean a reference to a calendar month;
- 2.9. any reference to Bidder shall mean an entity submitting the proposal or a group of entities submitting the proposal as a joint venture (JV) or consortium, and any reference to the Concessionaire shall mean selected Bidder or the special purpose company incorporated by him with whom Concession Agreement has been signed;
- 2.10. the attached volumes of this RFP or any addendum issued later on to provide further clarification to the Bidders, if any, form an integral part of this RFP and shall be enforced and construed as though they were expressly set out in the body of this RFP jointly referred as Bidding Documents;
- 2.11. unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;



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- 2.12. any reference to Bidding Process shall mean the entire process commencing from issuance of RFP until signing of Concession Agreement with the Concessionaire; and
- 2.13. where there is any inconsistency in this RFP with international commitments or obligations of the Government arising out of an international agreement with a state or states, or any international financial institution, the provisions of such international agreement, to the extent of conflict, shall prevail.



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Letter of Invitation

Date: _____

To:

Subject: Procurement, Installation And Operation & Maintenance of Water Meters in Lahore ,Punjab, Pakistan On Build-Operate-Transfer (BOT) Basis under The Public Private Partnership Act, 2019.

Dear Sir/Madam,

- 1.1. The Punjab Public Private Partnership Authority (the “**Authority**”) hereby invites you to submit your Pre-qualification, Technical and Financial Proposal for the Procurement, Installation And Operation & Maintenance of Water Meters in Lahore , Lahore, Punjab, Pakistan on Build-Operate-Transfer (BOT) basis under Public Private Partnership (PPP) mode in light of the Punjab PPP Act, 2019. In response to your request for issuance please find enclosed the PPP project proposal documents including Pre-qualification, Technical and Financial proposal documents on the basis of which Bids are to be prepared and submitted, along with the Draft Concession Agreement (DCA). The Concession Agreement shall govern the legal relationship between the Concessionaire and the Authority. The DCA shall remain substantially the same and negotiations prior to signing the Concession Agreement shall only focus on terms and conditions not specified in the RFP Documents. The details of the Project are provided in the next Section.
- 1.2. Bids are required to be submitted by October 1, 2020 at or before 12:00 Hours Pakistan Standard Time (“**Bid Submission Date**”) at the address mentioned below:
Director Procurement & Stores
Water and Sanitation Agency (WASA)
31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan
- 1.3. A pre-bid meeting is scheduled to be held on _____[Insert date]_____ at 11:00 Hours Pakistan Standard Time at the following address in order to facilitate the understanding of the interested parties on this RFP and the Project itself:
[insert location]
- 1.4. No Bidder shall be allowed to alter or modify their Bid once the same has been submitted.
- 1.5. No Bidder shall be entitled to withdraw his Bid after the Bid submission date.



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- 1.6. The Project is to be established within the purview of the PPP Act and Rules framed there under.
- 1.7. Bids are being solicited under a Single Stage Three Envelope Competitive Bidding Process as defined in the PPP Act 2019 and each Bid is required to contain separately sealed Pre-qualification Documents, Technical and Financial Proposals within an outer sealed envelope.
- 1.8. Bidders are required to provide a Bid Security of PKR 250 Million with their Pre-qualification documents as per prescribed format in separate sealed envelope as per Section D, Bid Form 2 – Format of Bid Security.
- 1.9. Under no circumstances shall the Authority consider a conditional Bid.
- 1.10. Please note that:
 - i. the costs of preparing Bids as well as of negotiating the Concession Agreement, including any visits, are not reimbursable; and
 - ii. the Authority is not bound to accept any of the Bids submitted.
- 1.11. The Authority reserves the right to reject all Bids at any time prior to the acceptance of the same. The Authority upon request may communicate to any Bidder, the grounds for rejection of its Bid, but shall not be required to justify those grounds. It shall incur no liability, solely by virtue of such rejection of Bid. The Bidders shall be promptly informed about the rejection of the Bids.
- 1.12. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations specified in the Draft Concession Agreement. However, any condition, which discriminates between Bidders should be immediately brought to the notice of the Authority for review.
- 1.13. In case a Bid is submitted as a consortium or a joint-venture, all members thereof are required to furnish a memorandum of understanding, legally binding all members, jointly and severally using the format defined in Form-5, and a power of attorney in favour of the lead member using the format defined in Form-3 of Section D “**Bid Forms**” of this RFP.
- 1.14. The Authority may reject speculative or unrealistic Bid as non-responsive.

Yours truly

Dy. Managing Director (Engg)
Water and Sanitation Agency (WASA)
31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan

Encls: Draft Concession Agreement.



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Section A: Information to Bidders



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1. Project Bidding and Execution Schedule:

The sequence of activities to be performed and their tentative schedule is as follows:

Activities/ Phases	Tentative Timeline
Issuance of RFP	July 22, 2020
Pre-bid meeting	September 07, 2020
Submission of Bids/Proposals and opening of Pre-Qualification Documents	October 1, 2020
*Evaluation of the Pre-Qualification Documents and opening of Technical Proposal	November 1, 2020
Evaluation of the Technical Proposal, opening of Financial Proposal and selection of successful Bidder	December 1, 2020
Issuance of Letter of Award (LoA) to successful Bidder	December 11, 2020
Concession Agreement negotiations & signing	December 22, 2020
Arrange the Project financing and thereby achieve Financial Close	March 22, 2021
Establishment of Local Assembling unit	After 3 months of Financial Close
Start of Project installation	June 2021
Completion of installation activities	June 2023
Start of commercial operations	Batch wise from June 2021
Expiry of Concession Period	Installation Time 2 years + Operation Time 10 years from Installation
Handing over of the Project to WASA	After the concession period

The bidder shall not delay in any manner whatsoever as the estimated time table and the authority shall not incur any liability whatsoever arising out of amendments to the estimated time table.

*Technical and Financial Proposal of unqualified Bidders will be returned.

<u>Tentative Timeline of the Project</u>		
No.	Activity	Time (from signing of the Concession Agreement)
1	Term of the Concession Agreement	12 years (2 years for installation and 10 years for operation and maintenance)
2	Financial Close	180 days
3	Fulfilment of Conditions Precedent including furnishing of Performance Security	60 days



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Address for Communication	59F Gulshan-e-Ravi, Lahore.
---------------------------	-----------------------------

A complete set of the Bidding Documents may be purchased by interested eligible Bidder upon payment of a non-refundable fee of Rs. 10,000 (Rupees Ten Thousand Only) from the office of Director Procurement and Stores located at 59F Gulshan-e-Ravi, Lahore.

The Authority may in its sole discretion and without prior notice to bidders, amend the Timetable. The Authority reserves the right to cancel the Bidding Process without giving any reason.



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2. Introduction and Background of the Project:

2.1 Background, History and Introduction to Lahore

Lahore is the capital city of **the Pakistani province of Punjab, and is the country's second-most populous city after Karachi.** The city is located in the north-eastern end of Pakistan's Punjab province, near the border with the Indian state of Punjab. Lahore is the historic cultural centre of the Punjab region, and is one of Pakistan's most socially liberal, progressive, and cosmopolitan cities.

Lahore's origins reach into antiquity. The city has been controlled by numerous empires throughout the course of its history, including the Hindu Shahis, Ghaznavids, Ghurids, and Delhi Sultanate by the medieval era. Lahore reached the height of its splendour under the Mughal Empire between the late 16th and early 18th century, and served as its capital city for a number of years. The city was captured by the forces of Persian Emperor Nader Shah in 1739, and fell into a period of decay while being contested between different powers. Eventually, Lahore became capital of the Sikh Empire in the early 19th century, and regained much of its lost grandeur. Lahore was then annexed to the British Empire, and made capital of British Punjab. Lahore was central to the independence movements of both India and Pakistan, with the city being the site of both the declaration of Indian Independence, and the resolution calling for the establishment of Pakistan. Lahore experienced some of the worst rioting during the Partition period preceding Pakistan's independence. Following independence in 1947, Lahore was declared capital of Pakistan's Punjab province, and is now the largest Punjabi city in the world.

Lahore exerts a strong cultural influence over Pakistan. Lahore is a major centre for Pakistan's publishing industry, and remains the foremost centre of Pakistan's literary scene. The city is home to the annual Lahore Literary Festival, considered to be one of South Asia's premier cultural events. The city is also a major centre of education in Pakistan, with some of Pakistan's leading universities based in the city. Lahore is also home to Pakistan's film industry, Lollywood, and is a major centre of Qawwali music. The city also hosts much of Pakistan's tourist industry, with major attractions including the famed Walled City, numerous Sikh shrines, and the Badshahi and Wazir Khan mosques. Lahore is also home to the Lahore Fort and Shalimar Gardens, both of which are UNESCO World Heritage Sites.

Name	Lahore
Coordinates	31°32'59"N 74°20'37"E
Country	Pakistan
Province	Punjab
District	Lahore
Metropolitan corporation	2013
Area	550 km ² (210 sq mi)
Elevation	217 m (712 ft)



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Population (2017)	11,126,285
Density	20,205/km ² (52,418/sq mi)
Demonym(s)	Lahori
Time zone	PKT (UTC+5)
Postal code	54000
Dialling code	042
GDP/PPP	\$58.14 billion (2014)

2.2 Geography and Climate of Lahore

Lying between 31°15'–31°45' N and 74°01'–74°39' E, Lahore is bounded on the north and west by the Sheikhupura District, on the east by Wagah, and on the south by Kasur District. River Ravi flows on the north and west sides of Lahore. The city covers a total land area of 1,772 km² and is still growing.



Figure 0-1 Geographical Location of Lahore

Lahore features a five-season semi-arid climate: foggy winter (15 Nov – 15 Feb) with few western disturbances causing rain; pleasant spring (16 Feb – 15 April); summer (15 April – June) with dust, rain storms and heat wave periods; rainy monsoon (July – 16 September); and dry autumn (16 September –14 November).

The hottest month is June, where average highs routinely exceed 40°C. The wettest month is July, with heavy rainfalls and evening thunderstorms with the possibility of cloudbursts. The coolest month is January with dense fog.

The city's highest maximum temperature was 48.3°C recorded on May 30, 1944. And 48°C was recorded on June 9, 2007. The lowest temperature recorded in Lahore is –



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1°C, recorded on 13 January 1967. The highest rainfall in the city recorded during 24 hours is 221 millimetres, which occurred on 13 August 2008.

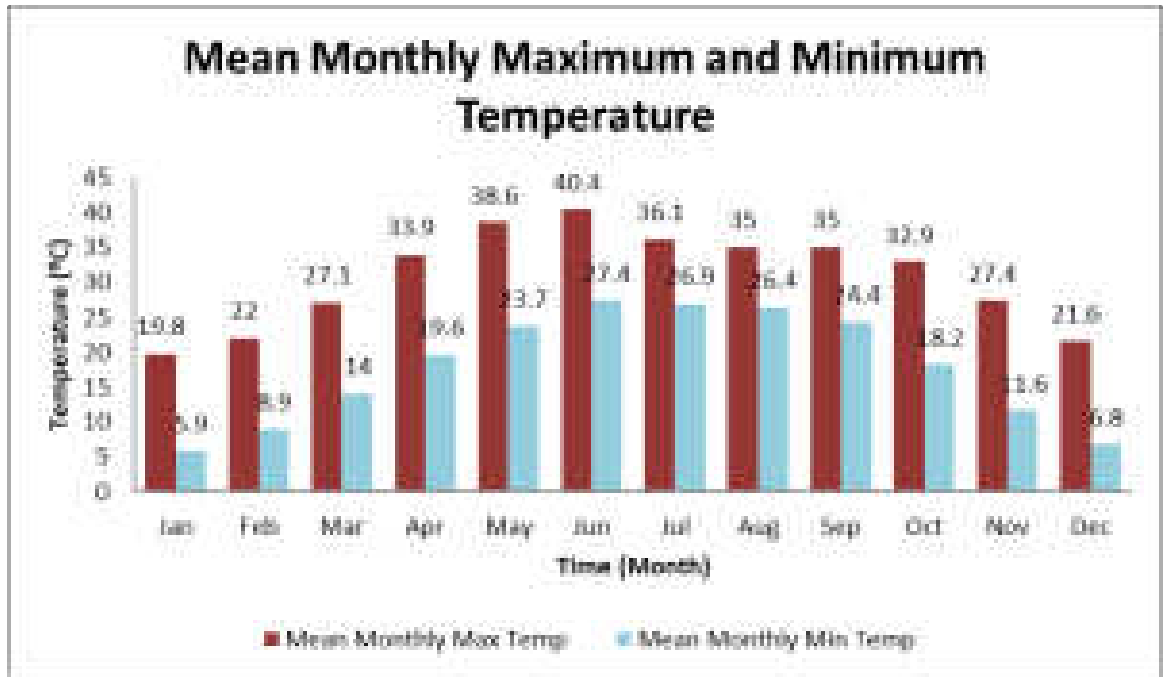


Figure 0-2 Mean Monthly Maximum and Minimum Temperatures¹

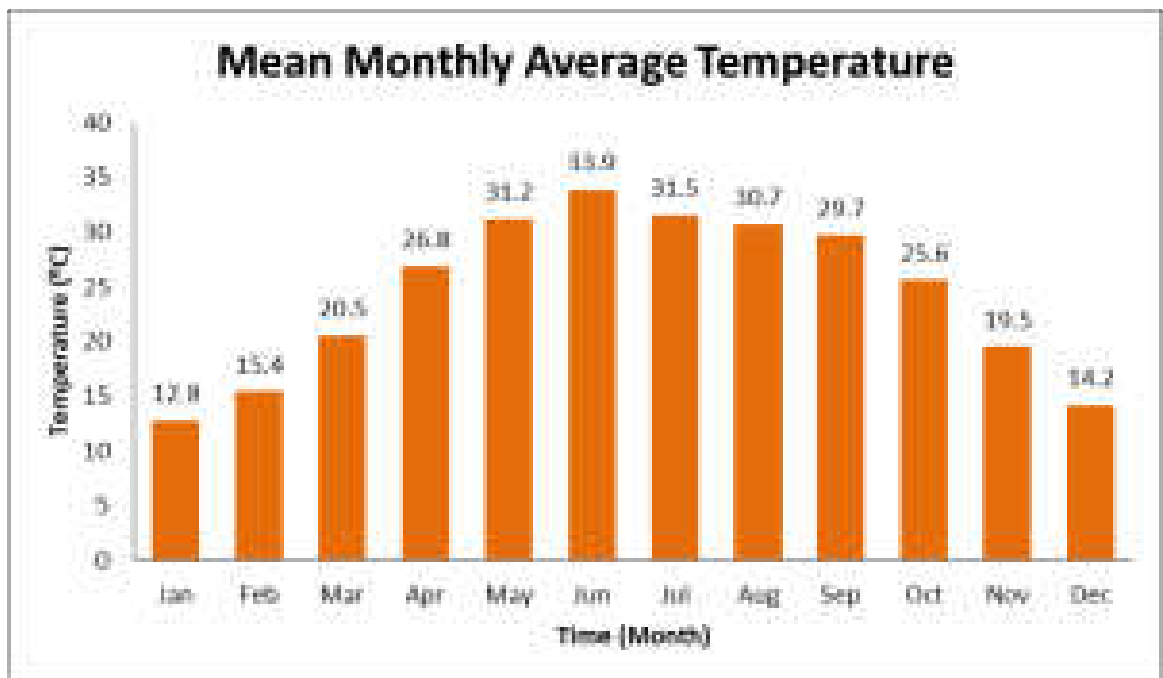


Figure 0-3 Mean Monthly Average Temperatures²

¹ Source: <https://www.weather-pk.com/en/pakistan/lahore-climate>

² <http://www.lahore.climatemps.com/temperatures.php>



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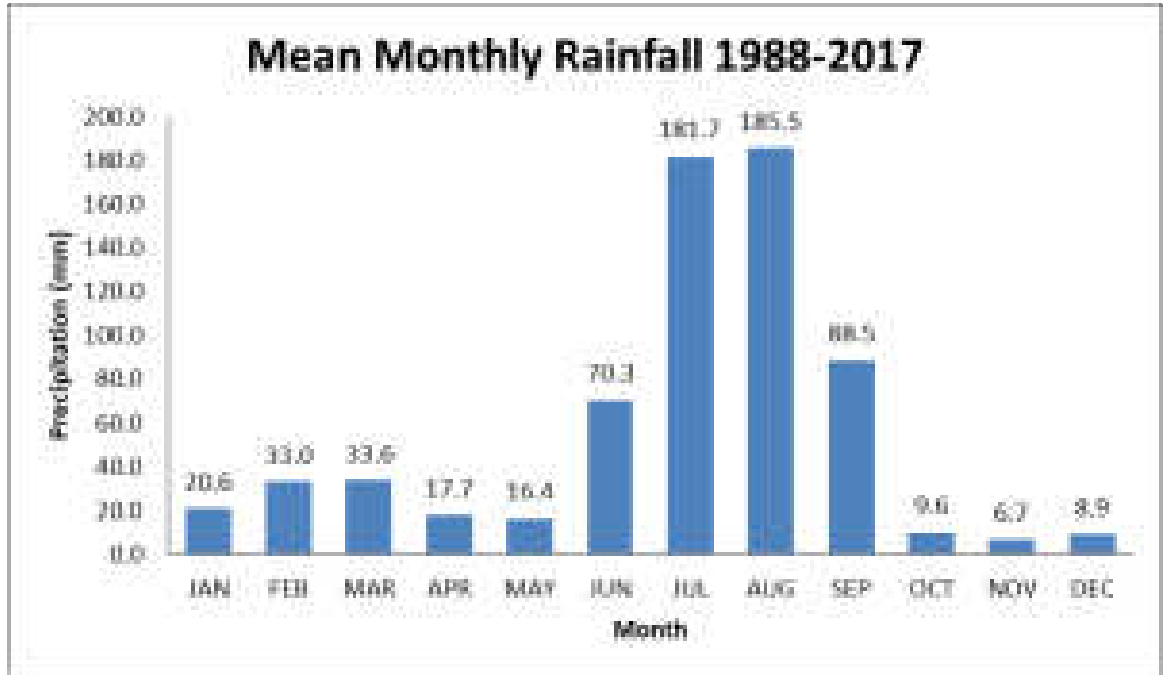


Figure 0-4 Mean Monthly Rainfall 1988-2017³

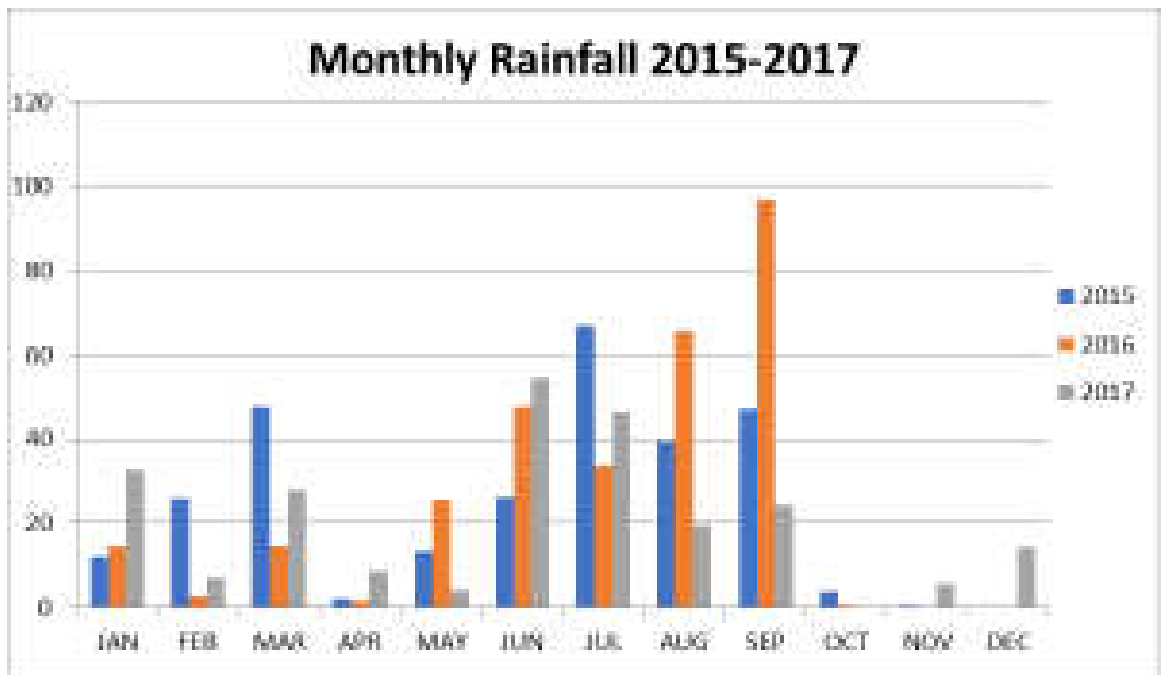


Figure 0-5 Monthly Rainfall 2015-2017

The altitude of the Lahore area varies between 208 and 213 meters above the sea level, and it is generally flat and slopes towards south and southwest.

The predominant wind direction in Lahore is northwest, while during the monsoon period it is southeast. Regarding the wind direction and speed, the data collected shows that some 60% of the days in a year period are calm and the wind movement

³ Pakistan Metrological Department



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and speed is negligible. Winter months are mostly calm with minimum wind storms, and the wind mainly blows from northwest. During summer period, the wind blows from the opposite direction, i.e. from southeast. Wind storms are common during April to July when low air pressures develop due to high temperature.

2.3 Population of Lahore

As per population census carried out in year 2017 the population of Lahore is 11.13 million. Population of Lahore is increasing in a haphazard manner. According to Lahore Integrated Master Plan (2001) the population of Lahore would increase up to 13 million in year 2021 with a growth rate of 2.82% in urban areas and 4.47% in rural areas. The following table is showing the increasing trend of population in Lahore.

Table 0-1 Increasing Trend of Population in Lahore

Year	AGCR (%)	Population (thousand)
1961	-	1,620
1972	4.35%	2,588
1981	3.56%	3,545
1998	3.46%	6,319
2017	3.02%	11,126

Source: Pakistan Census Bureau

From the previous trends of population growth rates, a forecasted trend is shown in the Figure 0-6.



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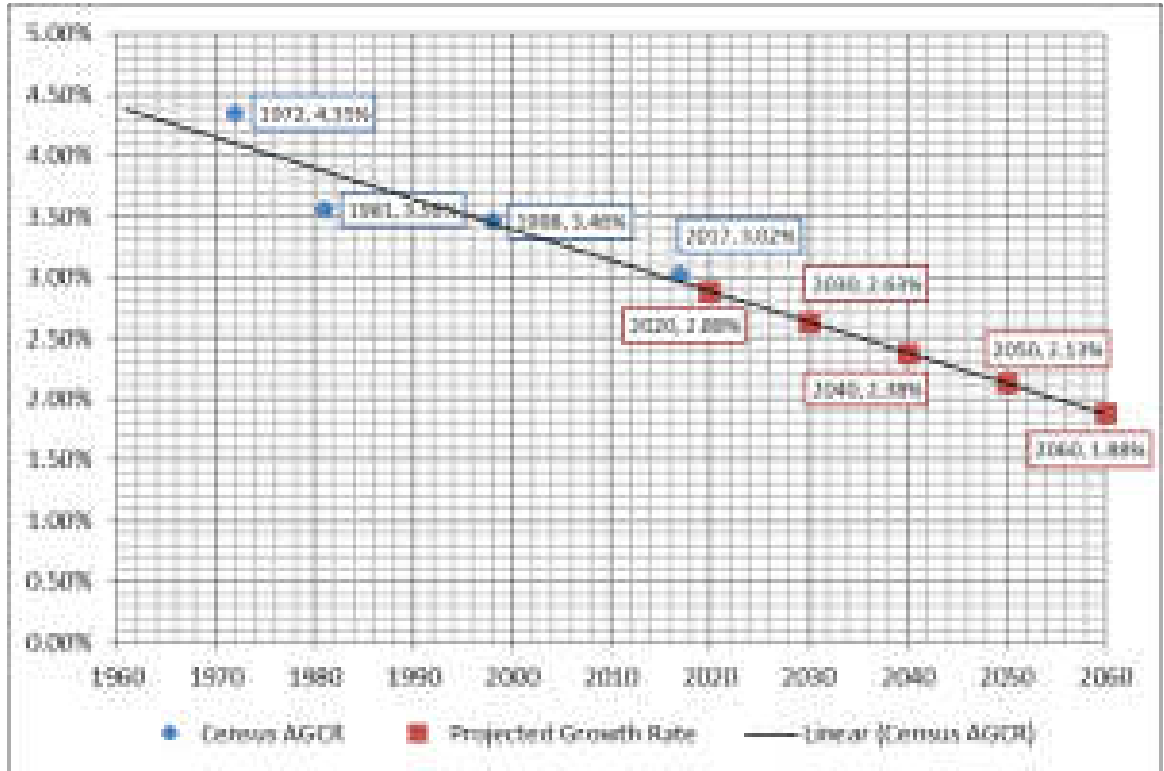


Figure 0-6 Forecasted Growth Rates for Lahore City⁴

The trend is showing a linear decrease in Annual Gross Compound Rates (AGCR)

From the Figure 0-6 above, the growth rates and the forecasted population are shown in the following table:

Table 0-2 Forecasted Growth Rates and Population for Overall Lahore

Year	AGCR	Population (thousands)
2020	2.88%	12,115
2030	2.63%	15,706
2040	2.38%	19,871
2050	2.13%	24,534
2060	1.88%	29,556

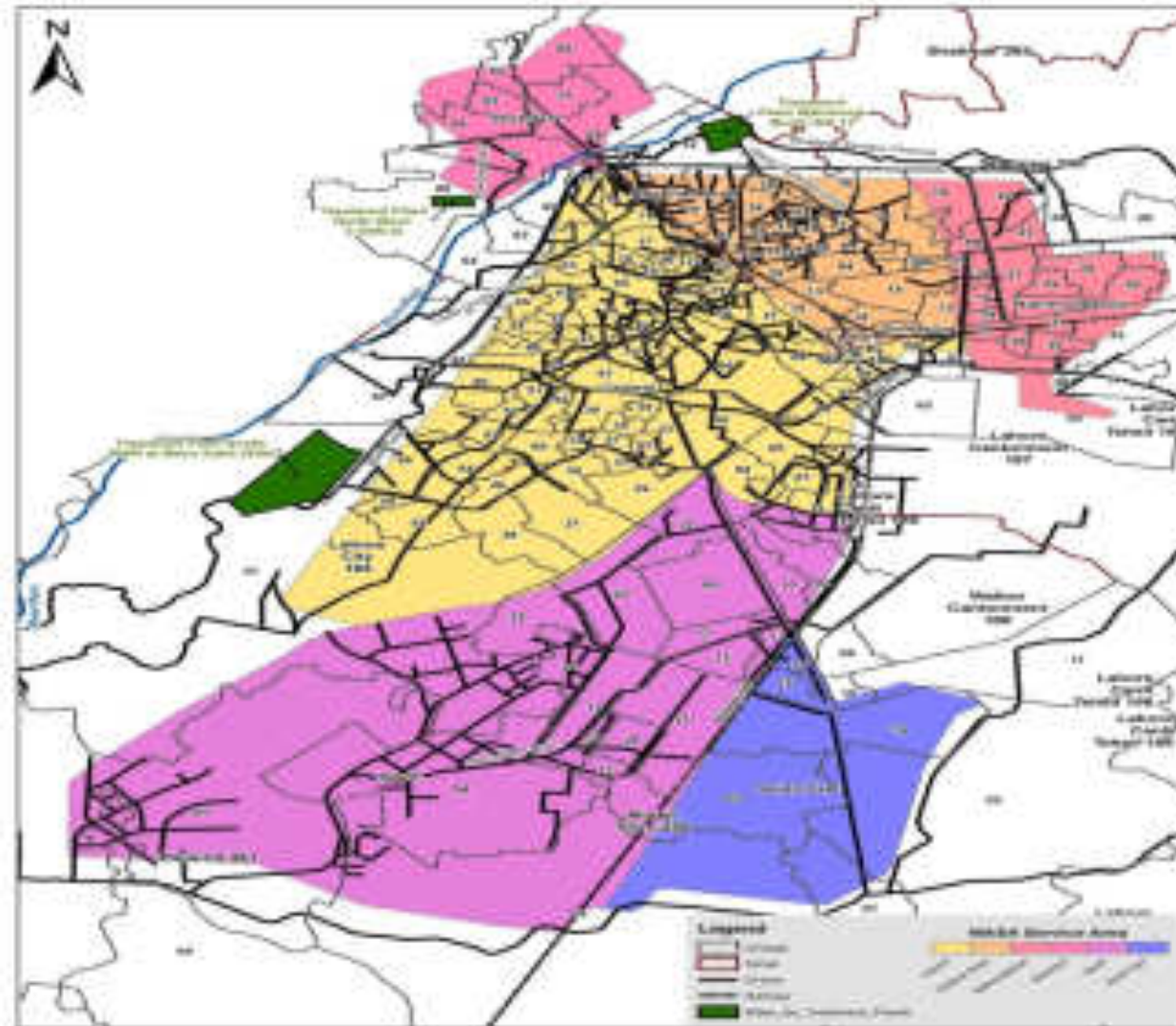
2.4 WASA Lahore

Water and Sanitation Agency (WASA) was established by Lahore Development Authority in 1976 for the Planning, Designing, Development, Operation and Maintenance of water supply sewerage and drainage system in Lahore. The WASA service area contained Shalimar Town, Aziz Bhatti Town, Nishter Town, Allama Iqbal Town, Ravi Town and Data Gunj Baksh Town.

⁴ Pakistan Bureau of Statistics



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Overlay Map of WASA Service Area and Census Bureau Map (Tehsil based)



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2.5 Purpose of the Project

Before proceeding with the Project, the need analysis was done with the purpose to understand the current scenario.

Due to ever increasing number of tube wells, the water table is depleting rapidly. The current declining rate is more than 1-Meter Per Annum. Keeping in view that the strata / aquifer of Lahore is not being recharged adequately due to less infiltration of rainwater and lack of flood / flow in the River Ravi since the dam has been built in the upper stream (in India) of River Ravi, there is a dire need to conserve the ground water resources.

The indiscriminate and unplanned exploitation of water resources may result in severe water shortages in future. Furthermore, the International Water Management Institute has predicted severe water shortage in the country by the year 2025, that will even threaten the sustainability of agriculture. Excessive withdrawal of ground water has localized or area-wide degradation impacts on the quality of groundwater in addition to intrusion of wastes or chemicals. Falling water tables increase the cost of pumping, as more energy is required to pump deep water. This leads to the wastage of additional resources and revenue.

WASA Lahore is facing severe problems regarding Non-Revenue Water (NRW). According to a study conducted by JICA in 2010 it was estimated that more than 50% of water produced is not contributing to any revenue generation. The current water supply system of WASA is based on the over exploration of ground water and unmetered water supply due to which water losses are enormous. In the absence of water meters, it is impossible to estimate the supply and demand of the water resources. This results in the over extraction of ground water as extracted amount of ground water and supplied amount of water cannot be assessed without metering. In order to conserve water resources and to reduce the declining rate of ground water table it is necessary to reduce the water losses. This can be done by water metering as reduction in the water losses will reduce the stress on the aquifer and may avoid excessive pumping / extraction of water.

Currently, only 40,000 meters are installed in Water Supply System of WASA Lahore. The current billing system of WASA mainly relies on the fixed tariff slabs based on the plot size of the residential and commercial buildings. WASA has kept tariffs well below the cost recovery level, relying on heavy loans and subsidies. This arrangement is now becoming increasingly unsustainable, because the environmental cost of extracting water is increasing and WASA is facing severe financial constraints which may led to poor service and underinvestment.

Since, the water is under-priced and under-valued due to which people tend to use the water extravagantly rather than to use it cautiously, this leads to more demand of water quantity than actual requirement. Due to unmetered water supply and low Tariff, the per capita consumption of water is very high. This higher consumption of water puts an extra burden on the water aquifer. So, in order to discourage the excessive water usage, it is necessary to meter the water connection so the



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consumer will use the appropriate amount of water and shall avoid the wastage of water resources. Hence in order to have an estimate and to get an idea regarding amount of water produced and consumed by different end users there is a dire need to have metered water supply.

Due to above factors there is no other option than to take necessary steps to promote judicious use of water, which can only be inculcated through water metering practices.

3. Responsibilities of the Concessionaire

The Concessionaire shall be responsible for the overall implementation of the Project including but not limited to the due diligence, studies, designing, engineering, financing, installation, provide meter reading through AMR on monthly basis, operations and maintenance of the Project in line with the terms and conditions provided in the Draft Concession Agreement and the minimum technical standards provided therein. Upon completion of installation phase of the Project, the Concessionaire will be responsible for the operation and maintenance of Project/Project Installations in accordance with terms of the Draft Concession Agreement. The Concessionaire shall be obligated to maintain the service standards set by the Authority and as prescribed in the Draft Concession Agreement. Throughout the Concession Period, the Concessionaire shall adhere to the applicable laws.

4. Concession Framework

4.1. Subject to and in accordance with the terms and conditions set forth in the Concession Agreement, the Authority shall grant the right to use the Project Site for a period of Twelve (12) years (with the first two (2) years for the installation period and the remaining ten (10) years for the operation and maintenance period) to the Concessionaire for the installation and later to operate and maintain the Project to recover its investment and earn necessary return from the Project. The Authority shall assist the Concessionaire in obtaining the required approvals from the concerned departments/agencies and extend all reasonable cooperation to enable the Concessionaire to exercise and/or enjoy the rights, powers, privileges, authorizations and entitlements as set forth in the Concession Agreement **(collectively the “Concession”)**.

4.2. The Concessionaire will execute the Concession Agreement through a Special Purpose Company (SPC) incorporated under the laws of Pakistan as corporate entity. The implementation rights to the Project for installation are perceived for a period of two (2) years from the date of execution of the Concession Agreement. The operation phase of the Project shall be the remaining period after the Concessionaire has successfully constructed the Project.



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- 4.3. The Concessionaire shall be responsible for all costs, direct or indirect, arising out of the Project for the successful implementation and subsequent operation and maintenance of the Project.

5. Project Site /Location

The Project is going to be implemented in the current jurisdiction of WASA which includes approximately 711,265 connections in all the zones and towns as mentioned above.

6. Project Monitoring

The Authority **will appoint a Quality Assurance Inspector to oversee Concessionaire's** works (including construction and operation) including, but not limited to, assessing various performance metrics such as quality of the work done. To ensure smooth and efficient monitoring of the Project in accordance with the provisions of the Concession Agreement, the Authority and Concessionaire shall jointly be responsible for the payments to the Quality Assurance Inspector in equal proportion.

7. Hand Back

Upon completion of the Concession Period or otherwise as provided in the Concession Agreement, the Concessionaire shall hand back the Project to the Authority in accordance with the Concession Agreement, which shall mark the end of the **Concession Period. 'Completion of the Project' will have the same meaning as** construed in the Concession Agreement. Moreover, the Concessionaire shall be responsible for the rectification of defects and deficiencies and shall hand over the facilities in proper working conditions at the end of the Concession Period.

8. Construction Performance Security

The Concessionaire shall, for due and punctual performance of its obligations under the Concession Agreement, deliver to the Authority, at the time of execution of the Concession Agreement, an irrevocable bank guarantee ("Installation/Construction Performance Security") **acceptable to** the Authority of an amount equal to two percent (2%) of the Project Cost as indicated in the Bid in the form set forth in the Concession Agreement. Such Construction Performance Security shall be valid for a period and in line with the terms provided in Concession Agreement. The Installation/Construction Performance Security shall be forfeited if the Bidder is found to be in breach of its obligations in accordance with the Concession Agreement.

9. Operations & Maintenance Performance Security

Upon completion of construction (i.e installation) of the Project and before the start of the Operations phase of the Project, the Concessionaire will be required to submit



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to the Authority a bank guarantee of an amount equal to two percent (2%) of the total Project Cost as indicated in the Bid in the form set forth in the Concession Agreement. The same shall be replaced/renewed every year so as to ensure that it remains valid through the term of the Concession Agreement (“O&M Performance Security”).

10. Financing of the Project and Financial Close

10.1. The Concessionaire shall be required at its own cost, expense and risk to make such financing arrangement as would be necessary to finance the Project and to meet the obligations under the Concession Agreement in a timely manner. However, the Concessionaire shall be required to finance the Project through contribution of equity equivalent to at least 20% of the total project cost.

10.2. If the Concessionaire fails to achieve Financial Close within the stipulated time, the **Concession Agreement may be terminated as a result of a Concessionaire’s default**, whereupon the Authority shall be entitled to encash the Installation/ Construction Performance Security and appropriate the proceeds thereof as damages.

11. Confidentiality

Information relating to the examination, clarification, evaluation and recommendation of Bids shall not be disclosed to any person who is not officially concerned with the Bidding Process or retained professional advisor advising WASA or the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

12. Code of Ethics for Bidder

12.1 **The Bidders must not be involved in “offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the Bidding Process or in Concession Agreement execution to the detriment of the Authority or other procuring agencies involved”.**

12.2 The Bidders will not misrepresent the facts in order to influence the procurement process or the execution of a Concession Agreement.

12.3 **The Bidders will not involve in “collusive practices (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Authority of the benefits of free and open competition”.**



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- 12.4 The Authority shall ensure that an individual consultant or a consulting firm, for an assignment, shall not be hired where there is possibility of conflict of interest.
- 12.5 The successful Bidder shall have to enter into an integrity pact with the Authority in accordance with the PPP Act 2019.
- 12.6 The Bidder should not submit any information which is false and inaccurate or incomplete otherwise he shall be disqualified from the Bidding Process.
- 12.7 Bidders who are found to be indulged in Corrupt or Fraudulent Practices shall be debarred from participating in the Bidding Process.
13. Fraud and Corrupt Practices
- 13.1. The Bidders and their respective officers, employees, agents and advisers are required to observe the highest standard of ethics during the Bidding Process and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the Draft Concession Agreement, the Authority shall reject a Bid, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in Corrupt or Fraudulent, coercive, undesirable or restrictive practices in the Bidding Process. In such an event, the Authority shall appropriate in full the Bid Security or Construction Performance Security, as the case may be. Following terms shall fall under the meaning of Corrupt and Fraudulent Practice:
- 13.2. **“Corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of WASA or the Authority who is or has been associated in any manner, directly or indirectly with the Bidding Process or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of WASA or the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the Concession Agreement, who at any time has been or is a legal, financial or**



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technical advisor of WASA or the Authority in relation to any matter concerning the Project;

- 13.3. **“Fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;**
- 13.4. **“Coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;**
- 13.5. **“Undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by WASA or the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a conflict of interest; and**
- 13.6. **“Restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.**
14. Disqualification
 - 14.1. The following will lead to the disqualification of Bidder(s) from the Bidding Process:
 - a. The Authority will immediately disqualify any Bidder who is found, to have submitted information which is false, fabricated, inaccurate or otherwise not in consonance with the terms of this RFP or the Concession Agreement.
 - b. Incomplete Bids and Bids without Bid Security shall be disqualified.
 - c. Corrupt and fraudulent practices.
 - d. Speculative or unrealistic Bids.
15. Reservations and Preference

The Authority shall allow all prospective Bidders to participate in procuring procedure without regard to nationality except in cases in which the Authority decides to limit such participation to national Bidders only or prohibit participation of Bidders of some nationalities in accordance with the policy of the Government.



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Section B: Synopsis of The Feasibility Study Conducted by WASA



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Synopsis of Feasibility Study

Project Name: Procurement, Installation And Operation & Maintenance of Water Meters in Lahore Under PPP Mode

Project Description: Installation of Water Meters with remote automatic reading capability on 711,265 existing water connections within the catchment area of WASA, LDA Lahore.

Executing Agency: The Punjab Public Private Partnership Authority through Water and Sanitation Agency (WASA) Lahore in accordance with PPP Act 2019

Project Execution Mode: Project is to be executed on Public Private Partnership (PPP) under Built Operate and Transfer (BOT) Mode

Concession Period: 12 Years (with a two-years installation period and ten years operation and maintenance period) after which project will be reverted to the Authority, who will transfer it to WASA.

Installation Period: Twelve (24) Months

Project Objectives:

- i. Improving Collection Levels, e.g. installing meters for all connections, computerizing the billing system, updating its consumer base, confronting high ranking nonpayers and cutting off their water if they refuse to pay, etc
- ii. Minimizing Illegal Connections and Unaccounted for Water, e.g. setting up inspection teams to stop illegal connections, penalizing those with illegal connections, giving incentives to the public to report illegal connections, etc
- iii. Minimizing Non-Revenue Water, currently more than 40 % of water supplied by WASA in to the system is non-revenue generating due to theft, leakages and unavailability of meters resulting in higher cost of water production to WASA and low recovery against supplied water which increases financial burden on WASA. By initiating water meters project all these above factors can be reduced substantially.
- iv. Water Conservation



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Water Meter Specifications:

A) Mechanical Water Meters

- i. Technology: Multi Jet Dry Type /Volumetric Rotary Piston/Notating disc with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.
- ii. Certifications:
 ISO:4064 (International Organisation Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC
- iii. General Features:
 - Shall have possibility for both visual and automatic meter reading outputs;
 - Tamper proof
 - Provided with non-return wall
 - Un-affected by grit and particulates
 - Provided with wire and lead seal
 - Not affected by magnetic field
- iv. Detailed metrological specifications
 - Size: 15 mm, 20 mm and 25mm
 - Accuracy: Class II
 - Material: Brass/Non-ferrous metal
 - Protection Class: IP-68
 - Ambient Temperature: +5° to 55° C
 - Liquid Temperature: Upto 50° C
 - Pressure: 16 Bar
 - Flow rate: Q3/Q1 = 160
 - Maximum flow rate:
 - m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- Installation: Any direction.

B) Static Water Meters

- I. Technology: Static Smart Water Meters (ultrasonic technology, electromagnetic, fluidic oscillation with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.



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II. Certifications:

ISO:4064 (International Organisation Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC

III. General Features:

- Shall have possibility for both visual and automatic meter reading outputs;
- No moving parts
- Both visual (LCD) with remote Automated Meter Reading outputs.
- As per class 2 of OIML/ ISO specifications (Current)
- Tamper proof
- Provided with non-return valve
- Un-affected by grit and particulates
- No reverse flow measurement
- Provided with wire and lead seal

iv. Detailed metrological specifications

- Size: 15 mm, 20 mm and 25mm
- Accuracy: Class II
- Material: Brass/Non-ferrous metal
- Protection Class: IP-68
- Ambient Temperature: +5° to 55° C
- Liquid Temperature: Upto 50° C
- Maximum Working Pressure: 16 Bar
- Flow rate: Q3/Q1 = 160
- Maximum flow rate:
 - m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- Battery Life: Minimum 10-years
- Installation: Any direction.



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Section C: Instructions to Bidders on Submission of Proposals



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1. Bid Preparation

Bidders are expected to submit their respective Bids after conducting their independent due diligence vis-à-vis the proposed Project, including *inter alia* visiting the Project Site and ascertaining for themselves the site conditions, location, surroundings, climate, weather data, availability of power, water and other utilities for construction, handling and storage of materials, market conditions, project viability, applicable laws and regulations, and any other matter considered relevant to undertaking the Project. By submitting a Bid, the Bidder shall be deemed to have:

- a. made a complete and careful examination of this RFP and attached volumes;
- b. received all relevant information requested from the Authority;
- c. satisfied itself about all matters, things and information including matters hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the RFP and Draft Concession Agreement, and performance of all of its obligations thereunder;
- d. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFP or ignorance of any of the matters hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
- e. acknowledged that it does not have a conflict of interest; and agreed to be bound by the undertakings provided by it under and in terms hereof.

2. Only One Proposal

Bidder shall be allowed to submit only one Bid, either by itself, or as a lead member in a consortium or joint venture, and shall not:

- a. have common controlling shareholders or other ownership interest with any other Bidder (or any constituent thereof); or
- b. be a member (as defined in the Companies Act 2017) of another Bidder; or
- c. receive or have received any direct or indirect subsidy from any other Bidder, or have provided any such subsidy to any other Bidder; or
- d. have the same legal representative for purposes of this Bid as any other Bidder; or
- e. have relationship with another Bidder, directly or through common third parties, **that puts it in a position to have access to each other's information about, or to influence the Bid of either Bidder.**
- f. Have participated as consultant to WASA in preparation of any documents, design, technical specifications or any other type of consultancy service.



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Any Bidder found in violation of these terms shall be disqualified and their Bid Security shall be forfeited.

3. Bid Security

- 1.1 Each Bidder shall submit a Bid Security with the Bid for PKR 250 Million in the prescribed manner. Any Bid not accompanied by a Bid Security in the requisite amount and format shall be rejected by the Authority.
- 1.2 The Bid Security shall be provided in a separate envelope to be submitted with the Pre-Qualification Document.
- 1.3 The Bid Security of the successful Bidder shall be released upon signing of the Concession Agreement and delivery of the Installation/Construction Performance Security.
- 1.4 Bid Security of unsuccessful Bidders shall be released within one (1) month of issuance of Letter of Award.
- 1.5 The Bid Security of the Bidder shall be forfeited if a Bidder:
 - a. withdraws the Bid during the Bid Validity Period, or is found to have violated any of the fair practice and one-proposal clauses of this RFP;
 - b. has, directly or indirectly or through an agent, engaged in corrupt or fraudulent, coercive, undesirable or restrictive practices in the Bidding Process;
 - c. refuses to agree to any of the clauses mentioned in this RFP or the Concession Agreement or refuses to sign the Concession Agreement if the Bid is accepted; or
 - d. fails to provide the Construction Performance Security with the execution of the Concession Agreement.

4. Bid Validity

Bids shall be valid for a period of one hundred and eighty (180) days from the Bid Submission Date ("**Bid Validity Period**"). **In exceptional circumstances, prior to expiry** of the original Bid validity period, the Authority may request Bidders to grant a specified extension in the period of validity. This request and the response thereto shall be made in writing or through fax or email. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder agreeing to the request shall extend the validity of the Bid Security correspondingly.



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5. Taxation

The Concessionaire shall be liable to pay all applicable federal, provincial and local taxes. Any change in law resulting in increase or decrease of taxes shall not be adjustable, except if otherwise specified in the Draft Concession Agreement. However, at the time of handing over of the project to the Authority, the tax liability of the Concessionaire entity i.e. SPC shall be determined and treated in accordance with the provisions of Draft Concession Agreement.

6. Language and Currency

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language for the ease of comprehension and comparability. Any supporting documentation or published material that is in another language must be accompanied by certified English translation(s) thereof acceptable to the Authority. Supporting materials, which are not translated into English, may not be considered for fixing the qualification criteria. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.

The currency for the purpose of the Bid shall be Pakistani Rupees only. In case the conversion is required, the conversion to the currency shall be based on the exchange rate (SBP Reference Rate) as was applicable exactly Seven (7) days prior to Bid Submission Date. In all such cases, the original figures in the relevant foreign currency and the Proposal currency equivalent thereof must be given clearly mentioning the date and related exchange rate used.

7. Clarifications

Bidder requiring clarification on any of the terms contained in this RFP or attached volumes may seek such clarification by way of email to dmdengghrwas@gmail.com. In the interest of fairness, any clarifications issued to any of the Bidders will be emailed to all the Bidders who have purchased bidding documents, without disclosing the identity of the sender.

The Authority may, if necessary, after the opening of the Bids, seek and accept such clarifications of a Bid submitted if they do not change the substance of the Bid.

8. Amendment of RFP

At any time prior to the Bid Submission Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda. Any Addendum issued hereunder will be in writing and shall be sent to all the Bidders who have purchased bidding documents. In order to allow the Bidders a reasonable time for taking an Addendum



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into account, or for any other reason, the Authority may, at its sole discretion, extend the Bid Submission Date.

9. Documents to be submitted with Pre-Qualification Documents

In addition to filling out the table provided in Form 6 of Section D of this RFP and attaching all relevant information, the Bidder must also provide the following:

9.1 Shareholding Structure of the Special Purpose Company

The Bidder is required to provide the shareholding structure of the Special Purpose Company (SPC), the roles, rights and obligations of its members consistent with the intended Consortium/JV Agreement as provided with the technical proposal.

9.2 Bid Security

The Bidder is required to submit a Bid Security of PKR 250 Million as per prescribed Form-2 from a minimum of AA rated bank with the Pre-Qualification Documents. Guarantee from insurance company is not acceptable. The validity period of the Bid Security should not be less than one hundred and eighty (180) days from the date of Bid Submission Date.

9.3 Other Required Documents

The Bidder is required to submit with the Pre-Qualification Documents the following documents:

- a. Intended Consortium/JV Agreements as per prescribed Form-5 (if applicable)
- b. Power of Attorney in favour of Authorized Representative/ Lead Member as per prescribed Form-3 (if applicable)
- c. Integrity Pact as per prescribed Form-4
- d. Comments/suggestions on the RFP – as per prescribed Form – 9
- e. Qualification of Team – CVs (as per Form 6 – Part 5):

In this part, the Bidder should propose the structure and composition of its expert for the Project. The Bidder should list the key project team mentioned in Evaluation of the Pre-Qualification Documents to be engaged and provide their curriculum vitae (CV) highlighting their qualifications and experience credentials as per Form 6 Part – 5 of Section D provided hereinunder.

A narrative and graphical description of the Bidder's current managerial, technical, design, construction and other non-financial staff, including their qualifications to undertake successfully deliver the Project under BOT arrangement of PPP should be provided.

The narrative must explain the Bidder's institutional arrangements for undertaking a PPP project, including graphical representation of its proposed Project organization.



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10. Document to be submitted with Technical Proposal

The Technical Proposal should comprise of the following information/documents:

10.1. Work Plan, Methodology and Project Implementation Timetable

In this part, the Bidder should explain its understanding of the objectives of the Project, approach to undertaking the Project and methodology for carrying out the Project activities including respective timelines and expected outputs. The Bidder should highlight the problems it is likely to face including their importance and explain the approach it would adopt to address them.

The proposed plan for the installation of the water meters must be clearly identified in terms of the timing of key events, phases and milestones. The Bidder must provide a clear statement of the overall duration of the installation period. A Gantt chart showing the sequencing and timing of construction activities shall be provided. A complete cost estimate must be provided, disaggregated by the major phases or components of the work.

A narrative and graphic presentation of the Bidder's methodology to execute the works should also be provided. The Bidder shall clearly explain its installation methodology, time period, tentative plans, type of structures, the machinery, plant and labour needs for the Project. The Bidder must also mention safety and project control systems that it plans to use to control and monitor installation activities. The Bidder must provide evidence of ISO certifications, if any.

The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the RFP and translate the Project into a feasible working plan using Primavera or project management tools.

10.2. Presentation (to be submitted after the submission of Bid)

A presentation will be required after the submission of the Bid on the notified time, date and venue. The presentation shall primarily be on the submitted Technical Proposal encompassing Concept Design and Execution Methodology with special reference to demonstrable resources and experience to undertake the Project.

10.3. Financial Model

- a. The Technical Proposal shall also include a fully functional, non-restricted, dynamically linked Financial Model in Excel spread sheet form on a non-rewritable CD/DVD/USB. The model should be based on the realistic assumptions of the Project after necessary due diligence, market sounding, technical, legal and operational aspects so as to reflect the best judgement of the Bidder.
- b. The purpose of asking for the Financial Model with the Technical Proposal is to enable the Authority to check the assumptions, linkages, accuracy and other aspects so that at the opening of financial bids, only the figures may be required to be inserted in the model to ascertain the aggregate of NPV of offered per meter charge and revenue over the Concession Period.



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- c. The Bidders are requested NOT to incorporate figures of their financial bids in the financial model.

11. Document to be submitted with Financial Proposal

The Financial Proposal should comprise of the following information/document:

- Financial Proposal, as per Form 8

12. Pre- Bid Meeting

Pre-bid meeting is scheduled to be held on [insert date] at [Insert Hours] hours at the address provided below, in order to facilitate the understanding of interested parties on this RFP and the Project itself.

[insert]

13. Bid Submission

Bidders shall submit one original Pre-Qualification Documents (PQDs), one original Technical Proposal, one original Financial Proposal and Three (3) hard copies of the PQP and Technical Proposal. Each proposal shall be in a separate envelope indicating original or copy, as appropriate. The PQDs, Technical and Financial Proposals shall be placed in sealed envelope clearly marked **'Pre-Qualification Documents', "Technical Proposal" and "Financial Proposal" separately. These** three envelopes, in turn, shall be placed along with the Bid Security in a sealed outer envelope bearing the address and information indicated in this Letter of Invitation. The envelope shall be clearly marked, **"DO NOT OPEN, EXCEPT IN PRESENCE OF THE BID OPENING COMMITTEE"**. Bids shall be opened in a single stage three envelope manner as per the PPP Act. Bids sent through fax or email shall not be considered.

The PQD, Technical and Financial Proposals shall be signed by a duly authorized representative of the Bidder. The Technical Proposals shall include a Power of Attorney in Form 3 of Section D **"Bid Forms"** authorizing such representative to sign and submit the PQD, Technical and Financial Proposals to the Authority on behalf of the Bidder. Authorized representative of Bidders shall make initials on each page of PQD, Technical and Financial Proposals.

The Proposals must be sent no later than the Bid Submission Date and Time or any extension to this date and time, if provided by the Authority. Any Proposal received after the deadline for submission shall be returned unopened. Proposals shall be sent at the addresses provided hereunder:

Dy. Managing Director (Engg)

Water and Sanitation Agency (WASA)



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31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan

14. Bid Opening

In order to avoid Mis-procurement, an unambiguous bid evaluation criterion has been provided in the RFP for all prospective Bidders. Bid Opening and Evaluation Committee (BOEC) shall be formed to open, analyse and evaluate the Bids according to the criteria contained in this RFP. The BOEC does not have an obligation, **responsibility, commitment, or legal liability toward any Bidder or any Bidder's** collaborators arising from this RFP or any Bid submitted in response to it, or from the Bidding Process.

Pre-Qualification Documents shall be opened in the presence of Bidders at the date and time which shall be intimated, in advance, as published in newspaper. The Bidders' representatives who are present shall sign a register in evidence of their attendance. BOEC shall examine the Bids to determine whether the requisite Bid Security has been furnished, whether the documents have been properly signed and whether the Bids are generally in order. **Bidders' names, Bid withdrawals (if any),** and such other details as BOEC at its discretion, may consider appropriate, will be announced at the Bid opening. BOEC shall prepare minutes of the Bid opening for transparency and its own record. In the first instance the Pre-Qualification Documents shall be opened, after evaluation Pre-Qualification Documents technical bids of only responsive bidders in pre-qualifications applications shall be opened in the presence of bidders / representatives at the time and venue intimated through proper letter. The Technical and Financial Bids of non-responsive bidders in pre-qualification shall be returned un-opened. Further after evaluation of technical proposal the financial bids of only technically responsive bidders shall be opened in the presence of bidders / representatives at the time and venue intimated through proper letter. The Financial bids of technically non-responsive bidders shall be returned un-opened.

Any errors or omissions in a Bid will be sufficient grounds for the BOEC to reject a Bid, however, the BOEC reserves the right to ask Bidders to correct any errors or **omissions in their Bids to the BOEC's satisfaction. However, under no circumstances** can a Bidder amend the per meter rental quoted in the Financial Proposal as the result of clarifying or rectifying a Bid.



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15. Test of Responsiveness

Prior to and during evaluation of Bids, the BOEC shall determine whether each Bid is responsive to the requirements of this RFP, in accordance to the following:

- a. it is received by Bid Submission Date & Time (including any extension thereof);
- b. It is submitted on the prescribed Form-1, duly signed and accompanied by the required information and all Pre-Qualification, Technical and Financial Proposals.
- c. The Pre-Qualification Documents contains the following:
 - 1) it is accompanied by a Bid Security in the format prescribed in Form- 2 of Section D **"Bid Forms"** of this RFP.
 - 2) it is accompanied by the Power of Attorney authorizing a representative as Lead Member and Signatory in accordance with Form- 3 of Section D **"Bid Forms"** of this RFP.;
 - 3) it is accompanied by a duly signed and witnessed Integrity Pact in accordance with Form-4 of Section D **"Bid Forms"** of this RFP.
 - 4) in case of a consortium or JV, it is accompanied by a memorandum of understanding in accordance with Form-5 of Section D **"Bid Forms"**
 - 5) it is duly signed and each page is initialled by the authorized representative of the Bidder;
- d. it is received as per the formats provided in Section D **"Bid Forms"**
- e. it is signed, sealed, bound together in hard cover and marked as stipulated in the above clauses;
- f.it contains all the information (complete in all respects) as requested in this RFP; and
- g. it does not contain any condition or qualification.

WASA reserves the right to reject any Bid which is declared by the BOEC as non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained in respect thereof.

16. Evaluation of Bids

BOEC shall evaluate responsive Bids according to the evaluation criteria provided in this RFP. Any effort by Bidders to influence WASA in the examination, evaluation, ranking of Proposals, and recommendation for award of the Project may result in the **rejection of the Bidders' Proposal.**

WASA may, at any stage of the bidding process, having credible reasons for, or prima facie evidence of, any defect in the capacity or otherwise of a Bidder, whether qualified, or even otherwise may require the Bidder to provide such further



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information concerning the professional, technical, financial, legal or managerial competence as the WASA may decide.

17. Evaluation of the Pre-Qualification Documents

1. The Pre-Qualification Documents shall be made in the format provided in Form 6 in Section D of this RFP.
2. In order for the Pre-Qualification Documents to pass it is mandatory that the following criteria are met:
3. In detailed evaluation criteria sub-section C&D shall be evaluated by considering following conditions.
 - a) Summation of number of small value contracts (less than the value / number / size under requirement) to meet the overall requirement shall not be accepted.
 - b) Substantial completion shall be based on 80% or more works completed under the contract
 - c) For the contracts under which the bidder participated as Joint venture member or sub-contractor, **only the bidder's share, by value, shall be considered to meet this requirement**
 - d) In the case of J.V, the value of contracts complete by its members shall not be aggregated to determine whether the requirement of minimum value of single contract has been met, instead, each contract performed by each member shall satisfied the minimum value of single contract as required for single entity. In determining whether the J.V meets the requirement of total number of contracts, only the number of contracts completed by all members each of value equal or more than the minimum value required shall be aggregated.
4. In detailed evaluation criteria sub-section A&B shall be evaluated by considering following conditions.
 - a) In case of J.V net-worth and revenue shall be calculated collectively and aggregated as per shares of each member of J.V.
5. Each member of J.V shall must meet the requirement as mentioned in detailed evaluation criteria with respect to its shares in JV.



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Part-A Basic Eligibility

- A. If the Bidder is a local entity then it must be a company registered with the Securities and Exchange Commission of Pakistan (SECP) **or an Association of Person's (AOP)** Registered Firm and Federal Board of Revenue (FBR); and if the Bidder is a foreign company then it must be registered with the relevant equivalent organizations in its home country. The Certificate of Incorporation, Memorandum and Articles of Association and the Registration Certificate or other constitutive documents of the Bidder must accompany the Pre-Qualification Documents.
- B. In case of a local company, it must be registered with the Pakistan Engineering Council (PEC) as a Category C-A with specialization in ME-06 Registered Firm; and in case of a foreign company it must be registered with the equivalent organization of its home country. Certificates of registration need to be accompanying the Pre-Qualification Documents.
- C. Must have local assembling facility or willingness to develop assembling facility in Pakistan (must provide undertaking on E-stamp paper of PKR 1,200 showing willingness to use locally assembled meters).
- D. Must be able to locally assemble water meters in accordance with the specifications and certifications mentioned in Section E of this RFP.
- E. Must provide the litigation history of the previous 05-years in which the Bidder was either directly or substantially indirectly involved in. The bidder shall provide accurate information on the prescribed Performa (Form-10 of Section-D Bid Forms) about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the last 05-year. A consistent history of court / arbitral award against the bidder or any member of J.V may result in disqualifying bidder. This requirement also applies to contract executed by the bidder as J.V member. All pending litigation shall in total not represent more than Forty percent (40%) of the Applicant's **net worth and shall be treated as resolved against the Applicant** the each member of J.V shall meet this requirement otherwise whole J.V shall be considered as non-responsive.
- F. For the purposes of clarification, in the event of a joint Bid comprising of multiple Bidders, each or any member of the JV/consortium must meet the aforementioned criteria in order for the overall Bid to successfully Pre-Qualify this stage of the Bidding Process.
- G. As per PEC Byelaws the foreign firms required to adhere following condition.



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In case of foreign constructor or foreign operator wishing to perform any construction or operation of engineering works in Pakistan shall obtain an appropriate licence from the Council before initiating any activity which is a subject of these Bye-laws. The foreign constructor or foreign operator may be granted licence only for specific projects which need capacity, expertise and specialized technology of construction or operation to optimize cost and time not available with a Pakistani constructor or Pakistani operator. Any such foreign constructor or foreign operator shall enter into a joint venture agreement with the Pakistani constructor or Pakistani operator in which share of foreign constructor or foreign operator shall be limited to the expertise and technology not available with the Pakistani constructor or Pakistani operator. The establishment of a joint venture shall be subject to the condition that share of the Pakistani constructor or Pakistani operator shall not be less than thirty percent

- H. In Case of local Consortium, the share of lead partner of J.V/Consortium shall not be less than 51%.

Note: In case bidder fails in basic eligibility criteria he shall not be considered for further evaluation.

Part-B Detailed Evaluation Criteria

In addition to the meeting the aforementioned mandatory criteria, the Pre-Qualification Documents is required to score at least 50% marks in each of the below sub-sections with overall cumulative score of 65 marks in order to qualify for next stage of bidding. The points shall be calculated as under:

Sub-Section	Criteria	Maximum Marks
A.	Net worth: Fourteen (14) marks shall be awarded for the net worth of at least PKR 1.5 Billion or an equivalent amount in foreign currency. For each PKR 0.5 Billion additional net worth or an equivalent amount in foreign currency, two (2) additional marks shall be awarded up to a maximum of twenty (20) marks;	20
B.	Revenue: Ten (10) marks shall be awarded in case average annual revenue of last three years is at least PKR 2 Billion or an equivalent amount in foreign currency. For each additional PKR 0.5 Billion average annual revenue or an equivalent amount in foreign currency, one (1) additional mark shall be awarded up to a maximum of Fifteen (15) marks;	15



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Sub-Section	Criteria	Maximum Marks																		
C.	Manufacturing experience of water meters with minimum annual capability of producing/assembling zero point five (0.5) million units; Ten (10) marks shall be awarded for the production capacity of zero point five (0.5) Million meters; for every additional 100,000 meters production capability (2.5) marks shall be awarded up to maximum of twenty (20) marks;	20																		
D.	Supply, Installation and O&M Experience, of similar supply, installation and O&M of metering projects with at-least one project of 0.1 million meters executed in last ten (10) years. Ten (10) marks shall be awarded for zero point one (0.1) million meters and for every additional twenty-five thousand (25,000) meters (2.5) marks shall be awarded up to maximum of Twenty (20) marks.	20																		
E.	Project Team: Provide CV's of following key personnel as per Form 6 – Part 5 <table border="1" data-bbox="343 1120 1085 1982"> <thead> <tr> <th>Position</th> <th>Maximum Marks Assigned</th> </tr> </thead> <tbody> <tr> <td>Project Manager</td> <td>5</td> </tr> <tr> <td>Metering / Installation Engineer</td> <td>2</td> </tr> <tr> <td>IT Expert (Data Base Manager)</td> <td>1.5</td> </tr> <tr> <td>Networking Expert</td> <td>1</td> </tr> <tr> <td>Legal Expert</td> <td>2</td> </tr> <tr> <td>Installation Supervisor</td> <td>2</td> </tr> <tr> <td>Manager (Operations & Maintenance)</td> <td>5</td> </tr> <tr> <td>Deputy Manager (Operations)</td> <td>2.5</td> </tr> </tbody> </table>	Position	Maximum Marks Assigned	Project Manager	5	Metering / Installation Engineer	2	IT Expert (Data Base Manager)	1.5	Networking Expert	1	Legal Expert	2	Installation Supervisor	2	Manager (Operations & Maintenance)	5	Deputy Manager (Operations)	2.5	25
Position	Maximum Marks Assigned																			
Project Manager	5																			
Metering / Installation Engineer	2																			
IT Expert (Data Base Manager)	1.5																			
Networking Expert	1																			
Legal Expert	2																			
Installation Supervisor	2																			
Manager (Operations & Maintenance)	5																			
Deputy Manager (Operations)	2.5																			



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Sub-Section	Criteria			Maximum Marks
	Assistant Manager (Operations)		1	
	Assistant Manager (Quality Assessment)		1	
	HSE Specialist		1	
	Environment Specialist		1	
	Total		25	
Total				100

Evaluation Criteria of Project Team

Sr. No	Position	No. of Positions	Qualification	Experience	Overall Requirement	Maximum Marks
1.	Project Manager	1	B.Sc. / M.Sc. (Civil/ Mechanical / Electrical Engineering)	M.Sc. with 10 year & B.Sc. with 15-year experience	Must have experience in Supply Projects and be able to plan, organize and effectively implement all scheduled activities of the project and to coordinate and lead the team to ensure the timely completion of tasks.	5
2.	Metering / Installation Engineer	1	B.Sc. / M.Sc. (Civil/ Mechanical / Electrical Engineering)	M.Sc. with 7 year & B.Sc. with 10-year experience	Must have experience of installation of meters in Public or Private Sector.	2
3.	IT Expert (Data Base Manager)	1	B.Sc. / M.Sc. (IT/ Computer)	M.Sc. with 7 year & B.Sc. with	Must have experience of data collection,	1.5



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			Engineering)	10-year experience	monitoring and management system in Public or Private Sector.	
4.	Networking Expert	1	B.Sc. Engineering (Electrical / Electronics)	M.Sc. with 7 year & B.Sc. with 10-year experience	Must have experience in transmission of data using required communication protocols in Public or Private Sector	1
5.	Legal Expert	1	LLB or Equivalent degree in Law	05 Years	Must have experience of dealing at least 02 PPP Projects	2
6.	Installation Supervisor	6	D.A.E (Civil/ Mechanical / Electrical)	05 Years	Must have experience in Water Supply Projects	2
7	Manager (Operations & Maintenance)	1	B.Sc./M.Sc. (Civil/Mechanical/Electrical Engineering)	M.Sc. with 10 years & B.Sc. with 15 years experience in public or private sector	Responsible to manage all activities during operational phase to ensure the proper working of meters as well as meter readings. And to submit Operational performance report/certificate of water meters on monthly basis along with invoices.	5
8	Deputy Manager (Operations)	1	B.Sc./M.Sc. (Mechanical/ Electrical Engineering)	M.Sc. with 08 years & B.Sc. with 10 years experience in public or private sector	Responsible to ensure smooth operational activities and to prepare progress reports.	2.5
9	Assistant	1	B.Sc.	5 years	Responsible to	1



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	Manager (Operations)		(Mechanical/ Electrical Engineering)	experience in public or private sector	ensure smooth operational activities during execution of the project.	
10	Assistant Manager (Quality Assessment)	1	B.Sc. (Mechanical/ Electrical Engineering)	5 years experience in public or private sector	Responsible for testing and calibration of water meters at random to assess/ensure the performance on monthly basis.	1
11	HSE Specialist	1	B.Sc./MSc. Engineering with Health & Safety courses	M.Sc. with 5 years & B.Sc. with 08 years' experience in public or private sector	Responsible to manage and coordinate all HSE matters related to project team members/ contractor to ensure that the Project is in compliance with the specification, safety code and other policies/guidelines related to the project.	1
12	Environment Specialist	1	B.Sc./M.Sc. (Environmental Sciences)	M.Sc. with 5 years & B.Sc. with 08 years' experience in public or private sector	Responsible to identify environmental issues during execution & recommend solutions and to coordinate with EPA (if required) regarding environment report.	1



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	Total Marks	25
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The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following three sub-criteria and relevant score:

	Percentage Weightage
1) Education and qualifications	[25]
2) Relevant background	[70]
3) Position and Time with firm	[5]

For the purposes of clarification, in the event of a joint Bid comprising of multiple Bidders, any Bidder must meet the aforementioned criteria in order for the overall Bid to successfully Pre-Qualify this stage of the Bidding Process.

18. Evaluation of Technical Proposal

The Technical Proposal shall be made in the format provided in Form 7 in Section D of this RFP. The Bidder must provide all the information and documentation mentioned in Clause 10 of this Section C and in the Technical Proposal form in Form 7 in Section D of this RFP. Failure to submit that information will result in the Technical Proposal and consequently the Bid being rejected.

Pre-qualified Bidders shall be considered for technical evaluation by BOEC.

Criteria, sub-criteria, and point system for the evaluation of Technical Proposals are:

Technical Evaluation Criteria

Documentary evidence in support of the aforementioned criteria needs to be submitted in the manner prescribed in Form 7 (Format of Technical Proposal) in Section D of this RFP.

Note: Responsiveness status shall be determined on the pass/fail basis (collectively in part A & B). The Applicant must score total 65 Marks in part-B and at least 50% marks in each category, to qualify. If any applicant fails to score 50% marks in any of the given categories, will be considered non-responsive. The applicant must have to fulfil the specifications as given in part-A in case bidder fails to comply any of the given specification he shall be considered non-responsive.

Part-A

The Applicants are required to attach:

1. Technical information including drawing and performance curve of the offered meters.



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2. Attach specific literature/ brochure of product with brand and model number verifying all required specifications (General brochure having partial coverage of the specifications will not be acceptable).
3. The bidder shall provide an undertaking on Judicial Stamp Paper of Rs.100 that the meters shall be manufactured / assembled in Pakistan.
4. Compliance certificate of ISO: 4064 (International Organization Standardization)/ Certificate issued by an authorized body of MID/2004/22/EEC / Certificate issued by an authorized body of OIML: R49(2013) (International Organization for legal Metrology).
5. In case of JV any member of JV shall possess any one certification as mentioned above.

Note: The evaluation shall be on knock out basis in case the bidder fails to comply any of the given specifications shall be considered as Non-Responsive. In case of bidder considered non-responsive in this part of technical evaluation he shall not be considered for further evaluation.



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TECHNICAL FORM A-1 (a)

TECHNICAL SPECIFICATIONS OF OFFERED METERS

Water Meter Types (choose any one) Volumetric Rotary Piston/Notating Disc/Multi Jet (Dry Dial Type): (Please specify type of meter) _____		DN (15/20/25 mm)
Country of Origin: _____	Brand Name: _____	Model No: _____

Properties of water Meters	Comply /Non-Comply	Remarks
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GENERAL FEATURES:

• Shall have possibility for both visual & Automated Meter Reading (AMR) outputs		
• Tamper proof		
• Provided with non-return valve		
• Un-affected by grit and particulates		
• Provided with wire and lead seal		
• Not effected by Magnetic field.		

CERTIFICATIONS:

• ISO 4064 (International Organization Standardization) Complaint / OIML: R49(2013) (International Organization for Legal Metrology) / MID/2004/22/EEC		
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DETAIL OF METROLOGICAL SPECIFICATIONS:

• Size (15/20/25mm)		
• Accuracy: Class II		
• Material: Bras/Non-ferrous metal		
• Protection Class: IP-68		
• Ambient Temperature: +5 to 55°C		
• Liquid Temperature: Up to 50°C		
• Maximum Working Pressure = 16Bars		
• Flow rate: Q3/Q1 = 160		
• Maximum Flow rate (Q3): 2.5m ³ /hr (15mm), 4.0 m ³ /hr (20mm), 6.30 m ³ /hr (25mm)		

INSTALLATION:

• Any Direction		
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TECHNICAL FORM B-1 (a)

TECHNICAL SPECIFICATIONS OF OFFERED METERS

Water Meter Type (chose any one) Static Meters (Ultrasonic Technology / Electromagnetic / Fluidic Oscillation): Please Specify any one type _____		DN (15/20/25 mm)
Country of Origin: _____	Brand Name: _____	Model No: _____

Properties of water Meters	Comply /Non-Comply	Remarks
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GENERAL FEATURES:

• No moving parts		
• Shall have Both Visual (LCD) and Automated Meter Reading outputs		
• As per class 2 of OIML/ISO Specifications (Current)		
• Temper Proof		
• Un-affected by grit and particulates		
• No reverse flow measurements.		

CERTIFICATIONS:

• ISO 4064 (International Organization Standardization) Complaint / OIML: R49(2013) (International Organization for Legal Metrology) / MID/2004/22/EEC		
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DETAIL OF METROLOGICAL SPECIFICATIONS:

• Size (15/20/25mm)		
• Accuracy: Class II		
• Material : Bras/Non-ferrous metal		
• Protection Class: IP-68		
• Ambient Temperature: +5 to 55°C		
• Liquid Temperature: Up to 50°C		
• Maximum Working Pressure =16Bars		
• Flow rate: Q3/Q1 = 160		
• Maximum Flow rate (Q3): 2.5m ³ /hr (15mm), 4.0 m ³ /hr (20mm), 6.30 m ³ /hr (25mm)		
• Battery life: Minimum 10 years		

INSTALLATION:

• Horizontal or Vertical Position		
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Note: -

1. Any latest version of above-mentioned certifications shall be acceptable.
2. The bidder may quote more than one type / brand / model of water meter but compliance of specifications as mentioned above are mandatory and bidder can use extra technical forms if required.
3. The bidder/applicant may quote any one of the above-mentioned types of water meters.

Part-B

WORK METHODOLOGY, PRESENTATION, FINICAL MODEL

The Part-B of Technical Evaluation Criteria is required to score at least 50% marks in each of the below sub-sections with overall cumulative score of 65 marks in order to qualify for next stage of bidding. The points shall be calculated as under:

Sr. No.	Description	Marks
1	<p>Work Plan, Methodology and Project Implementation Timetable</p> <p>In this part, the Bidder should explain its understanding of the objectives of the Project, approach to undertaking the Project and methodology for carrying out the Project activities including respective timelines and expected outputs. The Bidder should highlight the problems it is likely to face including their importance and explain the approach it would adopt to address them.</p> <p>The proposed plan for the installation of the water meters must be clearly identified in terms of the timing of key events, phases and milestones. The Bidder must provide a clear statement of the overall duration of the installation period. A Gantt chart showing the sequencing and timing of construction activities shall be provided. A complete cost estimate must be provided, disaggregated by the major phases or components of the work.</p> <p>A narrative and graphic presentation of the Bidder's methodology to execute the works should also be provided. The Bidder shall clearly explain its installation methodology, time period, tentative plans, type of structures, the machinery, plant and labour needs for the Project. The Bidder must also mention safety and project control systems that it plans to use to control and monitor installation activities. The Bidder must provide evidence of ISO certifications, if any.</p>	50



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	The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the RFP and translate the Project into a feasible working plan using Primavera or project management tools.	
2	<p>Presentation (to be submitted after the submission of Bid)</p> <p>A presentation will be required after the submission of the Bid on the notified time, date and venue. The presentation shall primarily be on the submitted Technical Proposal encompassing Concept Design and Execution Methodology with special reference to demonstrable resources and experience to undertake the Project.</p>	50
	TOTAL MARKS	100

19. Evaluation of Financial Proposal

The financial evaluation of those responsive Technical Bids will be carried out which would have obtained the qualifying marks in the technical evaluation.

Financial Proposal therefore should comprise of followings:

Sf	Description	Price in PKR
A1	Viability Gap Fund (VGF) Requirement:	
A2	Project Cost:	

These criteria are further elaborated as under:

1. Viability Gap Fund Requirement: The Bidder quoting the lowest support amount required from GoPb as VGF will be awarded forty (40) marks and the next highest bidder will see their score reduced proportionately.
2. Project Cost: The Bidder quoting the lowest Project Cost would be awarded twenty (20) marks. The next highest bidder will see their score reduced proportionately.

Annual water meter charge per meter: Bidder will quote a figure for per meter installment in a year under this category, effective from the date of Commercial Operations Date (COD) in each year of operation for 10 years and its present value shall be ascertained by incorporating the same in the financial model submitted by the Bidder. The Bidder quoting the lowest annual meter charge Please note that the maximum annual escalation allowed is 5%.

Total (A3) – Maximum Marks 40



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Sr No	Year	PKR Instalment/meter/annum
1)	1	
2)	2	
3)	3	
4)	4	
5)	5	
6)	6	
7)	7	
8)	8	
9)	9	
10)	10	
Total Discounted @ 10%		

Note: Discount rate of 10% shall be used for the computation of present value for the purpose of evaluation.

Below mentioned formula will be used to calculate the bid price.

$$Sf = (A1 \times 40\%) + (A2 \times 20\%) + (A3 \times 40\%)$$

The contract shall be awarded to the Bidder with the lowest figure of *Sf* using the aforementioned method.

20. Negotiation and Award of Contract

The Authority shall announce the result of the Bidding Process and issue **“Letter of Award”** (LOA), along with notice for negotiation and execution of Concession Agreement within the timelines stipulated in the RFP, to the selected Bidder within ten days of the Bid evaluation or where applicable, approval of the competent authority, as the case may be. The selected Bidder must be the Best Evaluated Bidder.

The Authority may conduct negotiations with regard to the Concession Agreement with the selected Bidder in accordance with the provision of the PPP Act. The Authority shall ensure that such negotiations, if any, conclude within sixty (60) days of issuance of the LOA.

21. Grievance Committee

A committee has been established for the purposes of redressal of grievances of **Bidders** (“Grievance Committee”). This Grievance Committee shall comprise of the following personnel:

- DMD (FA&R), WASA



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- Director (P&E), WASA
- Director (P&D), WASA
- Director (Admin), WASA
- Director (WWT), WASA

The Grievance Committee has been constituted with proper powers and authorizations, to address the complaints of Bidders that may occur prior to the entry into force of the award of Concession Agreement. Any Bidder feeling aggrieved by any act of the Authority after the submission of their Bid may lodge a written complaint concerning their grievances not later than Ten (10) days after the issuance of financial evaluation results. The Grievance Committee shall investigate and decide upon the complaint within Fifteen (15) days of the receipt of the complaint (or within such time as the nature of complaint warrants). Mere fact of lodging of a complaint shall not warrant suspension of the Bidding Process.

22. Termination of Bidding Process

The Authority reserves the right to terminate the Bidding Process at any time till such time that the Concession Agreement is signed. The Authority shall, upon request of any of the Bidders, communicate to such Bidder, grounds for the cancellation of the Bidding Process, but is not required to justify such grounds.

In the event the Authority terminates the Bidding Process, the Authority reserves the right to proceed with all or any part of the Project, including the use of some or all of a **Bidder's ideas and concepts, based on the approach that** the Authority considers to be most suitable.



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Section D: Bid Forms



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Form 1: Covering Letter

Date: _____

Dy. Managing Director (Engg)
Water and Sanitation Agency (WASA)
31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan

Subject: Bid for “Procurement, Installation And Operation & Maintenance of Water Meters in Lahore ”, Lahore, Punjab, Pakistan on Build-Operate-Transfer (BOT) basis of The Public Private Partnership Act, 2019.

Dear Sir,

We, [insert name of Bidder] _____, _____ hereinafter collectively known as **the “Bidder” and who is/are interested in** “Procurement, Installation And Operation & Maintenance of Water Meters in Lahore ” at Water and Sanitation Authority (WASA) existing connection base (**“the Project”**) on Build-Operate-Transfer (BOT) modality of a **Public Private Partnership (“Bid”)** hereby submit our Bid (containing our Pre-Qualification Documents, Technical Proposal and Financial Proposal) in response to your Request for Proposal (RFP) dated [_____] issued for the Project. We hereby unconditionally offer to undertake and complete the Project through performance of all **works and services in accordance with the draft Concession Agreement (“Concession Agreement”)**.

We understand and accept that the Punjab Public Private Partnership Authority (the “Authority”) may require us under the applicable laws to clarify our Bid in conformity with its requirements leading to finalization of terms of services.

We hereby declare that all the information and statements made in this Bid are true and accept that any misinterpretation contained in it may lead to our disqualification / rejection of Bid.

We undertake to initiate work on the Project, in the event of acceptance of our proposal, in accordance with the Concession Agreement to be signed between the parties.

We hereby certify, represent, warrant and agree, on behalf of the Bidder(s) that:



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1. This Bid letter, along with all its attachments hereto, forms our Bid and has been submitted pursuant to the Request of Proposal (RFP) and its attached volumes as issued by the Authority for the Project including the Draft Concession Agreement for **the Project (“Concession Agreement”)**.
2. Having examined in detail and being fully familiar with all the provisions of the RFP and the Draft Concession Agreement, we hereby acknowledge the receipt of the same.
4. Based on the document received by us, we have conducted on our own studies to evaluate the nature and scope of the contractual obligations under the Concession Agreement, the financing structure of the Project proposed in the Concession Agreement, and the Concession Agreement itself and any other regulation associated to the Project or its execution. We therefore stand fully aware of the magnitude and novelty of this Project and hereby offer to undertake the Project in compliance with all requirements of the RFP and draft Concession Agreement.
5. We hereby agree that our Bid constitutes a firm and irrevocable offer that is binding upon us and that it will remain valid until one hundred and eighty (180) days from the Bid Submission Date.
6. We have provided and attached hereto a Bid Security issued by [name of issuing bank] in the amount of PKR 250 Million (Pak Rupees Two Hundred and Fifty Million only) in accordance with the RFP.
7. We certify that (i) the information submitted as part of our Bid is complete and accurate and (ii) we accept the documents, terms and conditions of the RFP and draft Concession Agreement and are bound to develop this Project in accordance with this RFP and Draft Concession Agreement.
6. We understand the evaluation criteria and the process for selection of Concessionaire that has been provided in the RFP and acknowledge that the Authority is under no obligation to accept our Bid and may at any time reject our Bid.
7. We commit ourselves, if required, to extend the validity of our Bid until the issuance of Letter of Award to the successful Bidder, subject to mutual agreement.
8. We commit ourselves to furnish the Construction Performance Security (as defined in the RFP) and to finalize and sign the Concession Agreement in good faith, if we are advised to do so by the Authority.
9. We further commit ourselves to provide any additional information, clarification and data in respect of the Bid, if required by the Authority.
10. The undersigned is duly authorized to execute the Bid for and on behalf of the Bidder.

Sincerely

For and on behalf of [the company/Consortium [insert names]]



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Authorized signature and seal
Full Name
Designation

Email:
Cell Phone No.
Land Line No.

Encls:



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Form 2: Format of Bid Security

IRREVOCABLE AND UNCONDITIONAL BID SECURITY GUARANTEE

[To be stamped in accordance with the Stamp Act, 1899]

BANK GUARANTEES No: DATE:

Dy. Managing Director (Engg)
Water and Sanitation Agency (WASA)
31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan

Dear Sir,

Ref: Bid for "Procurement, Installation And Operation & Maintenance of Water Meters in Lahore ", Lahore, Punjab, Pakistan on Build-Operate-Transfer (BOT) basis of The Public Private Partnership Act, 2019.

WHEREAS [name and legal status of the Bidder] (hereinafter referred to as the "Bidder") has submitted his/its Bid dated _____ (hereinafter referred to as the "Bid") for granting of a Concession for the project titled "Procurement, Installation And Operation & Maintenance of Water Meters in Lahore ", a requirement of which is that the Bidder must submit a Bid Security of the amount of Rupees Two Hundred and Fifty Million (PKR 250,000,000).

AND WHEREAS to satisfy the afore stated requirement, this Deed of Bid Security Guarantee (hereinafter referred to as the "Guarantee") is made on this __ day of ____, 2020 by [name of the bank] a banking company lawfully undertaking business in the Islamic Republic of Pakistan, having its registered office at _____ (hereinafter referred to as the "Bank" which expression shall, wherever the context so admits, include its executors, administrators and successors-in interest) in favour of the Punjab Public Private Partnership Authority, an authority established by Government of the Punjab (hereinafter referred to as the "Authority").

NOW THEREFORE in consideration of the Authority accepting the Bank's obligations contained in the following paragraphs for the due discharge of the Bidder's obligation to provide a Bid Security, THE BANK, by THIS GUARANTEE AGREES TO THE FOLLOWING:



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1. The Bank hereby undertakes and guarantees that it shall, on the first written demand of the Authority, without any caveat, demur, protest or contest and without reference or recourse to the Bidder or any other person, organization or authority, pay the Authority within three (3) working days, in clear funds, without any deduction or withholding on any account whatsoever, a sum of Rupees Two Hundred and Fifty Million (PKR 250,000,000).
2. The obligation of the Bank to the Authority to pay the sum specified in paragraph 1 above within the time and in the manner specified therein shall be that of principal of **'Build Operate and Transfer' (BOT)** or in the first instance without the Authority proceeding against the Bidder and notwithstanding any security or other guarantee the Authority **may have in relation to the Bidder's liabilities**.
3. Any demand specified in paragraph 1 above, made by the Authority on the Bank, will be conclusive and binding between the Authority and the Bank notwithstanding any dispute or difference between the Authority and the Bidder or any dispute pending before any court, tribunal, arbitrator or any other judicial, quasi-judicial or other authority. The Bank hereby affirms that it shall pay the Authority the amount specified in paragraph 1 above within the time and in the manner specified therein, without the Authority needing to prove or show grounds or reasons for the Authority's demand.
4. Any payments made to the Authority shall be net and free of and without any present or future deductions such as for the payment of any taxes, executions, duties, expenses, fees, deductions or retentions regardless of the nature thereof or the authority levying the same.
5. The Bank hereby waives, to the fullest extent possible by law, any defense whether in law or equity, that may be raised to prevent or delay the Authority from making a demand specified in paragraph 1 above or being paid the sum specified therein.
6. The Authority **shall be at liberty, without affecting the Bank's obligations to** the Authority contained in this Guarantee, to postpone for any time or from time to time, the enforcement of any rights accruing to the Authority against the Bank or the Bidder and to enforce the same at any time and in any manner and to enforce or forbear to enforce any remedies available to the Authority against the Bank or the Bidder. The Bank accepts that it shall not be released of its obligations to the Authority contained in this Guarantee by any exercise by the Authority of its liberty in relation to the aforesaid matters or any of them or by time or other indulgence including the granting of any waiver to either the Bank or the Bidder or by any variation in this Guarantee or by any other act or omission whatsoever which, under law or equity, but for this provision would have the effect of releasing the Bank of its



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obligations under this Guarantee notwithstanding that any such postponement, forbearance, extension of time or other indulgence, waiver, variation or any other thing was granted, made, given or happened without the consent or knowledge of the Bank.

7. The Bank hereby undertakes not to revoke this Guarantee during its currency without the prior written approval of the Authority and agrees that the obligations of the Bank under this Guarantee are continuous obligations and shall remain in full force and effect and be enforceable against the Bank notwithstanding any change in the constitution, legal status or organization of the Bank, the Bidder or the Authority until all dues of the Authority under or by virtue of this Guarantee have been paid by the Bank in full or until the Authority discharges this Guarantee in writing.
8. The Bank hereby affirms that it has the power and authority under its Memorandum and Articles of Association and all necessary consents and authorizations, including without limitation, those required from its board of directors, regulator or other **relevant governmental body, to enter into, execute, deliver and perform the Bank's** obligations under this Guarantee in favour of the Authority and that the signatory(ies) hereto has/have the capacity, authority and power to sign and bind the Bank to the **Bank's obligations contained herein under [Power of Attorney/Board Resolution]** dated _____ .
9. The Bank hereby confirms that notwithstanding any dispute which may arise with regard to this Guarantee or otherwise upon receiving the demand in writing as specified herein it shall pay the demanded amount without any objection.
10. **Notwithstanding anything contained in paragraphs 1 to 7 above, the Bank's liability** to the Authority under this Guarantee is restricted to and shall remain in force up to and including __ day of ____ 20 __ and shall be extended for such period as may be desired by the Concessionaire.
11. **The Bank's obligations as set out in this Guarantee shall be continuing obligations** and shall not be modified or impaired upon the happening, from time to time, **without the Bank's assent or otherwise, if any act or omission, or any circumstance** or events which would otherwise discharge, impact or otherwise affect any of the **Bank's obligations contained in this Guarantee.**
12. No set off, counterclaim or reduction or diminution of any obligation that the Bank has or may have against the Authority shall be available to it against the Authority in connection with any of its obligations to the Authority under this Guarantee.
13. The Bank hereby declares and confirms that under its constitution and applicable laws and regulations, it has the necessary power and authority, and all necessary



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authorizations, approvals and consents there under to enter into, execute, deliver and perform the obligations it has undertaken under this Guarantee, which obligations are valid and legally binding on and enforceable against the Bank under **the laws of Pakistan. Further that the signatories to this Guarantee are the Bank's** duly authorized officers.

14. This Guarantee is limited to the sum of Rupees Two Hundred and Fifty Million (PKR 250,000,000) and shall be valid up till _____.
15. This Guarantee shall be governed by and construed in accordance with the laws of the Islamic Republic of Pakistan.

IN WITNESS WHEREOF the Bank, through duly and lawfully authorized representative(s), has executed this Guarantee on the date first written above in the presence of the witnesses mentioned below.

Signature of Authorized Signatory(ies), as per Bank's Norms _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

WITNESSES (As per Bank Rules/Law):



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Form 3: Format of Authorization of Lead Member

[To be stamped in accordance with the Stamp Act, 1899]

POWER OF ATTORNEY

WHEREAS, the **Punjab Public Private Partnership Authority (the "Authority")** has invited proposals from interested parties for the "PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE **UNDER PPP MODE**" in Lahore in Pakistan ("**the Project**"). Whereas, the members of the [consortium/JV] named _____ are interested in Bidding for the Project and implementing the Project in accordance with the terms and conditions of in accordance with the Request for Proposal (RFP) draft Concession Agreement issued by the Authority **with regards to the Project ("Concession Agreement")** and other attached volumes in respect of the Project.

AND WHEREAS, it is necessary under the RFP for the members of the [consortium/JV] to designate one of them as the lead member with all necessary power and authority to do for and on behalf of the [consortium/JV], all acts, deeds and things as may be necessary in connection with the [consortium/JV] Bid for the Project

NOW THIS POWER OF ATTORNEY WITNESSETH THAT we, M/s _____ M/s _____ and M/s _____ [delete additional name space if not applicable] (the respective names and addresses of the registered office) do hereby designate, constitute, appoint, ordain and authorize Mr. _____ and his organization M/s _____ being one of the members of the [consortium/JV], as the Lead Member of the [consortium/JV], to do on behalf of the [consortium/JV], all or any of the acts, deeds or things necessary or incidental to the [consortium/JV] Bid for the "PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE ", Lahore Punjab, Pakistan (the "**Project**") on Build-Operate-Transfer (BOT) under Public Private Partnership, including signing and submission of all documents and providing information / responses submission of application / proposal, participating in conferences, responding to queries, submission of information / documents and generally to represent the [consortium/JV] in all its dealings with the Authority, any other Government entity or any person, in connection with the Project until culmination of the process of Bidding and thereafter till the execution of relevant Project documents with the Authority as mandated by the RFP.

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

We hereby undertake all necessary actions in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid for the Project Build-Operate-Transfer (BOT) under Public Private Partnership of "PROCUREMENT, INSTALLATION



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AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE ” Lahore Punjab, Pakistan (the **“Project”**), including signing and submission of all documents and providing information / responses to the Authority, representing us in all matters before the Authority, and generally dealing with the Authority in all matters in connection with our Bid for the said Project.

AND GENERALLY, to do and perform all acts and things as may be deemed necessary or expedient for the said purpose.

AND we hereby undertake to ratify and confirm all acts, deeds and things lawfully done or caused to be done by virtue of these present and the same be construed as acts and things done by us.

This Power of Attorney shall be valid and effective until and including __.__.20__.

IN WITNESS WHEREOF, we have executed this Power of Attorney on this __ day of _____, 20__.

Signature of Authorized Attorney _____

Name and Title of Attorney: _____

Name of Firm: _____

Address: _____

Note: To be executed by all members in case of a consortium or JV. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.



Form 4: Format of Integrity Pact

[On the Stamp Paper in accordance with the Stamp Act, 1899]

[Insert Name of the Concessionaire] **(the “Concessionaire”)** hereby declares its intention not to obtain or induce the procurement of any contract, right, interest, privilege or other obligation or benefit through any corrupt business practice from the Government of Pakistan, the Government of Punjab, any local government, any administrative subdivision or agency of any of the foregoing or any other entity owned or controlled by any of the foregoing.

Without limiting the generality of the foregoing, the Concessionaire represents, warrants and covenants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone or any authority and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any **natural or juridical person, including the Concessionaire’s affiliates, agents, associates, brokers, consultants, directors, promoters, shareholders, sponsors or subsidiaries, any commission, gratification, bribe, finder’s fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or including the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from any Government Agency, except that which has been expressly declared pursuant by the Concessionaire beforehand.**

The Concessionaire certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to any transaction with any Government Agency and has not taken any action or will not take any action to circumvent the above declaration, representation, or warranty or covenant.

The Concessionaire accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation, warranty and covenant. The Concessionaire agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to any Government Agency under any law, contract or other instrument, be voidable at the option of the relevant Government Agency and/or the Government of Punjab and/or the Punjab Public Private Partnership Authority.

Notwithstanding any rights and remedies exercised by any Government Agency in this regard, the Concessionaire agrees to indemnify the relevant Government Agency, the Government of Punjab, the Punjab Public Private Partnership Authority and the Water and Sanitation Agency **for any loss or damage incurred by it on account of the Concessionaire’s corrupt business practices and further to pay compensation to the relevant Government Agency, the Government of Punjab, Punjab Public Private Partnership Authority and the Water and Sanitation Agency in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by the Concessionaire as**



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aforesaid for the purpose of obtaining or the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from any Government Agency.

For and on behalf of the Bidder(s):

Signature of Authorized Signatory: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

Witness 1:

Signature: _____

Name: _____

Address: _____

CNIC/Passport No.: _____

Witness 2:

Signature: _____

Name: _____

Address: _____

CNIC/Passport No.: _____



Form 5: Format of Consortium or JV MoU

[To be stamped in accordance with the Stamp Act, 1899]

MEMORANDUM OF UNDERSTANDING

Between

[First Member]

And

[Second Member]

And

[Third Member]

THIS MEMORANDUM OF UNDERSTANDING (**hereinafter called “MOU”**) made and entered into this _____ day of the month of _____ 20__, by and among:

[Name & complete address of first/lead member] (**hereinafter called “[short name/acronym]”**), **which expression shall include its successors, legal representatives and permitted assigns;**

[Name and complete address of second member] (**hereinafter called the “[short name/acronym]”**), **which expression shall include its successors, legal representatives and permitted assigns;**

(Both of the above for the purpose of this MOU shall hereinafter individually be called the “Member” **and collectively called the “Members”**)

WHEREAS;

- (a) The Punjab Public Private Partnership Authority/Water and Sanitation Agency (hereinafter called the “Client”) **has invited through** [Mention the title of invitation] published in daily [Insert name of newspaper] dated [Insert date] to submit proposal for the Project (the “Project”); and
- (b) The Members hereby intend to join hands to form an unincorporated association for the sole purpose of, preparation and submission of joint proposal as required to be submitted to the Client for undertaking the Project. In case of acceptance of proposal by the Client, the Members shall undertake the Project through a Special Purpose Company and the contract to be entered between the Client and the Consortium/Joint Venture.

NOW, THEREFORE, the Members confirm their understanding (hereinafter called the “Association”) **as follows:**

1. DEFINITIONS AND INTERPRETATION



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1.1. Definitions

The following words and expressions shall have the meanings assigned to them, except where the context otherwise requires:

- 1.1.1. **“Association”** means the understanding formed between the Members in accordance with this MOU;
- 1.1.2. **“Client”** means the Punjab Public Private Partnership Authority and none other, except its legal successors and permitted assigns;
- 1.1.3. **“Contract”** means the Contract between the Client and the Special Purpose Company to be set up by the Members, if successful, for the provisions of services for the Project;
- 1.1.4. **“Invitation”** means the invitation of the Client to submit a proposal for the provision of particular engineering services for the Project;
- 1.1.5. **“Proposal”** means the proposal to be prepared and submitted by the Members in response to the Invitation, by the Client;
- 1.1.6. **“Development Activities”** means all activities required to complete the Project including procuring, constructing and any other activity relating to the same;
- 1.1.7. **“Representative”** means the person nominated by the Member(s) of the Consortium/Joint Venture through Power of Attorney to sign the Proposal and the Contract on behalf of and in the name of that Member. The signature of Representative shall bind each Member in respect of all obligations and liabilities it assumes under the Contract.
- 1.1.8. **“Lead Member”** means the Member which will take the lead in the management of the Association’s affairs under this MOU and which will provide the Association’s Representative for liaison with the Client;
- 1.1.9. **“Document”** means written, drawn, typed, printed, magnetized or photographic material which is capable of being copied.

1.2. Interpretation

- 1.2.1. Words importing the singular also include the plural and the masculine includes the feminine and vice-versa where the context requires.
- 1.2.2. The headings in this MOU shall not be taken into consideration in its interpretation.



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1.2.3. Unless otherwise stated, all references to clauses/sub-clauses are references to clauses/sub-clauses numbered in the Conditions and Terms of this MOU and not to those in any other Document attached or incorporated by them.

2. ASSOCIATION/UNDERSTANDING

2.1. The Members hereby intend to join hands to form an unincorporated association for the purpose of:

- a) preparing and submitting the Proposal to the Client;
- b) providing any further information, the Client may require or negotiating with the Client on any matters requiring negotiation in connection with the Proposal;
- c) entering into a formal Consortium/Joint Venture Agreement; and
- d) Performing all the Development Activities to be undertaken for the Project by the Consortium/Joint Venture.

2.2. The Members hereby appoint the Lead Member and, pursuant to Clause 3.2, the Representative of the Association.

Notwithstanding anything to the contrary, the Lead Member shall remain liable for all the obligations and liabilities of the Consortium/Joint Venture

The participating interests of each Member and its role(s) shall be as follows: -

Members	Participating Interest (% age)	Role(s)
Lead Member		
Member 1		
Member 2		
.....		

The Members shall establish a wholly owned subsidiary in the form of a Special Purpose Company to perform the activities or part thereof as set out in clause 2.1.

3. PROPOSAL SUBMISSION

3.1. Upon the execution of this MOU, each of the Members shall grant a Power of Attorney in favour of a person nominated by it as its Representative. Under the Power of Attorney granted to him, the Representative of a Member shall thereby have authority to sign the Proposal and the Contract on behalf of and in the name of that Member. The signature of its Representative shall bind each Member in respect of all obligations and liabilities it assumes under this MOU.



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- 3.2. The Representative of the Lead Member shall be the representative of the Association for the purpose of correspondence and discussion with the Client on matters involving the interpretation of the Proposal and alterations to it and to the Development Activities to be performed.

4. LANGUAGE AND LAW

This MOU shall be written and interpreted in English Language and the law which is to be applied to this MOU shall be the law of Islamic Republic of Pakistan.

5. ASSIGNMENT AND THIRD PARTY

No Member shall assign, sell, transfer or in any way encumber its interest under this MOU, or its interests in any sums payable by the Client, without first obtaining the consent in writing of other Member.

6. SEVERABILITY

If any part of the provisions of this MOU is found in any way to be void or not applicable, such part of the provisions shall be deemed to be deleted and remainder provisions of MOU shall continue in force and effect.

7. MEMBER IN DEFAULT

In the event of insolvency of a Member, the other Member hereby irrevocably constituted and appointed attorney-in-fact for such insolvent Member to act for it in all matters affecting performance of the Contract to be entered with the Client.

8. LIABILITY

In case of the Consortium/Joint Venture, all Members would be jointly and severally liable for all obligations and responsibilities.

IN WITNESS WHEREOF the Members hereto have executed this MOU in [State name of place] on the day, month and year first above written.

Signed for and on behalf of

[Name of the Lead Member]

Signature _____

Name: _____

Designation: _____

Date: _____

Seal

Signed for and on behalf of

[Name of each Member]



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Signature _____
Name: _____
Designation: _____
Date: _____



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Form 6: Format of Pre-Qualification Documents

Date: _____

Dy. Managing Director (Engg)
 Water and Sanitation Agency (WASA)
 31-B Zahoor Elahi Rd, Block B Gulberg 2,
 Lahore, Punjab, Pakistan

Subject: Procurement, Installation And Operation & Maintenance of Water Meters in
 Lahore , Lahore, Pakistan through Build-Operate and Transfer Mode

Dear Sir,

Being duly authorized to represent and act on behalf of [insert name] (hereinafter referred to as “Interested Party”), and having reviewed and fully understood all of the qualification requirements and information provided, the undersigned hereby expresses its interest and apply for qualification for the PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE , Lahore, Punjab, Pakistan Project of Lahore Water and Sanitation Agency on Build-Operate and Transfer (BOT) basis.

As security for due performance of the undertakings and obligations of this Bid, we submit herewith a Bid Security in the amount of Pak Rs..... Bank Guarantee / DCR **No**.....Dated/...../..... Issued by Bank, Branch **Name/Code**.....drawn in the favor of, or made payable to the Employer, and valid for a period_____Days beyond the period of validity of Bid.

We enclose our Pre-Qualification document, in one Original and Three Hard Copies.

We hereby declare that all the information and statements made in this Qualification Proposal are true and correct in any respect and we accept that any misrepresentation contained in it may lead to our disqualification.

Yours sincerely
 Signature of Authorized Signatory _____
 Name and Title of Signatory: _____
 Name of Firm: _____
 Address: _____



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INFORMATION TO BE ENCLOSED IN PRE-QUALIFICATION DOCUMENTS

The Bidder (or each member in the case of a consortium or JV) shall provide a comprehensive explanation of its relevant experience and capability to undertake the Project. For each relevant experience cited, outline the precise role of the Bidder, Project duration, outcomes, and its value.

The Bidder (or each member in the case of a consortium or JV) is required to provide at a minimum, the following information in addition to any other information which has been required in this RFP, failing which the Bidder shall be disqualified at this stage and its Technical and Financial Proposals shall not be opened and considered:

Part 1 : General Information about the organization

Sr	Query	Response
1	Name of organization (<i>indicate complete legal name of the organization</i>)	
2	Operating name of the organization (<i>if different from legal name</i>)	
3	Country of incorporation	
4	Ownership of the Organization: Sole Proprietorship/Partnership/ Private Limited Company/ Public Unlisted/Public Listed Company/Other (<i>please specify</i>)	
5	Date of establishment/ incorporation (with proof)	
6	Brief description of the business	
7	Details of main business lines/ Services / Products offered	
8	Communication address along with telephone and fax numbers	
9	Website	
10	Status in the Project Single Party/Lead Consortium Member/ Other Consortium Member (<i>strike out whichever is not applicable</i>)	
11	List of stakeholders / members who own 10% or more stocks & their interest in the company	
12	In case of consortium/JV, please state the name of Consortium/JV members, their roles and proposed shareholding*	
13	List of current directors	
14	Key Contact Person (<i>indicate their name, designation/title and contact</i>)	



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	<i>address along with telephone, fax and email address)</i>	
15	Other key management personnel	
16	International affiliations, if any	
17	Professional membership(s), if any	
18	Tax registration number	
19	PEC registration certificate, if applicable	
20	Information about litigation history of the Bidder including any pending legal claims against the Bidder	

Signature of Authorized Representative _____

Note:

1. Individual Party may, in addition to the above, attach their company profiles as an annexure to this form.
2. In case the consortium comprises of more than one firm:
 - a) The above information shall be provided in respect of each of the firm.
 - b) Legal instrument indicating partnership arrangements with joint and several liability should be provided.

* If the consortium is prequalified person, the lead consortium member shall not be replaced earlier than four years after the commissioning of the project without the approval of the Punjab Public Private Partnership Authority and no such approval shall be given unless the consortium finds a suitable replacement with equal or better qualification for replacing the withdrawing member.



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Part 2: Financial Information

Using the format below, provide the financial information with respect to your company/Consortium (use separate sheets for each consortium member).

<p>Net Worth</p>	<p>2019 PKR _____</p> <p>2018 PKR _____</p> <p>2017 PKR _____</p> <ol style="list-style-type: none"> 1. Please attach working and auditors' certificate. 2. Please attach bank certificate regarding ability of the applicant to raise at least 20% equity for the project. Please assume project cost as PKR 10 Billion for the purpose of PQD. 3. Please attach bank commitment letter in principle to finance at least 80% of the project cost in case of award of the project to the applicant. Please assume project cost as PKR 10 Billion.
<p>Revenue</p>	<p>2019 PKR _____</p> <p>2018 PKR _____</p> <p>2017 PKR _____</p> <p>Please attach working and auditors' certificate.</p>
<p>Banking details</p>	<p>Name of the Banks and branches</p>

The applicant hereby authorizes WASA, the Punjab Public Private Partnership Authority and its Transaction Advisors to verify the above-mentioned information.

Signature of Authorized Representative _____



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Part 3: Relevant Experience Summary

Please use the following format for providing the summary of Installation, Manufacturing/Assembling, Operations and Maintenance of meters experience. Please use Separate sheet for each type of experience.

Sr.	Detail of projects undertaken	Type of facility	Date of start	Date of Completion	Production Capacity/Meters Installed	Total project cost*	Location of the project	Present status in terms of completion	Contract person name, email address and cell and phone numbers

Signature of Authorized Representative _____

2. *At the date of completion and in case of foreign currency, at the date of exchange prevailing at the date of completion of the said project.
3. Endorsements or references by previous clients confirming the successful performance on previous projects. The endorsements should preferably confirm the value and dates for the projects.
4. Any other information in support of capability and experience of the party.



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Part 4: Relevant Services Executed in the Last Fifteen Years Which Best Illustrate Qualifications

Using the format below, provide information on each reference project for which your company, either itself/consortium or through contractor(s) executed, illustrating your development, design/architecture, construction and O&M (use separate sheets for each category of experience and JV partner, if any).

Name of the Applicant	
Project Executed by the Applicant himself or through contractor. In case project executed by the contractor, please state his name	
Project name, its nature and relevance with the project under consideration in terms of waste water treatment plant:	Approx Value of the Project (in PKR)
Project Location (City + Country)	Production Capacity/Meters Installed
Name of Client/Customer, if applicable:	Name of the client's contact persons, email, phone and fax number [it is implied that WASA has authority of reference check]
Address of the Client/Customer:	Value of work performed (PKR) by the applicant/contractor (if applicable)
Start Date : (Month/Year):	Completion Date :(Month/Year):
Name of sub-contractors, if any:	Nature of work performed by applicant/ his contractor (if applicable)
Name & designations of the senior staff involved and functions performed:	
Name of the above mentioned Senior Staff (Project Director/Co-coordinator, Construction Manager, Architect, O&M Head) who will work on WASA project under consideration	
Narrative Description of Project	

Name and Signature of the Authorized Representative:



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LAHORE



Part 5: Curriculum Vitae (CV) of Project Team:
[Having minimum prescribed experience]

1. Proposed Position:

2. Name of Firm:

3. Name of Staff:

4. Profession:

5. Date of Birth:

6. Nationality:

7. Membership in Professional Societies:

8. Detailed Tasks Assigned on the Project:

9. Key Qualifications:

[Give an outline of staff **member's experience and training most pertinent to tasks on assignment. Use up to one page**].

10. Education:
[Summarize college/university/professional and other specialized education of staff member].
11. Project experience (Project value minimum of PKR 3 Billion) relevant to the Project under consideration. Please state the following:
 - a) Name of the project;
 - b) Location city and country of the project;
 - c) Value of the project in PKR;
 - d) Duration of the project (start date and end date);
 - e) Designation in the project;
 - f) Major tasks performed; and
 - g) Achievement at the project, if any.

12. Employment Record:



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[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, title of positions held and location of assignments.].

13. Languages:-

[Indicate proficiency in speaking, reading and writing of each language: excellent, good, fair, or poor].

14. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, these bio-data correctly describe myself, my qualifications and my experience.

Signature of Staff Member or
Authorized official from the Firm

Date: _____
Day/Month/Year



REQUEST FOR PROPOSAL
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LAHORE



Form 7: Format of Technical Proposal

Date: _____

Dy. Managing Director (Engg)
Water and Sanitation Agency (WASA)
31-B Zahoor Elahi Rd, Block B Gulberg 2,
Lahore, Punjab, Pakistan

Subject: Procurement, Installation And Operation & Maintenance of Water Meters in Lahore , Lahore, Pakistan through Build-Operate and Transfer Mode

Dear Sir,

We, [insert name of Bidder] hereby submit our Technical Proposal in response to your Request for Proposal (RFP) dated [-] issued for the above-cited project (the **“Project”**). We hereby unconditionally offer to undertake and complete the Project through performance **of all works and services in accordance with the draft Concession Agreement (“Concession Agreement”)**.

We understand and accept that the Authority may require us, under the applicable laws, to clarify our Technical Proposal in conformity with its requirements leading to finalization of terms of services.

We hereby declare that all the information and statements made in this Technical Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification / rejection of Bid.

We agree to abide by this Bid for the period of 180 days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

We undertake to initiate work on the Project, in the event of acceptance of our proposal, in accordance with the Concession Agreement to be signed between the parties.

Unless and until a formal concession Agreement is prepared and executed, this Bid, together with your written acceptance thereof, shall constitute a binding contract between both parties. (Concessionaire and The Authority)

Yours sincerely

Signature of Authorized Signatory _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____



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LAHORE



INFORMATION TO BE ENCLOSED IN TECHNICAL PROPOSAL

- a. Work plan, methodology and project implementation timetable mentioned.
- b. Presentation.
- c. Financial Model



REQUEST FOR PROPOSAL
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LAHORE



Form 8: Format of Financial Proposal

Date: _____

Dy. Managing Director (Engg)

Water and Sanitation Agency (WASA)

31-B Zahoor Elahi Rd, Block B Gulberg 2,

Lahore, Punjab, Pakistan

Subject: Procurement, Installation And Operation & Maintenance of Water Meters in Lahore , Lahore, Pakistan through Build-Operate and Transfer Mode

We, [insert name of Bidder] hereby submit our Financial Proposal in response to your Request for Proposal.

We re-affirm as under:

1. The information submitted as part of our Bid is complete and accurate.
2. We accept the documents, terms and conditions of the RFP and Draft Concession Agreement and are bound to undertake this Project in accordance with this RFP and Draft Concession Agreement.
3. Our Financial Proposal shall be binding upon us up to expiration of the validity period of the Bid, i.e. one hundred and eighty (180) days from the Bid Submission Date.

Based on the terms and conditions of this RFP and attached volumes, we hereby propose following per meter rate over the Concession Period:

Sr No	Year	PKR Instalment/meter/annum
1)	1	
2)	2	
3)	3	
4)	4	
5)	5	
6)	6	
7)	7	
8)	8	
9)	9	



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Sr No	Year	PKR Instalment/meter/annum
10)	10	
Total Discounted @ 10%		

Note: The present value of meter rate shall be ascertained using a discount rate of 10%.

We also propose the following:

Sf	Description	Bid Price in PKR
A1	Viability Gap Fund Requirement:	
A2	Project Cost:	

Signature of Authorized Signatory _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____



Form 9: Comments/Suggestions of the Firm

[Present and justify here any modifications or improvement to the Request for Proposal and/or on Counterpart Staff and Facilities to be Provided by the Client, you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities).]

On the Request for Proposal (RFP)

1.

2.

3.

4.

5.

6.

Etc.

On the data, services and facilities to be provided by the Punjab Public Private Partnership Authority indicated in the RFP:-

1.

2.

3.

4.

5.

Etc.



REQUEST FOR PROPOSAL
PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN
LAHORE



Form 10: Pending Litigation and Litigation History

Bidder's Name: _____

Date: _____

Tender No. : _____

Page _____ of _____ pages

Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (in Pak Rupees)
		Contract Identification: Name of Employer: Address of Employer: Reason(s) for non performance:	
<input type="checkbox"/> No pending litigation			
<input type="checkbox"/> Pending litigation			



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LAHORE



Section E: Technical Specification of The Meters



REQUEST FOR PROPOSAL

PROCUREMENT, INSTALLATION AND OPERATION & MAINTENANCE OF WATER METERS IN LAHORE



Technical Specification of the meters

Under this project 711,265 mechanical consumer water meters with following specifications shall be procured:

Water Meter Specifications:

A) Mechanical Water Meters

I. Technology: Multi Jet Dry Type /Volumetric Rotary Piston/Notating disc with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.

II. Certifications:

ISO:4064 (International Organisation Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC

III. General Features:

- Shall have possibility for both visual and automatic meter reading outputs;
- Tamper proof
- Provided with non-return wall
- Un-affected by grit and particulates
- Provided with wire and lead seal
- Not affected by magnetic field

iv. Detailed metrological specifications

- Size: 15 mm, 20 mm and 25mm
- Accuracy: Class II
- Material: Brass/Non-ferrous metal
- Protection Class: IP-68
- Ambient Temperature: +5° to 55° C
- Liquid Temperature: Upto 50° C
- Pressure: 16 Bar
- Flow rate: $Q_3/Q_1 = 160$
- Maximum flow rate: $m^3/h: Q_3$

15mm	20mm	25mm
2.5	4.0	6.3

- Installation: Any direction.



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B. Static Water Meters

I. Technology: Static Smart Water Meters (ultrasonic technology, electromagnetic, fluidic oscillation with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.

II. Certifications:

ISO:4064 (International Organisation Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC

III. General Features:

- Shall have possibility for both visual and automatic meter reading outputs;
- No moving parts
- Both visual (LCD) with remote Automated Meter Reading outputs.
- As per class 2 of OIML/ ISO specifications (Current)
- Tamper proof
- Provided with non-return valve
- Un-affected by grit and particulates
- No reverse flow measurement
- Provided with wire and lead seal

iv. Detailed metrological specifications

- Size: 15 mm, 20 mm and 25mm
- Accuracy: Class II
- Material: Brass/Non-ferrous metal
- Protection Class: IP-68
- Ambient Temperature: +5° to 55° C
- Liquid Temperature: Upto 50° C
- Maximum Working Pressure: 16 Bar
- Flow rate: Q3/Q1 = 160
 - Maximum flow rate: m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- Battery Life: Minimum 10-years
- Installation: Any direction.



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LAHORE



Section F: Responsibilities of the Authority



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LAHORE



Responsibilities of the Authority (through WASA) Responsible for signing the Concession Agreement with the Private Party for the Installation of Water Meters;

- Provision of access to the site for installation of Water meters.

CONCESSION AGREEMENT

BETWEEN

Punjab Public Private Partnership Authority
Through
Water and Sanitation Agency
As the Concessions Authority

AND

[●]

As the Concessionaire

[INSERT DATE]

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DRAFT CONCESSION AGREEMENT

This CONCESSION AGREEMENT (the "Agreement") is entered into on this [●] day of [●], [2020] at Lahore, Punjab, Pakistan,

BY AND BETWEEN:

1. Lahore Water and Sanitation Agency, through its Managing Director having its office at 31-B Zahoor Ilahi Road, Block B Gulberg III, Lahore, Punjab, Pakistan (hereinafter referred to as the "Authority" or "Concessions Authority"), which expression shall, mean and include its successors-in-interest and permitted assigns) of First Part; and
2. [●], a company incorporated under the provisions of the Companies Act 2017, having its registered office at [●] through _____ (hereinafter referred to as the "Concessionaire", which expression shall, unless the context otherwise requires, include its successors-in-interest and permitted assigns) of Second Part.

(The Authority and the Concessionaire are hereinafter collectively referred to as the "Parties" and each individually as a "Party").

WHEREAS:

- A. The Authority has identified the Project that is to be implemented, through Public Private Partnership, on a Build-Operate-Transfer (BOT) basis.
- B. On [Insert Date] a Request for Proposals (together with the related advertisements) (the "RFP") on a single stage three envelope basis as per PPP Act was issued by the Authority to prospective bidders for, *inter alia*, inviting submission of bids for grant of the Concession for the implementation of the Project.
- C. In response to the RFP, the Authority received proposals from various bidders and the Authority after having evaluated the pre-qualification document, technical and financial proposals submitted by all bidders accepted the proposal submitted by the Successful Bidder [consisting of **M/s [●],[●] and [●] (collectively the "Consortium") with [●] as its Lead Member** (as hereinafter defined) / [●] (*as a single/individual bidder*)] and a Letter of Award, bearing no. [●], dated [●] was issued to the Successful Bidder;
- D. In accordance with the RFP, the Successful Bidder has incorporated the Concessionaire in accordance with the Companies Act, 2017, as a special purpose vehicle for the purposes of the Project;
- E. The Authority is granting concession to the Concessionaire as per the recommendations of the bid evaluation committee based on the evaluation of the pre-qualification document, technical and financial proposal submitted by the Successful Bidder in accordance with this Agreement to execute the Project and at the end of Concession Period transfer the Project to the Authority, which will then transfer the Project to WASA in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations and warranties, conditions and undertakings herein contained, and intending to be legally bound hereby, the Parties hereby agree as follows:

1. DEFINITIONS & INTERPRETATIONS

1.1. Definitions

In the Agreement, except to the extent that the subject or context otherwise requires, the following expressions shall have the following meanings:

“Abandon” or “Abandoned” means the Concessionaire abandoning the Project or the Project Site by failing to execute its duties and obligations under this Agreement on any particular day;

“Additional Cost” means the **additional capital expenditure** and/or the additional operating costs and/or any adverse financial impact on the Concessionaire and/or additional taxes and/or all of the above as the case may be, which the Concessionaire has or would be required to incur and which has / have arisen as a consequence of Change of Scope or Change in Law; provided, that the Additional Costs shall be paid directly to the Concessionaire by the Authority in terms of this Agreement and shall not form part of Total Project Cost.;

“Affected Party” shall have the meaning ascribed to it in Article 10.1.

“Agreement” means this Agreement dated as of the date first written above together with Recitals and all Schedules attached hereto, by and between the Authority and the Concessionaire, as may be amended by the Parties from time to time.

“Applicable Laws” means any statute, law, regulation, development control regulations, ordinance, notification, rule, judgment, order, decree, bye-law, clearance, directive, guideline, policy, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration having the force of law of any of the foregoing, by any Government Agency or instrumentality thereof having jurisdiction over the matter in question, as may be in force and effect during the subsistence of this Agreement, including the laws, as may be amended, re-promulgated, substituted or replaced from time to time, detailed in Schedule 10 of this Agreement.

“Applicable Permits” means all clearances, permits, authorisations, permissions, consents, exemptions, licenses, no-objection certificates and approvals required to be obtained or maintained under or pursuant to Applicable Laws, in connection with implementation of the Project during the subsistence of this Agreement.

“Appointed Date” means the date of this Agreement.

“Approved Detailed Plan” means the Detailed Plan, provided in Schedule 4 – Annex A of this Agreement, which was provided by the Successful Bidder as part of its Technical Proposal during the bidding stage and approved by Authority in accordance with this Agreement.

"Authority Event of Default" shall have the meaning ascribed to it in Article 11.1.2.

"Authority Proposal to Rectify" shall have the meaning ascribed to it in Article 11.2.2.(b).

“Book Value” means the amount of cost (including capital expenditure and operational costs) incurred on the Project including interest capitalized on the debt portion of the financing as per the books of the Concessionaire, in either case net of depreciation charged on the basis of

straight line method and amortised equally over the O&M Period, duly verified and certified by the Joint Auditor in accordance with Generally Accepted Accounting Principles or any other corporate legal standard. In computing the Book Value, the Joint Auditor shall rely on the costs of the actual work done as approved by the Consultant. Provided that in the event of Termination, the Additional Cost, if any, compensated by the Authority and revenue or proceeds earned from the Project in accordance with this Agreement, shall, to the extent capitalised, be excluded in computing the Book Value.

“BOT” or “Build-Operate-and-**Transfer**” shall bear the meaning ascribed thereto under the Second Schedule of the PPP Act.

“Business Day” shall mean a day (other than a Sunday) on which banks in Pakistan are generally open for business;

“**Certificate of Compliance**” shall have the meaning ascribed to it in Article 3.1.3. (b).

“**Change in Law**” shall mean:

- (a) The adoption, promulgation, repeal, modification or reinterpretation after the date of this Agreement by any Government Agency of any Applicable Laws of Pakistan (including a final, binding and non-appealable decision of any Government Agency);
- (b) the imposition by a Government Agency of any material term or condition in connection with the issuance, renewal, extension, replacement or modification of any Applicable Permit after the date of this Agreement
- (c) the imposition by a Government Agency of any additional Applicable Permit; or
- (d) the imposition of an increased rate of taxes, duties, fees, cess or charge imposed by any Government Agency under the Applicable Laws of Pakistan,

that in the case of each of section (a), (b), (c) or (d) above establishes either a material increase in the Total Project Cost or a material decrease in revenue, as a requirement for the design, operation or maintenance of the Project Installation that is materially more restrictive than the most restrictive requirements: (i) under the Laws of Pakistan as in effect as of the date of this Agreement; (ii) specified in any applications, or other documents filed in connection with such applications, for any Applicable Permits filed by the Concessionaire on or before the Project Construction Completion Date; (iii) agreed to by the Concessionaire in any of the Project Agreements. Provided that a Change in Law shall not cover any law or change to it that comes into effect on or after the date of the execution of this Agreement if it has been gazetted prior to the date of execution of this Agreement.

“**Change in Ownership**” shall mean any issuance, sale, transfer, conveyance, disposal or any event, transaction, arrangement, Encumbrance or agreement of any nature that results in or may result in:

- (a) the issuance of any ordinary share (as defined in the Companies Act 2017) to any Person other than the Successful Bidder; or
- (b) the direct and/or indirect transfer of legal, and/or beneficial ownership of any shares,

or securities convertible into shares, that causes or may cause the sale, transfer, conveyance or disposal of the Successful Bidder's legal and/or beneficial ownership, direct or indirect, in the total (or any part thereof) paid up and outstanding ordinary shares in the Concessionaire;

and the Successful Bidder, as a result of (a) or (b) above, no longer owns or controls more than fifty percent (50%) of the ordinary shares of the Concessionaire and/or loses the power to direct the management, policies or decisions of the Concessionaire during the Concession Period.

"Commercial Operation Date" or "**COD**" has the meaning ascribed to this term in Article 6.3.

"**Competent Authority**" means the concerned authority or department of duly empowered and authorized to grant necessary sanctions and approvals.

"**Compliance Date**" means the date on which the Parties shall fulfil the Conditions Precedent (under Article 3), evidenced by the issuance of the "**Certificate of Compliance**" by each of the respective Parties / their authorized representatives.

"Concession" shall have the meaning ascribed to it in Article 2.2.

"**Concession Period**" of the Agreement shall have the meaning ascribed to it in Article 2.2.

"Concessionaire" shall have the meaning ascribed to it in the Preamble of this Agreement.

"Concessionaire Event of Default" shall have the meaning ascribed to it in Article 11.1.1 of this Agreement.

"**Concessionaire's Proposal to Rectify**" shall have the meaning ascribed to it in Article 11.2.1. (b) of this Agreement.

"Concessions Authority" shall have the meaning ascribed to this term in the Preamble of this Agreement.

"**Consortium**" means the consortium consisting of (i) [●], (ii) [●], and (iii) [●] formed, to implement the Project.

"**Construction Performance Security**" means a first demand irrevocable and unconditional bank guarantee valid throughout the Construction Period, issued by a scheduled bank in Pakistan with a minimum credit rating of at least 'AA' acceptable to the Authority, in the form of a demand guarantee or a standby letter of credit, of an amount equal to two percent (2%) of the estimated total project cost, as set forth in the Financial Proposal of the Successful Bidder, in the form of the instrument provided in Schedule 2 – Annex A (*Form of Construction Performance Security*).

"**Construction Period**" shall have the meaning ascribed to it in Article 6.1 of this Agreement;

"**Consultants**" shall mean the consultants appointed by the Authority in accordance with the provisions of Article 9.2, including a third party consultant or/and a Quality Assurance Inspector,

as the context requires, to monitor the Project during the Concession Period.

“Conditions Precedent” shall have the meaning ascribed to it in Article 3.

“Cure Period” shall have the meaning ascribed to it in Articles 11.2.1. (c).

“Dispute” shall have the meaning ascribed to it in Article 13.

“Encumbrance” means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security, interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances and encroachments on the Project Site.

“Equipment” shall mean the water metering equipment/machines with quantity and specifications as detailed in Schedule 4 – Annex C and compliant with prescribed International Standards.

“Equity Documents” shall mean the documents, deeds and agreements evidencing subscription to Concessionaire’s equity capital to the extent of the equity component of the Total Project Cost.

“Financial Assistance” means the aggregate amount provided to the Concessionaire by way of loan, finance, advances, guarantees, refinancing or otherwise and other debt instruments by the Lenders for the financing of up to eighty percent (80%) of the Total Project Cost.

“Financial Closure” means the execution and delivery of the Financing Documents and Equity Documents evidencing sufficient financing for the development, design, engineering, installation, operation of the Project and evidence of commitments for such equity as is required by the Concessionaire to satisfy the requirements of the Lenders with respect to the Financial Assistance for the Project (following the resolution of any objections raised by the Authority to a term sheet or debt repayment Schedule in accordance with this Agreement that sets out a principal repayment Schedule and the other principal terms of the transaction between the Concessionaire and the Lenders) and the satisfaction or waiver of all conditions precedent for initial draw down of funds by Concessionaire under the Financing Documents and which shall in any case not be later than 180 days from the Appointed Date as applicable hereof.

“Financing Documents” means the loan agreements, for which the term sheets related thereto have not been objected to by the Authority pursuant to Article 8.3, executed by the Successful Bidder or the Concessionaire and the Lenders in respect of the Financial Assistance to be provided by the Lenders to the Concessionaire by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debenture bonds and other debt instruments, security agreements and other documents relating to the financing (including refinancing) of the Total Project Cost as such agreements, instruments, guarantees and documents may be amended from time to time in accordance with the provisions of Article 8.3.

“Financing Rate” means the weighted average financing rate of the Concessionaire calculated as $(\% \text{ of Debt in Capital Structure}) \times (\text{Pre-Tax Cost of Debt}) + (\% \text{ of Equity in Capital Structure}) \times (\text{KIBOR} + (\bullet)\% \text{ Annually})$.

“Force Majeure” or **“Force Majeure Event”** shall have the meaning ascribed to it in Article 10.

“Good Industry Practice” means the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected from a skilled and experienced Person engaged in the development, implementation, operation and maintenance or supervision or monitoring thereof or any of them of a Project of the type and size similar to that of the Project.

“GoPb” shall mean the Government of Punjab.

“Government Agency” shall mean (a) the Government of Pakistan, the GoPb, or any subdivision of either, or any local governmental authority with jurisdiction over the Concessionaire, the Project, or any part thereof, (b) any department, authority, instrumentality, agency, or judicial body of the Government of Pakistan, the Government of Punjab, the Authority or any local governmental authority, (c) the courts and tribunals of Pakistan, or (d) any commission or independent regulatory agency having jurisdiction over the Concessionaire, the Project or any part thereof.

“International Standards” means the specifications and standards for completion of the Project given in Schedule 4- Annex A of this Agreement;

“Joint Auditor” shall mean the auditor appointed jointly by the Concessionaire and the Authority, in accordance with the Punjab Procurement Regulatory Authority Act, 2009, for any purpose under this Agreement including but not limited to matters relating the cost certifications, Additional Costs, Termination Payments etc.

“KIBOR” means One (1) Year Karachi Inter Bank Offer Rate which is the Average rate, Ask Side, for the relevant tenor, as published on Reuters page KIBOR or as published by the Financial Markets Association of Pakistan in case the Reuters page is unavailable.

“Lead Member” means partner who is lead the consortium [●].¹

“Lenders” means financial institutions, banks and multilateral lending agencies including their successors and assigns, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for financing a maximum of eighty percent (80%) of the Total Project Cost.

“Locally Assembled” means water meters assembled within Pakistan using local or foreign parts.

“Material Adverse Effect” means consequences of events outside the control of the Affected Party which (a) render any right vested in a Party by the terms of the Concession ineffective, or (b) significantly impairs or frustrates the ability of any Party to observe and perform in a timely manner its obligations under this Agreement, or (c) frustrates a material provision of this Agreement or any of the Project Agreements.

“Material Breach” means a breach by either Party of any of its obligations under the Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure within period prescribed under this Agreement.

¹ To be deleted in case there is no consortium and the Project is awarded to a single bidder.

“Notice to Commence” shall have the meaning ascribed to it in Article 3.1.3. (c).

“Ordinary Share Capital” shall mean any of the issued and paid-up share capital of the Concessionaire with or without voting or other rights of management and control.

“O&M Performance Security” means a first demand irrevocable and unconditional guarantee, issued by a scheduled bank in Pakistan with a minimum credit rating of at least ‘AA’ acceptable to the Authority in the form of a demand guarantee or a standby letter of credit (being in an amount equal to two percent (2%) of the estimated total project cost, as indicated in the Financial Proposal of the Successful Bidder, that shall be replaced every year so as to ensure that it remains valid throughout the O&M Period, provided by the Concessionaire to the Authority in the form of the instrument attached herewith as Schedule 2 – Annex B (*Form of O&M Performance Security*).

“O&M Period” shall mean the period between the Project Construction Completion Date and the Transfer Date during which the Concessionaire shall: (a) operate and maintain the Project Installations; and (b) collect User Charges.

“O&M Manual” shall have the meaning ascribed to it in Article 8.5. (b).

“Pak Rupee(s)” or “PKR” shall mean the official currency of Pakistan.

“Parties” means the parties to the Agreement and **“Party”** shall mean any of them, as the context may admit or requires.

“Performance Guarantee” shall mean either the Construction Performance Security, the O&M Performance Security or any other guarantee or security that the Authority requires to be provided by the Concessionaire pursuant to this Agreement.

“Person” unless specifically provided otherwise, shall mean any individual, company, corporation, partnership, joint venture, trust or Government Agency or any other legal entity as the context may admit.

“PPP Act” shall mean the Punjab Public Private Partnership Act 2019.

“PPP Board” means the Punjab Public Private Partnership Policy and Monitoring Board of the Authority set up pursuant to Section 4 of the PPP Act;

“PPP Cell” means the Punjab Public Private Partnership Cell set up pursuant to Section 7 of the PPP Act;

“Preliminary Notice to Remedy” shall have the meaning ascribed to it in Article 11.2.1. (b).

“Project” means, subject to the provisions of this Agreement, the (i) investment; (ii) procurement; (iii) testing; (iv) calibration; (v) installation; (vi) operation; (v) maintenance of the Equipment and ancillary infrastructure facilities; (vi) transfer of the Project Installations, as envisaged; and (vii) meter reading on monthly basis or mutually agreed intervals, to the Authority at the end of the Concession Period or on prior termination of this Agreement.

“Project Agreements” means, collectively, this Agreement, the Financing Documents, and any agreement with a Sub-Contractor, in each case as amended, supplemented or otherwise modified from time to time and any other agreements or contract that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project.

“Project Construction Completion Date” means the date of the completion of the Construction Period, which shall occur no later than the expiry of a period of two (2) years from the date of execution of this Agreement by which *inter alia* the installation of the Equipment and work on the Project Installations at the Project Site are completed in accordance with the provisions of this Agreement and when the Project Construction Completion Certificate is issued by the Concessioneing Authority as per Article 6.2.

“Project Construction Completion Certificate” means the certificate issued to the Concessionaire by the Authority as described in Article 6.2.

“Project Installation” means the installation of the water metering, as per the specifications described in Schedule 4 (*International Standards/ Detailed Design/ Equipment Specifications etc.*) including finishing and furnishing works, Equipment installed therein to be used for the purposes of the Project and including but not limited to the fixtures and equipment, other related facilities installed or affixed and all additions, modifications, alterations and extensions thereto as may be effected by the Concessionaire from time to time, as per the Approved Detailed Plan on the Project Site.

“Project Site” means the location as specified in Schedule 1 together with building, constructed or covered area thereof. The maps of the Project Site and specifications of the covered area are attached herewith as Schedule 1.

“Quality Assurance Inspector” means an entity appointed by the Authority as a Consultant to monitor the activities /operations of the Concessionaire pursuant to this Agreement including, but not limited to, assessing various performance metrics such as quality of the work done by the Concessionaire and the Authority and Concessionaire shall jointly be responsible for the payments to the Quality Assurance Inspector in equal proportion.

“RFP Bid Bond” The bid bond for an amount of PKR 250,000,000 (Pak Rupees Two Hundred Fifty Million Only) submitted by the Successful Bidder in response to the RFP issued by the Authority.

“Standard Operating Procedures” or **“SOPs”** shall mean the processes developed and documented by the Concessionaire to ensure services and/or products are delivered consistently during the O&M Period at the Project Site.

“Sub-Contractor(s)” means a reputed Person with whom the Concessionaire has entered into or may enter into contracts / agreements for the purpose of development and implementation of the Project.

“Successful Bidder” means [[●] / the bidder / consortium consisting of [●], [●] and [●] (with [●] as its Lead Member)] that is finally awarded the Concession and invited to enter into this Agreement.

“Termination” means termination of this Agreement, pursuant to Termination Notice or non-

fulfilment of Conditions Precedent or otherwise in accordance with the provisions of the Agreement but shall not, unless the context otherwise requires, include expiry of the Agreement due to efflux of time in the normal course.

“Termination Date” means the date specified in the Termination Notice as the date on which Termination occurs.

“Termination Notice” means the notice of Termination of the Agreement by either Party to the other Party, in accordance with Article 11.3 of this Agreement.

“Termination Payment” means the amount payable by the Authority to the Concessionaire upon Termination in accordance with Articles 10.7 and 11.4 of this Agreement.

“Third Party” or “Third Parties” means any Person, real or legal or entity other than the Parties of the Agreement.

“Total Project Cost” means the actual capital and operational cost of the Project upon completion of the Project as certified by the statutory auditor(s).

“Transfer Assets” shall comprise the Project Site, the Equipment, the Project Installations, all movable goods and immovable structures with all equipment and machinery, including spare parts, vehicles, furnishings, materials, all operating manuals, insurance policies, warranties of equipment and design drawings relating thereto as more fully described in Schedule 4- Annex A and C and the Approved Detailed Plan and as existing at the Project Site on the Transfer Date.

“Transfer Date” means the date immediately following the date of the expiry of the Concession Period of the Term under this Agreement or any earlier termination thereof in accordance with the provisions of this Agreement.

“Users” means the people or entities utilizing the Equipment that form part of the Project.

“User Charges” means all charges, costs, fees, tariff, rentals and other amounts by whatever name called, payable by the Authority to the Concessionaire under Article 7.1 in consideration of entering into and providing services under this Agreement. The User Charges are payable as specified in Schedule 7.

“Variation” means any change to the Project, which is instructed or approved as a variation by the Authority in accordance with Article 5.

“Vesting Certificate” shall have the meaning ascribed to it in Article 12.1 (f).

“WASA” shall mean the Water and Sanitation Agency established under the Lahore Development Authority Act, 1975.

1.2. Interpretation

In the Agreement, unless the context otherwise requires:

(a) any reference to a statutory provision shall include such provision as is from time to time

modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;

- (b) references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or byelaws which have the force of law in Pakistan, in particular Punjab;
- (c) the words importing singular shall include plural and vice versa;
- (d) the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of the Agreement;
- (e) the words "include" and "including" are to be construed without limitation;
- (f) references to "development" **and/or "establishment "** include investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto;
- (g) any reference to day shall mean a reference to a calendar day;
- (h) any reference to month shall mean a reference to a calendar month as per the Gregorian Calendar;
- (i) the Schedules to the Agreement form an integral part of the Agreement and will be in full force and effect as though they were expressly set out in the body of the Agreement;
- (j) references to recitals, Articles, sub-articles, Schedules, Annex in the Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub- articles, Schedules and Annex of or to this Agreement.

1.3. Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.

2. THE CONCESSION AND THE DELEGATION OF FUNCTIONS

2.1. [NOT USED]

2.2. Grant of Rights to Concessionaire

Subject to and in accordance with the provisions of this Agreement, the Applicable Laws, the Applicable Permits and Good Industry Practice, the Concessions Authority hereby grants to the Concessionaire and the Concessionaire hereby accepts the exclusive right, license and authority to plan, construct, develop, design, engineer, monitor, procure, install, finance, equip, operate, maintain and manage the Project at the Project Site (the "Concession") and provide services for a period of twelve (12) years (or until early termination by a Termination Notice in accordance with this Agreement), commencing from the date of execution of this Agreement and ending on the Transfer Date or the Termination Date (the "Concession Period") and to exercise and/or enjoy the rights, power, privileges and entitlements as set forth in this Agreement and implement the Project subject to and in accordance with the terms and conditions set forth herein.

2.3. Scope of Concession

Subject to and in accordance with the provisions of this Agreement, the Concession hereby granted by the Authority shall oblige or entitle (as the case may be) the Concessionaire, during the Concession Period to:

- a. access the relevant locations on the Project Site for the purpose of the Project and to the extent conferred by the provisions of this Agreement (it being clarified that no proprietary interest or right whatsoever is being transferred to the Concessionaire in the Project Site other than the right to access the Project Site to perform its obligations under this Agreement);
- b. plan, design, develop, furnish, finish, procure, finance, install locally assembled water meters at the Project Site conforming to approved specifications (installation including but not limited to dismantling plain cement concrete (PCC)/road metalling/green belt/pavements, excavation, cutting of existing pipe, extension to suitable location to install meter by laying of High Density Polyethylene Pipe (HDPE) pipe PE 100 of 25mm o/d or any suitable size, along with all the necessary accessories / specials (HDPE), valves required to install and operational the water meter, backfilling with suitable material and restoration in original etc. complete in all respects as per site requirements), collect and provide meter readings to WASA and operate, maintain and manage the Project Installations as per the terms and conditions of this Agreement including specifications and standards, Applicable Laws, Applicable Permits, Good Industry Practice (including good environment practice) and transfer the same in perfect working condition meeting the specified parameters but not limited to accuracy to the Authority on the expiry or prior termination of the Concession Period;
- c. Concessionaire shall be responsible to ensure the accuracy of water meters throughout the concession period to be verified at random by third party validator / WASA;

- d. comply with the minimum standards and indicators for the performance of the obligations under this Agreement and if the Concessionaire wishes to provide better performance without variation to these standards it may do so by providing innovative and cost-effective solutions to meet these standards;
- e. perform and fulfill all of the Concessionaire's obligations in accordance with this Agreement including specifications and standards, Applicable Laws, Applicable Permits, Good Industry Practice;
- f. on and from the Commercial Operation Date of the batch of meters installed in a month and until the Transfer Date, get reimbursement of the User Charges by the Concessioneing Authority for the meters of which the meter reading through AMR on monthly basis in four (4) batches on weekly basis is provided to the Authority, in accordance with the terms of this Agreement;
- g. provide services to the Authority in accordance with the provisions of this Agreement including specifications and standards, Applicable Laws, Applicable Permits, Good Industry Practice;
- h. construct, install, maintain, replace and operate the Equipment and ancillary infrastructure at the Project Site as per the specifications and standards set out in Schedule 4;
- i. maintain complete record of the information generated by the Equipment;
- j. bear and pay all costs, expenses, fees, taxes, levies and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement;
- k. subject to this Agreement and other relevant provisions under Applicable Laws, enter into agreements with such legal entities, as it may deem necessary and appropriate, for performing its obligations under this Agreement;
- l. the Concessionaire may not create any Encumbrance on the Equipment, Project Installations or any part thereof;
- m. arrange pre-shipment inspection at manufacturer's site of work by a firm of international repute regarding their correctness and genuineness in respect of the approved meters specifications (with a certificate so issued to be provided at the time of delivery to site of work failing which material will not be accepted); and
- n. provide the Authority with the access of remote monitoring through automatic meter reading device; and
- o. exercise such other rights and obligations as the Authority may determine as being necessary or desirable for the purpose incidental and necessary for implementing the Project.

2.4. **"Concession Period" or "Term" of Agreement**

- (a) This Agreement shall be valid and binding on the Parties commencing from the date of execution of this Agreement for a period of twelve (12) years thereafter and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions of this Agreement. Provided that in the event of early termination, the period of the Agreement shall be

limited to the period commencing from the Appointed Date and ending with the Termination Date.

- (b) Upon expiry of the Concession Period as per this Article, hundred percent (100%) of the Ordinary Share Capital of the Concessionaire along with Transfer Assets in working conditions conforming to the specified parameters, as certified by the Quality Assurance Inspector, shall be transferred to the Authority in accordance with the provisions of Article 12 (*Transfer of Shares*).

2.5. Acceptance by Concessionaire

In consideration of the rights, privileges and benefits conferred upon by the Concessions Authority pursuant to this Agreement and other good and valuable consideration expressed herein, the Concessionaire hereby accepts and agrees and undertakes to perform / discharge all of its obligations in accordance with the provisions hereof.

3. CONDITIONS PRECEDENT

3.1. Conditions Precedent

Save and except as may otherwise be expressly provided herein, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of **all the conditions precedent (“Conditions Precedent”)** as set out in Article 3.1.1 and Article 3.1.2 hereinbelow on or before the expiry of a period of sixty (60) days from the date of execution of this Agreement.

3.1.1. Conditions Precedent for the Authority

The Authority shall have:

- (a) allowed the Concessionaire to access the relevant locations on the Project Site;
- (b) upon receipt of the Construction Performance Security, returned the RFP Bid Bond to the Successful Bidder;
- (c) if required, appointed Consultants in accordance with the terms of this Agreement;
- (d) given comments / observations and ordered Variations (if any) to the Approved Detailed Plan for construction, development and installation of Equipment submitted by the Concessionaire under Article 3.1.2 (c), within a time period of (●) days from the date of its receipt. Failure to do so will be considered deemed approval of the Detailed Plan by the Authority; and
- (e) given comments / observations (if any) to an amendment of the Approved Detailed Plan within (●) days from the date of its receipt.

3.1.2. Conditions Precedent for the Concessionaire

The Concessionaire shall have complied with the following:

- (a) Provided the Authority with the Construction Performance Security in accordance with Article 8.2;
- (b) Prepared an Approved Detailed Plan for the Project including the complete design, plan, drawings and all other details required for construction, installation of Equipment and carrying out the Project and achieving the Project Construction Completion Date in accordance with this Agreement and the Applicable Laws. The Approved Detailed Plan shall include construction, finishing details, installation plan and lay outs of the Equipment at the Project Site in accordance with the plan provided in Schedule 4;
- (c) Submitted the Approved Detailed Design to the Authority and/or its appointed Consultant, if any, for their review within a period of (15) days from the date of the execution of this Agreement. If the Authority or its Consultant provides any comments on the Approved Detailed Plan the Concessionaire shall revise the Approved Detailed Plan and resubmit for review;
- (d) Provided the Authority with copies (certified as true by the Director of the Concessionaire) of all resolutions adopted by the Board of Directors of the Concessionaire authorizing the execution, delivery and performance of this Agreement by the Concessionaire;
- (e) Delivered to the Authority, a legal opinion from the legal counsel of the Concessionaire with respect to the authority of the Concessionaire to enter into the Agreement and the enforceability of the provisions thereof;
- (f) Provided to the Authority evidence of import/procurement of Equipment including commercial invoice, packing list, bill of lading, letter of credit and the certificate referred to in Article 2.3(l);
- (g) Sought and received the approval of all term sheets in respect of the Financial Assistance to be obtained from the Lender(s);
- (h) Executed the Financing Agreements and delivered to the Authority, three (3) true copies thereof, duly attested by a Director of the Concessionaire;
- (i) Achieved Financial Closure pursuant to the Financing Agreements within (180) days of the execution of this Agreement and delivered to the Authority, documents evidencing the same including 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model;
- (j) Delivered the Authority with copies of all insurance / takaful policies (if any) obtained in accordance with Article 8.6.;

- (k) Executed the Integrity Pact in the form provided in Schedule 6 (*Integrity Pact*);
- (l) Provided the Authority with copies (certified as true copies by Director of the Concessionaire) of the constitutional documents of the Concessionaire including the Memorandum and Articles of the Association of the Concessionaire as well as all forms filed with the Securities Exchange Commission of Pakistan; and
- (m) Obtained all Government Agency clearances and Applicable Permits under the Applicable Laws for the purposes of the Project.

3.1.3. Obligations to Satisfy Conditions Precedent

- (a) Each Party hereto shall use all reasonable endeavours at its cost and expense to procure the satisfaction in full of its respective Conditions Precedent set out above within sixty (60) days of the Appointed Date.
- (b) Upon satisfaction in full of all Conditions Precedents for a Party, the other Party shall forthwith issue to such Party a Certificate of Compliance with Conditions Precedent (the **"Certificate of Compliance"**).
- (c) The later of the date of issue of Certificate of Compliance to the Concessionaire or the Authority shall be the **"Compliance Date"**, whereupon the remaining obligations of the Parties under this Agreement shall commence and whereon the Authority shall issue the **"Notice to Commence"** to the Concessionaire.
- (d) Each Party shall bear its respective costs and expenses of satisfying such Conditions Precedents unless otherwise expressly provided.

3.1.4. Non-fulfilment of Conditions Precedent

- (a) In the event that (i) any of the Conditions Precedents relating to the Concessionaire set forth in Article 3.1.2 have not been fulfilled by or before sixty (60) days of the Appointed Date, (ii) the delay has not occurred as a result of breach of this Agreement by the Authority or due to Force Majeure, and (iii) unless, the Authority has not waived them fully or partially, the Authority shall have the right to terminate this Agreement forthwith by notice to the Concessionaire and, in case the Authority exercises such right of termination, no Party shall subsequently have any rights or obligations under the Agreement and the Authority shall not be liable in any manner whatsoever to the Concessionaire or persons claiming through or under it.
- (b) In the event the Authority has terminated the Agreement under Article 3.1.4(a) due to non-fulfilment of Conditions Precedent by the Concessionaire, the Authority shall not be liable in any manner whatsoever to the Concessionaire or its Sub-Contractors, agents and employees and the Authority shall encash the Construction Performance Security or the RFP Bid Bond (as the case may be) of the Concessionaire.
- (c) In case of early termination of the Agreement, the Concessionaire shall not have any right whatsoever to access the Project Site or any part thereof.

- (d) In the event that the Concessionaire has fulfilled its Conditions Precedent and the Authority has not procured fulfilment of any or all of the Conditions Precedent set forth in Article 3.1 within the period specified in respect thereof, then the Concessionaire has the option to terminate the Agreement, in which case the Authority shall be liable to return the Concessionaire the Construction Performance Security but the Authority shall have no other liability to the Concessionaire whatsoever.
- (e) Instead of terminating the Agreement as provided in this Article 3.1.4, the Parties may extend the time for fulfilling the Conditions Precedent by mutual agreement.

4. THE PROJECT SITE

4.1. The Licence for the Project

- (a) The Concessions Authority shall procure the access to the relevant locations at the Project Site for the Concessionaire in accordance with the provisions of this Agreement.
- (b) It is expressly agreed that the license granted hereunder to access the relevant locations at the Project Site shall terminate automatically and forthwith, without the need for any action to be taken by the Concessions Authority to terminate the license, upon the Termination of this Agreement for any reason whatsoever.
- (c) Notwithstanding anything contained herein, the Concessionaire acknowledges that its only right to the Project Site is a licence to access the same for the purposes contemplated by this Agreement and the Concessionaire has no ownership or leasehold rights with respect to the Project Site or any part thereof.

4.2. Right and Use of the Project Site

- (a) The Concessionaire shall have access to all the relevant locations on the Project Site (s) and to make at its costs, charges and expenses such investigations and development activities (including but not limited to construction, installation of equipment and related works including overcoming site constraints, if any) and any other activity as may be necessary or appropriate to implement the Project. However, it is being clarified here that in the event of Termination of the Agreement due to non-fulfilment of Conditions Precedent, the Authority shall have no liability to make any payment for the activities undertaken by the Concessionaire on the Project Site.
- (b) The Concessionaire shall not mortgage, transfer, assign, license or otherwise create an Encumbrance on the Project Installations or any part thereof, including the Equipment, during the Concession Period. During the Concession Period, the Concessionaire shall protect the Project Installations from any and all seizures, damage, or Encumbrances, and shall not place or create nor permit any Sub-Contractor or other person claiming through or under the Concessionaire to place or create any Encumbrance or security interest over all or any part of the Project

Installations, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

- (c) The Concessionaire may undertake the installation of meter, equipment at the designated areas of the Project Site either by itself or through a Sub-Contractor possessing the requisite technical, financial and managerial expertise/capability; but in either case, the Concessionaire shall remain solely responsible to meet the International Standards and all other obligations set forth in this Agreement in this regard.
- (d) Subject to the terms of this Agreement, the Concessionaire shall have the right to develop or set up as the context admits or requires, and operate and maintain the Project by itself or through its Sub-Contractors but all risks and responsibilities of performance of obligations under this Agreement shall be solely of the Concessionaire.
- (e) The Concessionaire shall not without the prior written approval of the Authority conduct any activity on the Project Site for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- (f) During the Concession Period, the Concessionaire shall provide the Quality Assurance Inspector and/or the Authority any documentation as required by the Quality Assurance Inspector and/or the Authority with regard to the Project being undertaken by the Concessionaire.
- (g) The Project Installations shall always be accessible to the Authority, the Quality Assurance Inspector, any experts/Consultants appointed by the Authority and their employees and agents for inspection, viewing and as exercise of their rights and performance of their obligations under this Agreement.
- (h) The Concessionaire shall ensure that any hazardous or contaminated material used or intended to be used in carrying out in the Project or in the maintenance of the Project Installations are kept under control and safe keeping in accordance with Applicable Law and Good Industry Practice, and shall ensure all such materials are properly and clearly labelled.

5. VARIATION

5.1. Right to Vary

- (a) The Authority may request a Variation to the Approved Detailed Plan, by issuing a **notice (“Variation Notice”) to the Concessionaire** directly or through the Consultant, setting out in detail the changes required to be made in the Approved Detailed Plan if it is necessary due to an unforeseeable event that is beyond the control of the Authority and if it does not materially or fundamentally change/alter/vary the scope of Concession as provided in Article 2.3 of this Agreement. This Variation Notice can only be issued if it has been approved by the PPP Monitoring & Policy Board.

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- (b) Variations may be initiated by the Authority at any time prior to issuing the Project Installation/ Construction Completion Certificate.
- (c) The Concessionaire shall, within two (2) weeks of receipt of the Variation Notice, provide to the Consultant (if applicable) such information as is necessary and reasonable together with preliminary documentation and details including calculations where necessary, in support of the following:
 - (i) The impact (if any) of the said variation to the Approved Detailed Plan is likely to have on the Project;
 - (ii) The options for implementing the proposed variations and the effect, if any, of each such option would have based on the costs and time thereof;
 - (iii) The estimate of the additional cost and expenses, including for the additional works, which shall be incurred by the Concessionaire for implementing the said variation to the Approved Detailed Plan; and
 - (iv) The assessment of the time (in number of days) which is required to make such variation to the Approved Detailed Plan, and the time implication on the Construction phase of the Project.
- (d) The Consultant (if applicable) shall review the aforesaid information and documents submitted by the Concessionaire, and consult with the Concessionaire, and based on the preferred option:
 - (i) Settle the rates, approve the quantities, and certify the Additional Cost which shall be payable by the Authority to the Concessionaire;
 - (ii) If the Project is delayed as a consequence of the Variation to the Approved Detailed Plan, certify the further Additional Costs which shall be payable by the Authority to the Concessionaire to compensate the Concessionaire for any estimated loss, cost or expense incurred as a consequence of the delay;
 - (iii) Forward to the Authority for its consideration a statement incorporating the certified Additional Cost, and the time within which the Variation to the Approved Detailed Plan shall be carried out by the Concessionaire; and
 - (iv) Forward to the Concessionaire a copy of the statement for the **Concessionaire's records**.
- (e) The Authority may, within a period of thirty (30) days from the date of such statement, issue a written confirmation that the Variation to the Approved Detailed Plan is to be carried out by the Concessionaire, whereupon the Concessionaire shall proceed with the implementation of such changes to the Approved Detailed Plan, and the Authority shall make payment of the certified Additional Cost as certified by the Consultant.
- (f) If the Concessionaire does not receive the written confirmation of the Authority within a period of thirty (30) days from the date of the statement, the Variation Notice issued

by the Authority under this Article shall be deemed to be void, and the Authority shall reimburse the Concessionaire, the cost and expenses as certified by the Consultant as having been incurred by the Concessionaire in preparing and submitting the drawings, documents, estimates and other information in compliance with the Variation Notice.

- (g) A Variation Notice may only be issued by the Authority if the estimate of the cumulative Additional Costs and expenses to be incurred by the Concessionaire for the implementation of the said Variation to the Approved Detailed Plan (after taking into consideration all other Variation Notices, if any, already issued) does not exceed ten percent (10%) of the Total Project Cost.
- (h) It is important to clarify that any Additional Cost that becomes payable under this Article as a result of Variation will be paid directly by the Authority to the Concessionaire and shall not form part of the Total Project Cost.

5.2. Value Engineering

- (a) The Concessionaire may, at any time, submit to the Authority a written proposal which (in the Concessionaire's **opinion**) **will, if adopted**: (i) accelerate the completion of the Project Installations; (ii) reduce the cost of maintaining or operating the Project Installations; (iii) improve the efficiency or value of the completed Project Installations; and/or (iv) otherwise be of benefit to the Authority.
- (b) The proposal shall be prepared at the cost of the Concessionaire and shall include the items and information listed in Article 5.1(c).

5.3. Variation Procedure

- (a) The Authority shall, as soon as practicable after receiving such proposal (under Article 5.2 (*Value Engineering*)), respond with approval, disapproval or comments. The Concessionaire shall not delay any work whilst awaiting a response.
- (b) Upon approving a Variation, the Concessionaire shall make revisions in Approved Detailed Plan and get it approved from the Consultant.

6. THE PROJECT COMPLETION AND COMMERCIAL OPERATION DATE

6.1. Project Completion

- (a) The Concessionaire shall set up and complete installation work of the Project within two (2) years of the execution of this Agreement (the "Installation/Construction Period") in conformity with the Approved Detailed Plan and International Standards.
- (b) The Concessionaire shall install brand new water meters, equipment at the Project Site in compliance with standards and specifications.
- (c) During the Installation/ Construction Period, the Concessionaire shall furnish to the Authority and the Quality Assurance Inspector monthly progress reports of actual

progress of the construction works and shall give all such other relevant information as may be required by the Authority and/or the Consultant.

- (d) The Quality Assurance Inspector shall inspect the installation/construction works of the Project Installation during the Installation/Construction Period and make out an **Inspection Report of such inspection (the “Inspection Report”)**. It shall send a copy of the Inspection Report to the Authority and the Concessionaire. The Concessionaire shall take necessary action to remedy the defects and deficiencies, if any, stated in the Inspection Report for ensuring compliance with the provisions of this Agreement. If the Quality Assurance Inspector, after appropriate inspections and tests, reasonably considers that materials which are not in accordance with the International Standards are being used for carrying out the Construction of the Project Installations, it may notify the Concessionaire, setting out the basis of such consideration and changes which the Concessionaire should undertake to comply with the International Standards. Such inspection or submission of Inspection Report by the Quality Assurance Inspector shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.
- (e) In the event that the Project Construction Completion Date is not achieved within two (2) years of the execution of this Agreement for any reason other than a Force Majeure Event or reasons attributable to the Authority, the Concessionaire shall pay to the Authority damages for delay beyond the date on which the Project Construction Completion Date was due to occur to the extent of one percent (1%) of the amount of the Construction Performance Security per day for every day of delay or part thereof until the Project Installations are completed. The Authority and the Concessionaire agree the aforesaid damages are a reasonable compensation for the loss suffered by the Authority and are not a penalty. Provided that nothing contained in this paragraph shall be deemed or construed to authorize any delay by the Concessionaire in establishing and setting up the Project Installations within the Construction Period.
- (f) In the event that the Project Installation is not completed within the 90 days period following the end of the Construction Period, the Authority shall be entitled to encash the Construction Performance Security and to terminate the Agreement on account of a Concessionaire Event of Default. Provided that, the Authority may, in its sole discretion, extend the time for completing the Project on such terms and conditions as it deems fit.

6.2. Project Construction Completion Certificate

Upon completion of the Project Installations and achievement of the Project Construction Completion Date, the Concessionaire may seek the issuance of **“Project Construction Completion Certificate”** upon written intimation to the Authority of such completion. The Authority itself or through the Quality Assurance Inspector or any other Consultant(s) appointed pursuant to this Agreement, shall conduct the necessary tests/inspections to ensure that the Project Installations are completed in accordance with the International Standards and Good Industry Practice and carry out detailed inspections of the Project Installations relating to the requirements set out in this Agreement and the Approved Detailed Plan and verify the relevant documentation. The date and time of each of the inspection and test shall be determined by the Quality Assurance Inspector in consultation with the Concessionaire and notified to the Authority who may designate its representative to witness the inspection and tests. Upon completion of each inspection/test, the Quality Assurance

Inspector shall provide to the Concessionaire and the Authority copies of all inspection/test data including detailed results. For the avoidance of doubt, it is expressly agreed that the Quality Assurance Inspector may require the Concessionaire to carry out or cause to be carried out additional inspection/tests, in accordance with Good Industry Practice, for determining the compliance of the Project with specifications and standards. If the inspection/tests are successful as determined by the relevant Quality Assurance Inspector and all parts of the Project Installations have been completed and can be legally, safely and reliably opened for commercial operations (in the opinion of the Quality Assurance Inspector), the Quality Assurance Inspector and the Authority shall jointly issue the Project Construction Completion Certificate to the Concessionaire in the form prescribed in Schedule 8- Annex B. Project Construction Completion Certificate shall not be valid, unless it is signed by the Quality Assurance Inspector appointed by the Authority for conducting inspection/tests. The cost of conducting inspection/tests by the Quality Assurance Inspector shall be exclusively borne by the Concessionaire.

6.3. Commercial Operation Date (COD)

The commercial operation date of the Project shall be the first Business Day following the date on which Construction Period is completed (**the “COD” or the “Commercial Operation Date”**). The Project shall enter into commercial service on COD whereupon the Concessionaire shall be entitled to collect the User Charges in accordance with this Agreement.

7. CONSIDERATION, USER CHARGES, REIMBURSEMENT MECHANISM

7.1. User Charges

In consideration of making available the services and the Equipment installed at the Project Site, the Concessionaire shall be paid a User Charge against per Equipment, i.e. water meter installed by the Concessionaire.

7.1.1. Reimbursement of Charges

- (a) After the installation of water meters in thirty (30) days at the Project Sites the Concessionaire shall invoice the Authority the meter upfront charge for the installed water meters as per the agreed Specifications.
- (b) On and from the installation of water meter in thirty (30) days at the Project Sites the Concessionaire shall invoice the Authority the meter user charge for the installed water meters as per the Key Performance Indicators (KPI) and the concession period will be 10 years for that batch.
- (c) Concessionaire shall maintain all record of the water consumed through the water meters.
- (d) The Concessionaire shall raise an invoice every thirty (30) days for the use of the Equipment and submit it to the Authority. The invoice shall note the User Charges, Equipment specification and the period of billing. The Authority or its appointed Consultant shall verify through inspection on sample basis the accuracy of the water meters readings provided by the Concessionaire.. In case of discrepancy between the invoice and the Inspection Report, the Authority shall inform the Concessionaire within fifteen (15) days of the receipt of invoice. The Parties shall use their best efforts to amicably resolve the matter.

7.1.2. General Terms

Following terms shall be applicable to all invoices payable under this Article:

- (a) The Authority shall ensure that payments for all the invoices raised shall be reimbursed to the Concessionaire within a period of sixty (60) days of receipt of invoice. In case of discrepancy between the invoice of the Concessionaire and the record of the Authority, the Authority shall settle the invoice to the extent of undisputed amount of the invoice in the said period.
- (b) In case the Authority fails to make any payment within sixty (60) days of receipt of invoice, the Authority shall pay to the Concessionaire interest on the undisputed amount of such delayed payment at the rate of (KIBOR+ 1%) per annum for the period of delay until the payment has been made in full.
- (c) In event of failure of the Concessionaire to maintain/achieve the specifications, standards and Good Industry Practice as outlined in Schedule 4 Annex A and B, the Authority shall be entitled to deduct such payment amounts, as shall be determined in accordance with Schedule 7.
- (d) All taxes, charges, duties, cess, fees related to the Project or any services thereof shall be payable by the Concessionaire.
- (e) In consideration of entering into this Agreement, the Concessionaire shall only be paid the User Charges per water meter installed. The Authority shall not be liable to pay any other amount to the Concessionaire.
- (f) The Authority shall have the right to withhold and set-off against any amount it is liable to pay to the Concessionaire pursuant to this Agreement, the amount of any payment due to be paid to the Authority by the Concessionaire pursuant to this Agreement.
- (g) In case the concessionaire is failed to provide meter reading to the Authority then the concessionaire is liable to pay penalty at (KIBOR+ 1 %) on the revenue loss to Authority as determined by joint auditor.

8. OBLIGATIONS OF CONCESSIONAIRE

In addition to and not in derogation or substitution of any of its other obligations under the Agreement, the Concessionaire shall have the following obligations, following satisfaction of the Conditions Precedent:

8.1. Project Development

The Concessionaire shall:

- (a) Establish the Project Installations in accordance with this Agreement; and
- (b) Maintain an equity-to-debt ratio of 20:80 during the period between the Compliance Date and the Project Construction Completion Date.

8.2. Performance Guarantee

- (a) For due and punctual performance of its obligations under this Agreement, relating to

the Project, the Concessionaire shall deliver to the Authority and maintain the Construction Performance Security and the O&M Performance Security in the manner prescribed in this Agreement (collectively the "Performance Guarantees"). The Performance Guarantees shall be prepared and submitted as per the formats given in Schedule 2 of this Agreement.

- (b) Each Performance Guarantee shall be from a Scheduled nationalised bank or a financial institution approved by the Authority, payable at Lahore, Punjab, Pakistan. Each Performance Guarantee shall be valid for a period of twelve (12) months. The Construction Period Performance Security shall be renewed at least thirty (30) days prior to the expiry of the security so as to ensure that the Construction Period Performance Security remains valid throughout the Construction Period and the O&M Performance Security shall be renewed every year during the O&M Period portion of the Concession Period, at least thirty (30) days prior to the date of expiry of the security. All charges, fees, costs and expenses related to the Performance Guarantee shall be borne and paid by the Concessionaire.
- (c) Upon the occurrence of a Concessionaire Event of Default during the Concession Period, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate relevant amounts from the relevant Performance Guarantee as damages. Upon such encashment and appropriation from the Performance Guarantee, the Concessionaire shall, within thirty (30) days replenish the Performance Guarantee, in case of partial appropriation, to its original level before such encashment or appropriation and in case of appropriation of entire Performance Guarantee to provide a Performance Guarantee and the Concessionaire shall, within the time so granted replenish or furnish to the Authority a fresh Performance Guarantee as aforesaid, failing which the Authority shall be entitled to terminate this Agreement.
- (d) If this Agreement is terminated due to any event other than a Concessionaire Event of Default, the relevant Performance Guarantee shall, subject to the Authority's right to receive or recover amounts, if any, due from the Concessionaire under the Agreement, be duly discharged and released to the Concessionaire.

8.3. Financing Arrangement, Payment of Taxes, etc.

- (a) Prior to Financial Closure, the Concessionaire shall deliver to the Authority a Schedule or a copy of the term sheet reflecting the proposed material terms of the Financing Documents, and setting forth a principal repayment Schedule that provides for a debt obligation that is not more than eighty percent (80%) of Total Project Cost including the maximum principal amounts and interest rate or rates (or mark-up or any other term connoting the return paid to the Lender on debt) and any Schedules or formulae that will be included in the Financing Documents for the computation of fees and charges payable to the Lender upon the winding up for early termination of the loans under the Financing Documents, and shall also identify the equity commitment of the Successful Bidder. The Authority will evaluate the principal repayment schedule and other principal financial terms and the equity commitments in the Project, to ensure that the other principal financial terms are consistent with the principal repayment schedule, and to evaluate the impact on the Authority's obligations upon any termination of this Agreement. If the Authority has any objections to the terms

specified in such term sheet or schedule, it shall inform the Concessionaire thereof within fifteen (15) days of its receipt thereof; otherwise, it shall be deemed not to have objected to those terms and the Concessionaire shall be entitled thereafter to execute the Financing Documents, consistent with those terms and a principal repayment schedule of the specified term or a shorter term without further notice to or non-objection by the Authority. The Concessionaire shall provide the Authority with a copy of the Financing Documents as executed no later than fifteen (15) days after the date of such execution.

- (b) Following Financial Closure, the Concessionaire shall deliver to the Authority, copies of all amendments to the executed Financing Documents within ten (10) days after the execution of each such document. The Concessionaire shall not execute any amendment or modification changing or affecting the repayment of principal (including any refinancing or restructuring of payment obligations under any Financing Document) or enter into any loan agreement for secured debt or otherwise incur any additional secured debt without submitting to the Authority, no less than thirty (30) days prior to execution of such amendment or modification to the Financing Documents or new loan agreements, a schedule or term sheet setting forth the proposed revised principal repayment schedule and the other principal financial terms or material modifications related thereto. The Authority shall notify the Concessionaire of any objections to the term sheet or schedule related to the proposed modification to the principal repayment schedule as soon as reasonably possible, and in any case within fifteen (15) days of receipt of the term sheet or schedule. At the request of the Authority, prior to the execution of such amendments or modifications to the Financing Documents or new loan documents, the Concessionaire shall deliver to the Authority, in a form satisfactory to the Authority, assurances, undertakings or agreements that no alteration or enhancement as a result of such refinancing or new or additional debt financing shall increase in any respect the financial obligations of the Authority hereunder or affect, in any way, the right of the Authority to acquire the Project Installations and Equipment free and clear of all Encumbrances at the end of the Concession Period or in the event of early termination.
- (c) The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior approval of the Authority which shall be granted in accordance with the PPP Act.
- (d) The Concessionaire shall at its own cost, expense and risk make such financing arrangement as would be necessary to develop and implement the Project and to meet all of its obligations under this Agreement and achieve Financial Closure within a period of (180) days from the date of execution of this Agreement.
- (e) The Concessionaire shall pay all duties, taxes, levies, etc. such import duties, etc. towards all or any of the Equipment, material, furnishings, etc. to be installed on the Project Site.
- (f) The Concessionaire shall pay at its own cost all applicable, existing and future taxes / charges / fees / levies in respect of the Project / Project Site, as levied.

8.4. Project Implementation

- (a) The Concessionaire shall complete the Project Installations in accordance with the standards and specifications as stipulated in Schedule 4 and as per the RFP, within the Construction Period or such extended date as may be approved by the Authority as per PPP Act, 2019 pursuant to the terms of this Agreement.
- (b) The Concessionaire shall obtain all necessary approvals, permissions and sanctions for setting up of Project, installation of Equipment and other allied infrastructure and facilities in accordance with International Standards and Applicable Laws.
- (c) The Concessionaire may undertake construction works and services by itself or through Sub-Contractor(s) possessing requisite technical, financial and managerial expertise / capability; but in any case the Concessionaire shall and will remain solely responsible for its overall liabilities and obligations under the contract, overall supervision, monitoring and control of the activities of all the Sub-Contractors, their employees and agents engaged under respective **“Project Agreements”** as may be necessary.
- (d) For this purpose, Concessionaire shall undertake all necessary activities such as designing, planning, developing, financing, installation, establishing, marketing, operating and maintaining the Project and the Project Site, in accordance with the provisions of the Agreement and as per Good Industry Practice.
- (e) The Concessionaire shall procure and install new, specified and necessary Equipment, plant, machinery, apparatus, services and its supporting infrastructure towards the Project. It shall keep all the necessary Project equipment adequately insured and shall pay regular and timely premium, at its own cost.
- (f) In terms of the provisions of the Agreement, the Concessionaire shall make timely payment to the Authority, wherever required and applicable.
- (g) The Concessionaire shall implement and make operational the Project Installations and Equipment within the Construction Period.
- (h) The Concessionaire shall submit to the Authority the drafts of all Project Agreements or any amendments or replacements thereto for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within fifteen (15) days of the receipt of such drafts. Within seven (7) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record.
- (i) The Concessionaire shall ensure that all the Project Agreements, to be entered into with the Third Parties, are co-terminus with the Concession Period of this Agreement and in case of Termination of this Agreement (either by efflux of time or pre-mature), the Authority shall have the option of continuing with such Project Agreements such that all proceeds / rentals, arising out of from such Project Agreements, in case they continue to accrue, shall henceforth be accrued / appropriated to the Authority. It is being clarified here that the similar provision shall be mandatorily incorporated in all

the Project Agreements and the signed copy of the Project Agreements shall be submitted to the Authority for perusal.

- (j) The Concessionaire shall procure and provide all machinery, plant and Equipment necessary to complete the works. All Concessionaire's Equipment shall, when brought on to the Project Site, be deemed to be exclusively intended for the execution of the Project.
- (k) The Concessionaire shall maintain an adequate inventory of consumable and spare parts, and undertake periodic and preventive maintenance as required for the relevant Equipment. The Concessionaire shall ensure continuous workflow as required under the Project. Breakdown of machinery or Equipment shall not be a valid reason for any delay, extension in the Concession Period or addition of cost, towards the Project.
- (l) The Concessionaire shall replace the broken machinery and Equipment immediately after its occurrence and shall bear the entire cost.
- (m) The Concessionaire shall ensure complete compliance with Applicable Laws regarding environmental regulatory authorities and other environmental aspects.
- (n) The Concessionaire shall be prohibited to undertake activities which are mentioned in Schedule 9 (*Prohibited Activities*).

8.5. Operation and Maintenance

- (a) The Concessionaire shall operate and maintain the Project Installations in accordance with Annex B of Schedule 4, Good Industry Practice and Applicable Laws during the O&M Period. The Concessionaire shall throughout the continuance of this Agreement, have full control and management of Project.
- (b) Prior to the Project Construction Completion Date, the Concessionaire would submit to the Authority, an Operations and Maintenance Manual for the Project ("**O&M Manual**") setting out in detail the Standard Operating Procedures, periodicity and other details of the operation and maintenance activities to be carried out for the Project. The Concessionaire shall get the Operation and Maintenance Manual approved by the Authority and any amendments thereof.
- (c) The Concessionaire may undertake operations and maintenance of the Project Installations by itself or through a Sub-Contractor possessing requisite technical, financial and managerial expertise / capability, provided that the Concessionaire shall be solely responsible for the operation and maintenance of the Project in accordance with the provisions of the Agreement and it shall not relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner.
- (d) The Concessionaire shall with due diligence carry out all necessary and periodical tests in accordance with the Good Industry Practices, Applicable Laws and as mentioned in section 2.3 (c). The Concessionaire shall maintain proper record of such tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the test results. The Concessionaire shall be responsible to replace the defective water

meter free of cost, if required, during the Concession Period.

- (e) The Concessionaire shall be entitled at its own costs, expenses and consequences to perform the following:
 - (i) Institution and supervision of operating policies, principles, systems and procedures for all departments including purchasing, accounting, credit management and maintenance, personnel, etc.
 - (ii) Instituting, conducting, defending, compromising, referring to arbitration and abandoning any legal or other proceedings, claims and disputes in which the said Project is concerned.
 - (iii) To issue its receipts and invoice in its own name.
- (f) The Concessionaire shall arrange for, provide, deploy and remove, as applicable, all Project personnel, at its own cost and expense. Provided that there is no conflict of interest or not prevented under any Applicable Law, the Concessionaire may hire existing staff of the Authority, according to its recruitment and compensation policy. The Authority shall use its reasonable efforts to facilitate such hiring, if required and allowed.
- (g) The Concessionaire will take professional indemnity insurance in respect of the negligence of its staff members, employees, executives, authorities in the operation and management of the Project. The Concessionaire shall throughout the term of the Agreement maintain the professional indemnity insurance, error or omission insurance and from time to time regularly bear and pay the insurance premium in this regard. The Concessionaire shall also maintain any other insurance that may be necessary and/or required by law to protect the Concessionaire, its employees and their assets against loss, damage, destruction, business interruption or loss of profit (including insurance against all Force Majeure Events that are insurable).
- (h) The Concessionaire shall bear and pay all expenses, taxes, due and payable in respect of operation and management of the Project, including sales tax, VAT, income tax, duties, fees where applicable, service tax, luxury tax and the like and will ensure that these are paid in time and no defaults are made in respect of the same. Further the Concessionaire shall ensure that all returns in this regard are filed before the due date as per Applicable Laws.
- (i) The Concessionaire shall not in the operation of the Project do any act or omission which shall be unlawful in nature and throughout the term abide by all the law, rules, orders, regulations and other requirements as applicable for the operation and management of the Project from time to time.
- (j) The Concessionaire shall keep and maintain all such books, records and reports as are required to be maintained under Applicable Laws and shall submit or cause to be submitted to appropriate authorities, all information and reports as are legally required.
- (k) The Concessionaire shall submit to the Authority a copy of its audited annual report every year during the Concession Period.

- (l) The Concessionaire shall furnish to the Authority such information as required by the Authority with respect to operation and maintenance of the Project Installations.
- (m) Notwithstanding anything contained herein, the Concessionaire shall be solely responsible for all the claims or proceedings filed with respect to the management and operation of the Project whether with regard to any negligence committed in the Project or by reason of deficiency in the service at the Project or otherwise for any reason whatsoever whether intentionally or unintentionally and the Authority shall not be responsible or liable for the same whether vicariously or otherwise and the Concessionaire shall always keep the Authority indemnified in this regard.
- (n) The Concessionaire will ensure that the highest service standards and Good Industry Practice of similar standing will be adopted and followed in the said Project throughout the Concession Period.
- (o) In the event the Concessionaire has failed to operate and maintain the Project in accordance with Good Industry Practice and as per the provisions of this Agreement, a notice to that effect will be issued by the Authority to the Concessionaire. The Concessionaire shall take all steps to address the concerns raised by the Authority in the said notice within reasonable period. If the Concessionaire does not remedy any such Material Breach in the period specified in the notice, it shall be constituted as a Concessionaire Event of Default in terms of the provisions of Article 11.1.1.
- (p) In the event that the Concessionaire closes the Project Installations for any reason other than Force Majeure or reasons attributable to the Authority, and such closure of the Project Installation or any part thereof continues for a period that extends beyond one (1) week, the Concessionaire shall pay to the Authority damages for non-performance to the extent of 1% of the O&M Performance Security per day for every day of delay or part thereof until the Project is opened and operational again. Provided that nothing contained in this paragraph shall be deemed or construed to authorize any delay by the Concessionaire in the operation and maintenance of the Project Installation during the O&M Period or any closure of the Project Installation.
- (q) The Concessionaire may subcontract operation and maintenance of parts of the Project Installations, provided however, that it shall be obligatory upon the Concessionaire to provide copies of all such Project Agreements entered into from time to time with Third Parties to the Authority, with incorporated clauses, in all Project Agreements with such respective Third Parties, that: (i) the period of the Project Agreement shall be co-terminus with the Term of this Agreement and (ii) in case of Termination of this Agreement (by efflux of time or pre-mature termination), the Authority shall have the option to continue with such Project Agreements in its own discretion, such that all proceeds / rentals, arising out from such Project Agreements of the Project Installations, in case they continue to accrue, shall henceforth be accrued / appropriated to the Authority.
- (r) The Concessionaire shall invite a representative of the Authority, as nominated by the Authority, every year to the annual general meeting of the Concessionaire.
- (s) The Concessionaire shall submit the as-built documentations for the complete Project

Installations before the Transfer Date.

- (t) In case of non-compliance the concessionaire shall rectify the defect within two (2) weeks, in case if the required results are not achieved through rectification then he shall replace the meter.

8.6. Insurance

8.6.1. General

The Concessionaire agrees to secure at its own expense and to keep in force at all times during the Concession Period hereof, takaful or insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of obligations under this Agreement by the Concessionaire, its agents, representatives or employees. Takaful or insurance requirements do not limit in any way the indemnity covenants contained in this Agreement or scope of liability of Concessionaire under this Agreement. Takaful or insurance must be maintained without any lapse in coverage during the entire Term of this Agreement. Takaful or insurance cancelled without the Authority's **consent** or failure by Concessionaire to provide evidence of renewal within forty-eight (48) hours after written notice by the Authority is a Material Breach and shall be deemed an immediate Event of Default on behalf of the Concessionaire under this Agreement.

8.6.2. Takaful or Insurance During the Concession Period

- (a) During the Concession Period, the Concessionaire shall at its own cost and expense, procure and maintain at all times takaful or insurance from takaful or insurance companies with a minimum rating of 'AA+' ranking, issued by IFSR / PACRA / JCR /VIS/equivalent or by an agency working on behalf of the Federal / Provincial Government, as necessary including but not limited to the following:
 - (i) **A contractor's all risks policy for the full value of the works to include cover** for all goods, equipment, materials, plants and other items necessary for the works including when they are in transit to the Project Site;
 - (ii) **Cover for any damage to the Project, in part or whole, caused by the Concessionaire's vehicles, tools, equipment or personnel;**
 - (iii) **Workmen's compensation insurance;**
 - (iv) Professional indemnity and/or error and omission insurance coverage, including coverage for complete cost of design works;
 - (v) Comprehensive Third-Party liability including injury or death to personnel or representatives of Persons or Users for each incident for at least PKR 1 million per incident (the number of the incidents to be unlimited);
 - (vi) Any other cover that may be necessary including against such Force Majeure Events that are insurable in accordance with Good Industry Practice.

- (b) Upon the occurrence of any loss under the policy of takaful or insurance, the Concessionaire shall itself utilize the proceeds received from takaful or insurance to make good the loss. In the event of the proceeds received under the policy of takaful or insurance be insufficient to cover the necessary repair and or restoration works, or the cost of replacement, as the case may be, the Concessionaire shall make good the deficiency thereof.

8.6.3. Evidence of Takaful / Insurance

The Concessionaire shall, upon receipt of the duly executed policies of takaful or insurance, provide to the Authority with copies of all such policies at least fifteen (15) days prior to the Compliance Date.

8.6.4. Validity of Takaful or Insurance

The Concessionaire shall promptly pay all insurance premiums and ensure that the takaful or insurance policies are in force and valid throughout the Concession Period. Each takaful or insurance policy shall provide that the same shall not be cancelled or terminated unless ten (10) days clear notice of cancellation is provided to the Authority in writing. If at any time the Concessionaire fails to obtain or maintain in full force and effect any of the insurance required under this Agreement, the Authority may at its option obtain and maintain such insurance and all sums incurred by the Authority thereof shall be reimbursed by the Concessionaire to the Authority within seven (7) days from the receipt of claim in respect thereof made by the Authority or otherwise settle with the Concessionaire.

8.6.5. Application of Takaful or Insurance Proceeds

Subject to the provisions of the Financing Documents and unless otherwise provided herein, the proceeds of all takaful or insurance policies received shall be promptly applied by the Concessionaire towards repair, renovation, restoration or re-instatement of the Project Installation or any part thereof which may have been damaged or destroyed. The Concessionaire shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Project Installations after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

8.6.6. Waivers

- (a) All takaful/insurance covers taken under this Article 8.6 shall include a waiver of any right of subrogation of the insurers therein against, *inter alia*, the Concessionaire and its Sub-Contractors, employees, successors, permitted assigns, insurers and underwriters and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy.
- (b) All the insurance policies shall include the Authority as a beneficiary along with the Concessionaire.

8.7. Regulatory Clearances and Compliance

At all times, the Concessionaire shall obtain the requisite regulatory and Applicable Permits from the appropriate Government Agency and shall also ensure that the processes employed in the establishment, installation, operation and maintenance thereof, for the Project is in compliance to the Applicable Laws pertaining to environment, health and safety aspects including, policies and guidelines related thereto.

8.8. General Obligations

The Concessionaire shall:

- (a) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project;
- (b) at all times, to afford access to the Project Site to the authorized representatives of the Authority, the Lenders, other persons duly authorized by any Government Agency having jurisdiction over the Project, to inspect the Project and to investigate any matter within their authority and upon reasonable notice;
- (c) perform and fulfil its obligations under the Financing Documents;
- (d) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under the Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies the Authority against any claims, damages, expenses or losses in this regard and that in no case and for no purpose shall the Authority be treated as employer in this regard;
- (e) observe and fulfil the environmental and other requirements under the Applicable Laws and Applicable Permits from time to time;
- (f) ensure that the Project Installations and Equipment remains free from all Encumbrances and take all steps necessary to remove any encumbrances, that may have come into existence;
- (g) pay all taxes, duties, levies and outgoings, including utility charges relating to the Project;
- (h) not do or omit to do any act, deed or thing which may in any manner violate any of the provisions of this Agreement;
- (i) to provide continuity of services as prescribed under this Agreement;
- (j) to provide equal quality of services in relation to all areas of the Project Site and without any bias;

- (k) transfer the Project to the Authority in fully operational and functional condition upon termination of this Agreement, in accordance with the provisions thereof;
- (l) Ensure that the quality of the Equipment conform to the standards laid down by the Competent Authorities; and
- (m) Tackle with any issue arising out of any illegality that may have occurred during the O&M Period and indemnifying the Authority against the same.

8.9. No Breach of Obligations

The Concessionaire shall not be considered to be in breach of its obligations under the Agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under the Agreement is affected by or on account of any of the following:

- (a) Force Majeure Events, subject to Article 10;
- (b) The Authority's Event of Default;
- (c) Compliance with the directions of any Government Agency, other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder; and
- (d) Closure of the Project Installations, or part thereof, with the approval of the Authority.

8.10. Quarterly Progress Report

The Concessionaire shall prepare and submit report in each quarter on the progress of the Project (the "Quarterly Progress Report") to the Authority. The first report shall cover the period up to the end of the calendar month in which the Compliance Date occurred and shall include report on the construction and establishment of the Project. Reports shall be submitted quarterly thereafter, each within seven (7) days of the last day of the period to which it relates. Each report shall include an executive summary of activities completed and under progress.

9. OBLIGATIONS OF THE AUTHORITY

9.1. Project Site:

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Authority shall have the following obligations:

- (i) To facilitate the Concessionaire in getting all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek under this Agreement in connection with development of the Project and the performance of its obligations hereunder;
- (ii) The Authority shall hand over any existing Equipment/machinery to the Concessionaire as set out in Annex C of Schedule 4, however, the maintenance of such Equipment/Machinery shall be responsibility of the Concessionaire;

- (iii) Upon written request from the Concessionaire, provide reasonable facilitation to the Concessionaire for the purpose of discharging its obligations under the Agreement by the Concessionaire;
- (iv) The Authority, through itself, or its nominee may undertake the overall monitoring of the Project Installations during O&M Period during Concession Period; and

9.2. Consultants

- (i) The Authority may appoint: (a) person(s) for review of the establishment of the Project during Installation/Construction Period; and (b) person(s) specialising in Project operations and maintenance for review of the operation and maintenance of the Project Installations (collectively, **the “Consultants”**). The Authority may also appoint third-party Consultants in accordance with the Punjab Public Procurement Regulatory Authority Act, 2009 (PPRA) and Rules 2014.
- (ii) The Authority shall also appoint a Quality Assurance Inspector to oversee **Concessionaire’s works (including construction** and operation & maintenance) including, but not limited to, assessing various performance metrics such as quality of the work done. To ensure smooth and efficient monitoring of the Project in accordance with the provisions of this Agreement, the Authority and Concessionaire shall jointly be responsible for the payments to the Quality Assurance Inspector in equal proportion.
- (iii) The roles and functions of the Quality Assurance Inspector and the Consultants (if appointed) shall be as mentioned in Schedule 8 Annex A.
- (iv) The Consultants shall submit regular periodic reports (at least once every quarter) to the Authority.
- (v) In case of appointment of Consultants in compliance with PPRA, the remuneration, cost and expenses of the Consultants shall be paid jointly by the Authority and the Concessionaire in equal proportion.
- (vi) If any Party disputes any advice, instruction, decision, direction or award of the Consultant, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with Article 13 (*Dispute Resolution*).

9.3. Appointment of Joint Auditor

- (a) A Joint Auditor shall be appointed by the Authority, from time to time, as required under this Agreement.
- (b) The remuneration, cost and expenses of the Joint Auditor shall be paid by the Authority, however fifty (50%) of such remuneration, cost and expenses of the Joint Auditor shall be paid to the Authority by the Concessionaire.

- (c) If the Concessionaire has reason to believe that a Joint Auditor is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the Authority and seek termination of the appointment of the Joint Auditor. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Concessionaire and Joint Auditor for an amicable resolution of the Dispute, and if any difference or disagreement between the Authority and the Concessionaire remains unresolved, the Dispute shall be settled in accordance with Article 13 (*Dispute Resolution*). In the event that the appointment of the Joint Auditor is terminated hereunder, the Authority shall appoint forthwith another Joint Auditor.
- (d) If either Party disputes any advice, instruction, decision, direction or award of the Joint Auditor, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with Article 13 (*Dispute Resolution*).

9.4. Additional Cost Due to Change in Law

- (a) Where a Change in Law results in an increase in capital expenditure, the Authority shall reimburse the Concessionaire for any Additional Cost in excess of ten percent (10%) of the Total Project Cost. For the avoidance of doubt, the Concessionaire shall be solely liable for any Additional Cost equal to or below ten percent (10%) of the Total Project Cost.
- (b) Where such an Additional Cost is liable to be paid by the Authority to the Concessionaire in terms of Article 9.4(a) hereinabove, then it shall be paid directly by the Authority to the Concessionaire and shall not form part of the Total Project Cost.

9.5. Reduction in Costs Due to Change in Law

If as a result of Change in Law, the Concessionaire benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds in any Accounting Year (as determined by the Joint Auditor), the Authority may so notify the Concessionaire and propose amendments to this Agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by the Authority, the Parties shall meet, as soon as reasonably practicable but no later than thirty (30) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement; provided, that if no agreement is reached within sixty (60) days of the aforesaid notice, the Authority may by notice require the Concessionaire to pay an amount that would place the Concessionaire in the same financial position that it would have enjoyed had there been no such Change in Law, and within fifteen (15) days of receipt of such notice, along with particulars thereof, the Concessionaire shall pay the amount specified therein to the Authority; provided, that if the Concessionaire shall Dispute such claim of the Authority, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Section 9.5 (*Reduction in Costs Due to Change in Law*) shall be restricted to such Change in Law directly affecting the **Concessionaire's costs of performing its obligations under this Agreement.**

10. FORCE MAJEURE

10.1. Force Majeure Event

A “Force Majeure Event” shall mean any event or circumstance or combination of events or circumstances (including the effects thereof) that is beyond the reasonable control of a Party (the “Affected Party”) and that on or after the date of Financial Closure materially and adversely affects the performance by such Affected Party of its obligations under or pursuant to this Agreement; provided, however, that, such Material and Adverse Effect could not have been prevented, overcome or remedied in whole or in part by the Affected Party through the exercise of diligence and reasonable care, it being understood and agreed that reasonable care includes acts and activities to protect the Project Installations from a casualty or other event that are reasonable in light of the probability of the occurrence of such event, the probable effect of such event if it should occur, and the likely efficacy of the protection measures. **Without limiting the generality of the foregoing, “Force Majeure Events” hereunder shall include each of the following events and circumstances (including the effects thereof), but only to the extent that each satisfies the requirements above:**

- (a) A Non-Political Event shall mean one or more of the following acts or events which makes it impossible or impractical for the Affected Party to perform any of its obligations for a continuous period of not less than two (2) weeks from the date of its occurrence:
 - (i) Act of God, earthquake, unusual flood, inundation, landslide;
 - (ii) Storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances;
 - (iii) Fire caused by reasons not attributable to the Concessionaire or the Authority or any of the employees of the Concessionaire or the Authority;
 - (iv) Acts of terrorism, country-wide strikes, boycotts, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Sub-Contractor; or
 - (v) Any failure or delay of a Sub-Contractor caused by any of the aforementioned Non-Political Events, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Sub-Contractor.

- (b) A Political Event shall mean any event, including the following:
 - (i) Action of a Public Entity (i.e. an authority, agency or company effectively set up by and/or controlled by the Federal Government of Pakistan or any of the provincial governments, including the GoPb) of expropriation, nationalization or compulsory acquisition or takeover the Project Site, Project Installations or any part thereof from the Authority, **thereby terminating the Concessionaire’s** acquired rights of operation and maintenance as per this Agreement (other than in accordance with termination rights under this Agreement);

- (ii) Early termination of this Agreement by the Authority for reasons of national emergency, national security or public interest; or
 - (iii) Any event or circumstances of a nature analogous to any of the foregoing.
- (c) An Indirect Political Event shall mean any of the following which makes it impossible for the Concessionaire to perform any of its obligations for a continuous period of not less than two (2) weeks from the date of its occurrence:
- (i) Ionizing radiation, serious epidemics, contamination by radioactivity from nuclear fuel, any nuclear waste, or radioactive toxic explosion;
 - (ii) Strikes, boycotts, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Authority;
 - (iii) War, hostilities (whether war be declared or not), acts of terrorism, rebellion, riots or ethnic violence, civil commotion, unrest, disruption or civil war; or
 - (iv) Invasion, act of foreign enemy, weapon conflict or military actions.

10.2. Force Majeure Period

The period commencing from the date of occurrence of a Force Majeure Event and ending on the date on which the Affected Party, acting in accordance with the Good Industry Practice, resumes or should have resumed such of its obligations.

10.3. Force Majeure Notice

- (a) Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:
- i. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article with evidence in support thereof;
 - ii. the estimated duration and the effect or probable effect which such Force Majeure Event is having or will **have on the Affected Party's performance of its obligations** under this Agreement;
 - iii. the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
 - iv. any other information relevant to the **Affected Party's claim**.
- (b) The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event not later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

- (c) For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Sub-Clause (a), and such other information as the other Party may reasonably request the Affected Party to provide.

10.4. Performance of Obligations

If the Affected Party is rendered wholly or partially unable to perform any of its obligations under the Agreement because of a Force Majeure Event, it shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

- (a) due notice of the Force Majeure Event has been given as required by the preceding Article;
- (b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- (c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project as a result of the Force Majeure Event and to restore the Project Installation, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance;
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement; and
- (f) any insurance proceeds received shall, subject to the provisions of Financing Documents, be entirely applied to repair, replace or re-instate the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

10.5. Consequences of Force Majeure Event

In the case of Force Majeure Event, the Concession Period shall be extended by the period during which the Force Majeure Event continued, with the maximum extension of Concession Period being limited to one (1) year. In case, the Force Majeure Event takes place before the Project Construction Completion Date, the Construction Period shall also be extended by the period of the Force Majeure Event, with the maximum extension of Concession Period being limited to sixty (60) days. Extensions will be subject to approval of Board as per PPP Act, 2019.

10.6. Liability for other losses, damages etc.

Save and except as expressly provided in this Article, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense,

claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event.

10.7. Termination for Continuing Force Majeure Event

Upon Termination of this Agreement due to a Force Majeure Event continuing for a period beyond one (1) year, Termination Payment shall be made to the Concessionaire by the Authority in accordance with the following:

- a) No Termination Payment shall be made due to Force Majeure Event before the Project Construction Completion Date.
- b) After Project Completion Date as approved by the Joint Auditor and the Consultant:
 - i) If Termination is due to a Force Majeure Event which is a Non-Political Event, Termination Payment shall be made by the Authority to the Concessionaire in the amount equal to Fifty Percent (50%) of the Book Value less any insurance proceeds recovered by the concessionaire.
 - ii) If Termination is due to a Force Majeure Event which is a Political Event, the Authority shall pay to the Concessionaire the Termination Payment, within six (6) months of Termination Notice, as a sum equal to the Book Value plus compensation at KIBOR + Three Percent (3%) per annum for the total equity investment plus extra one (1) year return on total equity investment at KIBOR + Three Percent (3%) per annum to be applied on Book Value, as approved by the Joint Auditor and the Consultant.
 - iii) If Termination is due to a Force Majeure Event which is an Indirect Political Event, the Authority shall pay to the Concessionaire a Termination Payment, within six (6) months of the Termination Notice, equal to one hundred percent (100%) of the Book Value, as on the date of Termination Notice, minus the amount recovered by the Concessionaire through the proceeds of any insurance obtained by it.

Provided that, the Authority shall be entitled to deduct from the Termination Payment any amount due and recoverable by the Authority from the Concessionaire as on the Termination Date and the Authority shall have an option to pay this Termination Payment within a maximum period of four (4) years in eight (8) bi-annual instalments subject to imposition of additional interest at KIBOR + three percent (3%) on account of delay in payment of due amount.

11. EVENTS OF DEFAULT AND TERMINATION

11.1. Events of Default

Events of Default shall mean either Concessionaire Event of Default or the Authority Event of Default or both as the context may admit or requires.

11.1.1. Concessionaire Event of Default

Any of the following events shall constitute an Event of Default by the Concessionaire ("Concessionaire Event of Default") unless such event has occurred as a result of Force Majeure in accordance with Article 10 or a breach of the Authority under this Agreement:

- (a) The Concessionaire has failed to fulfil one or more of the Conditions Precedent in accordance with the terms of this Agreement;
- (b) The Concessionaire has failed to complete the Project Installations within the Construction Period;
- (c) The Concessionaire has failed to operate and maintain the Project Installations during the O&M Period;
- (d) The Concessionaire has persistently failed, in the opinion of the Authority or the Consultant, to install, maintain, provide meter reading and operate the Equipment or Project Installations in accordance with the standards and specifications;
- (e) The Concessionaire has failed to pay any remuneration, cost or expense invoiced to the Concessionaire in relation to the Consultant or any other payments due to the Authority and more than four (4) weeks have lapsed since such payment became due;
- (f) The Concessionaire has failed to comply with the Applicable Laws / Applicable Permits and such failure has resulted in a Material Breach of the Agreement;
- (g) The Concessionaire has failed to implement the Project in accordance with the provisions of the Agreement and such failure, in the reasonable estimation of the Authority, is likely to delay the Project Completion Date;
- (h) **The Concessionaire's** failure to perform or discharge any of its obligations under this Agreement, which has or is likely to have a Material Adverse Effect;
- (i) The Concessionaire is in Material Breach of any of its obligations under the Agreement and the same has not been remedied for more than one hundred and twenty (120) days;
- (j) Any representation made or warranty as given by the Concessionaire under the Agreement is found to be false or misleading;
- (k) Change in Ownership of the Concessionaire without prior approval of the Authority;
- (l) A resolution has been passed by the Concessionaire for voluntary winding up of the Concessionaire;
- (m) A default has occurred under any of the Financing Documents and any of the Lender(s) to the Project has recalled its Financial Assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable;
- (n) The Concessionaire has Abandoned the Project for a consecutive period of ninety (90) consecutive days;
- (o) The Concessionaire has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (p) The Concessionaire has suffered an attachment levied on any of its assets, which has caused or is likely to cause a Material Adverse Effect on the Project and such

attachment has continued for a period exceeding one hundred and twenty (120) days; and/or

- (q) The Concessionaire has created Encumbrance(s) and in violation of the provisions herein in this regard.
- (r) The concessionaire failed to provide the meter reading through AMR of more than twenty (20%) of installed meters for consecutive ninety (90) days or 180 days in any year of the concession period.

11.1.2. The Authority Event of Default

Any of the following events shall constitute an Event of Default by the Authority ("The Authority Event of Default") unless such event has occurred as a result of a breach of Concessionaire under this Agreement:

- (a) Failure of the Authority to procure and provide access to the Project Site within twenty-eight (28) days of execution of the Agreement; or
- (b) any Material Breach or default by the Authority of or under this Agreement that is not remedied within forty five (45) days after notice from the Concessionaire to the Authority stating that a Material Breach of this Agreement has occurred that could result in the termination of this Agreement, identifying the Material Breach in reasonable detail, and demanding remedy thereof.

11.2. Termination Due to Event of Default

11.2.1. Termination for Concessionaire Event of Default

- (a) Without prejudice to any other right or remedy which the Authority may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, the Authority shall be entitled to terminate the Agreement in the manner as set out under the following Sub-Clause (b) and (c).
- (b) If the Authority decides to terminate the Agreement pursuant to the preceding Sub-clause (a), it shall in the first instance issue a **"Preliminary Notice to Remedy"** to the Concessionaire and within thirty (30) days of receipt of the Preliminary Notice to Remedy, the Concessionaire shall submit to the Authority in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the **"Concessionaire's Proposal to Rectify"**). In case of non-submission of the Concessionaire's Proposal to Rectify within the said period of thirty (30) days, the Authority shall be entitled to terminate the Agreement by issuing the Termination Notice.
- (c) If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefore, the Concessionaire shall have further period of thirty (30) days (**"Cure Period"**) to remedy / cure the underlying Event of Default. If, however the Concessionaire fails to remedy / cure the underlying Event of Default within such further period allowed, the Authority shall be entitled to terminate the Agreement by issuing the Termination Notice.

11.2.2. Termination for the Authority Event of Default

- (a) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of the Authority Event of Default, the Concessionaire shall be entitled to terminate the Agreement by issuing Termination Notice.
- (b) If the Concessionaire decides to terminate the Agreement pursuant to preceding the above Sub-clause (a), it shall in the first instance issue Preliminary Notice to Remedy to the Authority. Within forty five (45) days of receipt of Preliminary Notice to Remedy, to the Authority shall forward to the Concessionaire its proposal to remedy / cure the underlying Event of Default (the "The Authority's **Proposal to Rectify**"). In case of non-submission of the Authority's Proposal to Rectify within the said period of forty-five (45) days, Concessionaire shall be entitled to terminate the Agreement by issuing Termination Notice.
- (c) If the Authority's Proposal to Rectify is forwarded to the Concessionaire within the period stipulated thereof, the Authority shall have further period of forty-five (45) days to remedy / cure the underlying Event of Default. If, however, the Authority fails to remedy / cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate the Agreement by issuing Termination Notice.

11.3. Termination Notice

If a Party having become entitled to do so decides to terminate the Agreement pursuant to this Article 11 (*Events of Default and Termination*), it shall issue Termination Notice setting out:

- (a) in sufficient detail the underlying Event of Default;
- (b) the Termination Date which shall be a date of the Termination Notice;
- (c) the estimated Termination Payment including the details of computation thereof; and
- (d) any other relevant information.

11.3.1. Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that:

- (a) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Installations;
- (b) The Project Installations shall be transferred to the Authority by the Concessionaire on the Termination Date, free from all Encumbrances, as per the provisions of Article 12 (*Transfer of Shares*) of this Agreement.

- (c) The Termination Payment, if any, payable by either Party is paid to the other Party on the Termination Date or within such time period as stipulated in this Agreement.

11.3.2. Withdrawal of Termination Notice

Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before the Termination occurs, the Termination Notice shall be withdrawn by the Party which had issued the same. Provided that the Party in breach shall compensate the other Party for any direct costs / consequences occasioned by the Event of Default, which caused the issue of Termination Notice.

11.3.3. Step-in Rights

- (a) In the event the Concessionaire fails to carry out the operations of the Project in accordance with the terms of this Concession Agreement due to **Concessionaire's** Default for a continuous period of fourteen (14) days, the Authority may by written notice require the Concessionaire to rectify the failure. If the Concessionaire despite having received such notice still fails to carry its operation and maintenance obligations for a further period of thirty (30) days, the Authority may at its own volition and upon written notice thereof to the Concessionaire, temporarily take-over from the Concessionaire those functions which are necessary for the uninterrupted **operation of the Project or any part thereof ("Step-In Right")**. While exercising its Step-in Right, the Authority shall be entitled to use equipment, systems and human resource of the Concessionaire employed for the Project Installations, at the risk and cost of the Concessionaire.
- (b) The Concessionaire shall within ten (10) days from the temporary take-over under the aforementioned clause, make a request in writing to express its readiness to resume those functions taken over by the Authority. The Authority shall immediately return to the Concessionaire those functions it has taken over upon the receipt of such request, and in any event within fourteen (14) days from the temporary take over. A failure by the Concessionaire to make the request herein or the failure to resume control of the operations of the Project upon the cessation of the temporary take over by the Authority shall constitute a breach by the Concessionaire of its obligations with regard to the operations of the Project.

11.4. Termination Payments

- (a) Upon Termination of the Agreement on account of a Concessionaire Event of Default, the Authority shall: (i) settle any outstanding payments; (ii) not be obligated to make any further payments to the Concessionaire except for Termination Payments in the amount equal to fifty percent (50%) of the Book Value; (iii) be entitled to encash and retain the Performance Guarantee; (iv) make arrangements at the risk and cost of the Concessionaire to fulfil obligations of Concessionaire under this Agreement.
- (b) Upon termination of the Agreement on account of an Authority Event of Default, the Authority shall be liable to pay the compensation to the Concessionaire as follows:

- i. No Termination Payment shall be payable to the Concessionaire, for Termination before the issuance of Certificate of Compliance to the Concessionaire.
- ii. In case of the occurrence of the Authority's **Event of Default**, prior to the Project Construction Completion Date but after issuance of Certificate of Compliance to the Concessionaire, the Authority shall pay to the Concessionaire:
 - a) the Book Value plus compensation at KIBOR + Three Percent (3%) per annum for the total equity investment plus extra one (1) year return on total equity investment for the relevant applicable period from the date of Financial Closure; and
 - b) any other unavoidable demobilization cost applicable and payable by the Concessionaire due to pre-mature termination of the Concession Agreement, especially related to loan agreement, as mutually agreed between the Parties.
- iii. In case of the occurrence of the Authority's **Event of Default** following the Project Completion Date the Authority shall pay to the Concessionaire the Book Value plus compensation at KIBOR + Three Percent (3%) per annum for the total equity investment plus extra one (1) year return on total equity investment for the relevant applicable period from the date of Financial Closure; and

- (a) All payments due to the Concessionaire as calculated under this Article 11.4 shall be made within forty-five (45) days of receiving the Termination Notice.

11.5. Rights of the Authority on Termination

Upon termination of the Agreement for any reason whatsoever, the Authority shall upon making the Termination Payment, if any, to the Concessionaire have the power and authority to:

- (b) Enter upon and take possession and control of the Project Installation forthwith; and
- (c) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon / dealing with the Project Installation.

Notwithstanding anything contained in this Agreement, the Authority shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularisation of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project. The transfer of the Project Installations by the Concessionaire to the Authority shall be free from any such obligation.

11.6. Accrued Rights of Parties

Notwithstanding anything to the contrary contained in this Agreement, Termination pursuant to any of the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including **each Party's** right to claim and recover monetary damages and other rights and remedies which it may have under law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to the Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

12. TRANSFER OF SHARES

12.1. Mode of Transfer of Shares

On the Transfer Date, the Successful Bidder shall transfer one hundred percent (100%) of the Ordinary Share Capital of the Concessionaire to the Authority, free of any Encumbrance. One (1) week prior to the Transfer Date, the Concessionaire shall comply with the following:

- (a) The Authority, shall have the right to conduct a due diligence of the contracts and agreements containing the rights and obligations of the Concessionaire. Following the issuance of the Vesting Certificate, the Authority shall not be bound to assume the rights and obligations of contracts of the Concessionaire, that in the sole opinion of the Authority are unreasonably onerous, and would be considered onerous at the time that the contracts were entered into. In relation to all such contracts that are deemed unreasonably onerous by the Authority, no Third Party, including the counter-party of such contract shall have any right, license, title, interest, benefit, claim or demand against or over any Transfer Asset and such Transfer Asset shall be free from all Encumbrances and the Concessionaire shall have good title to the Transfer Assets.
- (b) Furthermore, notwithstanding anything contained in this Agreement no liability (accrued or contingent) of Concessionaire or relating to the Project Installations arising on account of actions or inactions prior to the Transfer Date shall be assumed or transferred to the Authority or its nominees. The Authority or its nominees shall not be liable for liabilities in relation to the Project Installations arising pursuant to the Transfer Date. In the event of any such liability being assumed or transferred to the Authority or its nominee or any Encumbrance existing on any of the Transfer Assets, the quantum of such liability and / or amount corresponding to such Encumbrance, shall be compensated by the Concessionaire to the Authority.
- (c) The Concessionaire shall deliver the inventory of the Project Installations including, without limitation, any equipment, materials, fixtures and all relevant records pertaining to the Project Installations including the records relating to design, operation and maintenance of the Project Installations, programmes, manuals, Approved Detailed Plan (inclusive of any Variations) and all other relevant documents to the Authority.
- (d) The Concessionaire shall ensure that the Project Installations has been renewed and

cured of all the shortcomings, defects and deficiencies as may be required or instructed by the Consultant or the Authority.

- (e) Without prejudice to the foregoing, the Concessionaire agrees to indemnify and keep indemnified the Authority from and against all actions, proceedings, losses, damages, liabilities, claims, costs and expenses whatsoever which may be sustained or suffered by the Authority as a result of any actions or omissions of the Concessionaire prior to the transfer of the Transfer Assets. It is expressly understood by the Parties that this Article shall survive the termination or expiry of this Agreement.
- (f) Vesting Certificate: The Transfer Date is deemed to have occurred on the date when all the requirements under this Article have been fulfilled by the Concessionaire and the requirements of the Successful Bidder pursuant to any undertakings in this Agreement have been fulfilled. The Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule 3 (the "Vesting Certificate"), which will have the effect of constituting evidence of divestment by the Successful Bidder of all of its rights, title and interest in the Project and divestment by the Successful Bidder of all its rights, title and interest in the Concessionaire, and their vesting in the Authority pursuant hereto. It is expressly agreed that the issue of Vesting Certificate shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee.

13. DISPUTE RESOLUTION

13.1. Amicable Resolution and Mediation.

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to the Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably.
- (b) In the event of no consensus being achieved, pursuant to Section 13.1(a), any Dispute between the Parties, the Dispute shall be referred for mediation by an independent and impartial person appointed by the PPP Board in accordance with the Act, for amicable settlement. In the event the Parties are unable to resolve the matters through conciliation either Party may refer the Dispute to arbitration in accordance with the provisions of Section 13.2 (*Arbitration*).

13.2. Arbitration

13.2.1. Procedure

Subject to the provisions of Article 13.1 (Amicable Resolution and Mediation), any dispute, which is not resolved amicably and through mediation, shall be finally decided by reference to arbitration under the Arbitration Act, 1940. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If within fifteen (15) days of receipt of such intimation the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further

steps in accordance with the Arbitration Act, 1940.

13.2.2. Seat of Arbitration and Governing Law

The seat of arbitration shall be Lahore, Punjab, Pakistan only. The governing law of this Agreement and the arbitration shall be the laws of Pakistan.

13.2.3. English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language used in the hearings.

13.2.4. Enforcement of Award

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act, 1940.

13.2.5. Performance during Arbitration

Pending the submission of and / or decision on a dispute and until the arbitral award is published; the Parties shall continue to perform their respective obligations under this Agreement, without prejudice to a final adjustment in accordance with such award.

14. FINANCING AND LENDERS RIGHTS.

- (a) The Authority hereby agrees that it shall enter into a direct agreement, substantially in the form of Schedule 5 (*Lenders Direct Agreement*) as per customary practices in such transactions, with the Lenders and the Concessionaire thereby shall grant the Lenders **certain rights in the event of "Termination for Concessionaire Event of Default" as set out** in this Agreement. The Authority further confirms to the Concessionaire that it can represent to the Lenders that the Authority has agreed to be bound by the terms and conditions specified therein.
- (b) At any time after the Lenders have issued a Notice of Financial Default (as defined in the Direct Agreement) of the Concessionaire, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project on its own or through a Third Party. Upon receipt of such notice, the Authority may, at its discretion, undertake the operation of the Project during such "**Suspension**" period. The aforesaid Suspension shall be revoked upon the **Lender's** confirmation that it has enforced its security over one hundred (100%) percent of the Ordinary Share Capital, and in the event such enforcement is not completed within one hundred and eighty (180) days from the date of such Suspension, the Authority may terminate this Agreement forthwith by issuing a Termination Notice in accordance with the provisions of this Agreement; provided that upon written request from the Lenders' representative and the Successful Bidder, the Authority may extend the aforesaid period of one hundred and eighty (180) days by a period not exceeding ninety (90) days.

15. REPRESENTATIONS AND WARRANTIES

15.1. Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

- (a) it is duly organised, validly existing and in good standing under the laws of Pakistan;
- (b) it has full power and authority to execute, deliver and perform its obligations under the Agreement and to carry out the transactions contemplated hereby;
- (c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Agreement;
- (d) the Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (e) the information furnished in the bid / proposal and as updated on or before the date of the Agreement is true and accurate in all respects as on the date of this Agreement;
- (f) the execution, delivery and performance of the Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g) there are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;
- (i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (j) subject to receipt by the Concessionaire from the Authority of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of the Agreement all rights and interests of the Concessionaire in and to the Project Installations shall pass to and vest in the Authority on the Transfer Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or the Authority;

- (k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to the Authority or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- (l) without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project Site, and the information provided by the Authority, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

15.2. Representations and Warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

- (a) The Authority has full power and authority to enter into this Agreement and has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (b) This Agreement constitutes the Authority's legal, valid and binding obligation enforceable against it in accordance with the terms hereof; and
- (c) Upon the Concessionaire performing the covenants herein, the Authority shall not at any time during the Concession Period hereof, interfere with peaceful exercise of the rights, in accordance with this Agreement.

15.3. Obligation to Notify Change

In the event that any of the representations or warranties made / given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

16. MISCELLANEOUS

16.1. Assignment and Charges

- (a) The Concessionaire shall not assign in favour of any person this Agreement or the rights, benefits and obligations hereunder, save and except with the prior consent of the Authority.
- (b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Installations or any part thereof, including the Equipment, except as envisaged under this Agreement.
- (c) Sub-clauses (a) and (b) hereinabove of this Article, shall not apply to assignment of the **Concessionaire's** rights and benefits under this Agreement to, or in favour of, the Lenders as security for the Financial Assistance provided by them.

Notwithstanding anything contained in Article 16.1. (c), the rights of the Concessionaire shall not be contrary or in derogation to the provisions relating to the Transfer of Shares as described under Article 12.

16.2. Governing Law

This Agreement and the rights and obligations of the Parties hereunder shall be governed by and construed in accordance with the laws of Pakistan.

16.3. Waiver

- (a) Failure by the Authority to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by the Authority to the Concessionaire shall be treated or deemed as a waiver of any terms, conditions or provisions of this Agreement unless it is provided in writing.
- (b) Waiver provided in writing by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
 - (i) Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - (ii) Shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
 - (iii) Shall not affect the validity or enforceability of this Agreement in any manner.

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16.4. Survival

Termination of this Agreement:

- (a) shall not relieve the Concessionaire or the Authority of any obligations already incurred hereunder which expressly or by implication survives Termination hereof; and
- (b) except as otherwise provided in any provision of the Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party, prior to the effectiveness of such Termination or arising out of such Termination.

16.5. Amendments

The Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by both the Parties hereto and evidenced in writing.

16.6. Notices

Unless otherwise stated, notices to be given under the Agreement including but not limited to a notice of waiver of any term, breach of any term of the Agreement and termination of this Agreement, shall be in writing and shall be given by recognised international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

- (a) If to the Authority:
Phone:
E-mail:
- (b) If to the Concessionaire:
The Managing Director,
[●]
Address: [●]
Phone: [●]
E-mail: [●]

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered:

- (a) in the case of any communication made by letter, by recognised international courier or by mail (registered, return receipt requested) at that address; and
- (b) In the case of any communication made by facsimile, when transmitted properly

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addressed to such facsimile number.

16.7. Severability

If for any reason whatsoever any provision of the Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under the Agreement or otherwise.

16.8. No Partnership

Nothing contained in the Agreement shall be construed or interpreted as constituting a partnership between the Parties. None of the Parties shall have any authority to bind the other Parties in any manner whatsoever.

16.9. Language

All notices required to be given under the Agreement and all communications, documentation and proceedings which are in any way relevant to the Agreement shall be in writing and in English language.

16.10. Exclusion of Implied Warranties etc.

The Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties and any representation by any Party not contained in a binding legal agreement executed by the Parties.

16.11. Counterparts

The Agreement may be executed in two (2) counterparts, each of which when executed and delivered shall constitute an original of the Agreement but shall together constitute one and the same Agreement.

16.12. General Liability and Indemnity

- (a) The Concessionaire shall indemnify, defend and hold the Authority harmless against any and all proceedings, actions and Third Party claims arising out of a breach by Concessionaire and its Sub-Contractors, agents, employees, etc. of any of its obligations under the Agreement except to the extent that any such claim has arisen due to breach by the Authority of any of its obligations under this Agreement.
- (b) The Authority shall, indemnify, defend and hold harmless the Concessionaire against any and all proceedings, actions, Third Party claims for loss, damage and expense of whatever kind and nature arising out of breach by the Authority, its officers, servants and agents of

DRAFT CONCESSION AGREEMENT

any obligations of the Authority under the Agreement except to the extent that any such claim has arisen due to breach by the Concessionaire of any of its obligations or representations under this Agreement.

IN WITNESS WHEREOF each of the Parties has caused this Agreement to be executed and delivered on its behalf by its authorized representative as of the date first above written:

[Signature pages to follow]

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Schedule 1

[insert Project Site locations]

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Schedule 2

Form of Performance Guarantees

Annex A: Form of Construction Performance Security

To:

Water and Sanitation Agency, Lahore

Guarantee No. (hereinafter referred to as the "Guarantee")

Dated:

[Insert Name of Bank], being the Guarantee issuing bank (hereinafter referred to as the "Guarantor Bank") understands that the following parties have entered into an agreement entitled the "Concession Agreement" dated [●], 201[●] (hereinafter referred to as the "Agreement") for the [design, engineering, construction, financing, commissioning, operations and maintenance] of the [Insert Details] Project under the public private partnership mode:

- (a) [Insert Authority Details], having its offices at [●] (hereinafter referred to as the "Authority"); and
- (b) [●], a company incorporated under the laws of Pakistan, having its registered office located at [●] (hereinafter referred to as the "Concessionaire", which expression shall, where the context so permits, be deemed to mean and include its legal heirs, successors in interest, administrators, executors, and permitted assigns).

Further, the Guarantor Bank understands that pursuant to the terms of the Agreement, the Concessionaire is required to provide the Authority with a bank guarantee in an amount equal to PKR [Insert Amount in Numbers]/- (Pakistani Rupees [Insert Amount in Words]).

The above premised, the Guarantor Bank hereby undertakes irrevocably and unconditionally to pay to the Authority, without any notice, reference or recourse to the Concessionaire or to any other entity or without any recourse or reference to the Agreement or any other document, agreement, instrument or deed, any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

PKR [●]/- (Pakistani Rupees [●])

(hereinafter referred to as the "Guaranteed Amount")

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at sight and immediately, however not later than within [ten (10)] business days from the date of the **Guarantor Bank's receipt of the Authority's first written demand (hereinafter referred to as the "Demand") at the Guarantor Bank's offices located at [Insert Address of the Guarantor Bank at which Demand will be made] [or through SWIFT instructions transmitted by the Authority's bank (i.e. [●]), on behalf the Authority],** such Demand stating:

- (a) the total amounts demanded; and
- (b) the bank account to which the amounts demanded pursuant to the demand are to be **credited/transferred (hereinafter referred to as the "Bank Account").**

A Demand shall only be honoured by the Guarantor Bank if: (i) in the case of a written Demand it is made by and bears the signature of an authorised officer or representative of the Authority; [or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by **the Authority's bank (i.e. [●]), on behalf of the Authority.**]

The Guarantor Bank shall unconditionally honour a Demand hereunder made in compliance with this **Guarantee at sight and immediately on the date of its receipt of the Authority's Demand, as stated earlier,** and shall transfer the amount specified in the Demand to the Bank Account in immediately available and freely transferable funds in the currency of this Guarantee, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Guarantee shall come into force and shall become automatically effective upon its issuance.

After having **come into force, this Guarantee and the Guarantor Bank's obligations hereunder shall expire** on [Insert date and time] (the Guarantee Expiry Hard Date) irrespective of whether this Guarantee has been returned to the Guarantor Bank provided that, in the event that the Authority issues a Demand to the Guarantor Bank on or immediately prior to the Guarantee Expiry Hard Date and the same is received by the Guarantor Bank on or prior to the Guarantee Expiry Hard Date, the Guarantor Bank shall honour such Demand.

Upon expiry, this Guarantee shall be returned to the Concessionaire without undue delay. Multiple **Demands may be made by the Authority under this Guarantee but the Guarantor Bank's aggregate liability** shall be restricted up to the Guaranteed Amount.

The Guarantor Bank hereby agrees that any part of the Agreement may be amended, renewed, extended, modified, compromised, released or discharged by mutual agreement between the Authority and the Concessionaire without:

- (a) in any way impairing or affecting **the Guarantor Bank's liabilities hereunder;**
- (b) notice to the Guarantor Bank; and
- (c) the necessity for any additional endorsement, consent or guarantee by the Guarantor Bank.

This Guarantee for its validity period shall not be affected in any manner by any change in the Guarantor **Bank's constitution or of the Concessionaire's constitution or of their successors and assignees and this**

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Guarantee shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

All references to any contract, agreement, deed or other instruments are by way of reference only and **shall not affect the Guarantor Bank's obligations to make payment under the terms of this Guarantee.**

The Authority shall not assign / transfer or cause or permit to be assigned or transferred any of its rights, title, interests and benefits of this Guarantee without the prior written consent of the Guarantor Bank and the Concessionaire.

If one or more of the provisions of this Guarantee are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Guarantee.

The Guarantor Bank hereby declares and confirms that under its constitution, applicable laws and regulations, it has the necessary power and authority (including all necessary authorizations, approvals and consents) to:

- (a) enter into, execute and deliver this Guarantee; and
- (b) perform the obligations it has undertaken under this Guarantee, which obligations are valid and legally binding on and enforceable against the Guarantor Bank under the laws of Pakistan and under the laws of the jurisdiction where this Guarantee is issued. For the avoidance of doubt, in the event of any inconsistency between the laws of Pakistan and the laws of the jurisdiction where this Guarantee was issued, it is agreed that the laws of Pakistan shall prevail.

Further, the Guarantor Bank hereby declares and confirms that the signatory(ies) to this Guarantee is/are its duly authorized officer(s) to execute this Guarantee.

This Guarantee and all rights and obligations arising from this Guarantee shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Lahore, Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein.

The issuance of this Guarantee is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Guarantee is issued.

[This Guarantee is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758.]²

Executed & Issued

For & On Behalf of the Guarantor Bank

.....

Name:

² May be included and updated on a case to case basis.

DRAFT CONCESSION AGREEMENT

Designation:

Dated:

Witnesses

Witness I

Witness II

.....

Name:

CNIC No.:

.....

Name

CNIC No.:

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Annex B: Form of O&M Performance Security

To:

Water and Sanitation Agency, Lahore

Guarantee No. (hereinafter referred to as the "Guarantee")

Dated:

[Insert Name of Bank], being the Guarantee issuing bank (hereinafter referred to as the "Guarantor Bank") understands that the following parties have entered into an agreement entitled the "Concession Agreement" dated [●], 201[●] (hereinafter referred to as the "Agreement") for the design, engineering, construction, financing, commissioning, operations and maintenance of the [Insert Details] Project under the public private partnership mode:

- (a) [Insert Authority Details], having its offices at [●] (hereinafter referred to as the "Authority"); and
- (b) [●], a company incorporated under the laws of Pakistan, having its registered office located at [●] (hereinafter referred to as the "Concessionaire", which expression shall, where the context so permits, be deemed to mean and include its legal heirs, successors in interest, administrators, executors, and permitted assigns).

Further, the Guarantor Bank understands that pursuant to the terms of the Agreement, the Concessionaire is required to provide the Authority with a bank guarantee in an amount equal to PKR [Insert Amount in Numbers]/- (Pakistani Rupees [Insert Amount in Words]).

The above premised, the Guarantor Bank hereby undertakes irrevocably and unconditionally to pay to the Authority, without any notice, reference or recourse to the Concessionaire or to any other entity or without any recourse or reference to the Agreement or any other document, agreement, instrument or deed, any sum or sums (or any part thereof) equivalent in aggregate up to but not exceeding a maximum amount of:

PKR [●]/- (Pakistani Rupees [●])

(hereinafter referred to as the "Guaranteed Amount")

at sight and immediately, however not later than within [ten (10)] business days from the date of the Guarantor Bank's receipt of the Authority's first written demand (hereinafter referred to as the "Demand") at the Guarantor Bank's offices located at [Insert Address of the Guarantor Bank at which Demand will be made] [or through SWIFT instructions transmitted by the Authority's bank (i.e. [●]), on behalf the Authority], such Demand stating:

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- (a) the total amounts demanded; and
- (b) the bank account to which the amounts demanded pursuant to the demand are to be **credited/transferred (hereinafter referred to as the "Bank Account")**.

A Demand shall only be honoured by the Guarantor Bank if: (i) in the case of a written Demand it is made by and bears the signature of an authorised officer or representative of the Authority; [or (ii) in the case of a Demand transmitted through SWIFT, if it is transmitted through authenticated SWIFT instructions by **the Authority's bank (i.e. [●]), on behalf of the Authority.**]³

The Guarantor Bank shall unconditionally honour a Demand hereunder made in compliance with this **Guarantee at sight and immediately on the date of its receipt of the Authority's Demand**, as stated earlier, and shall transfer the amount specified in the Demand to the Bank Account in immediately available and freely transferable funds in the currency of this Guarantee, free and clear of and without any set-off or deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any nature whatsoever and by whomsoever imposed.

This Guarantee shall come into force and shall become automatically effective upon its issuance.

After **having come into force, this Guarantee and the Guarantor Bank's obligations hereunder shall expire** on [Insert date and time] (the Guarantee Expiry Hard Date) irrespective of whether this Guarantee has been returned to the Guarantor Bank provided that, in the event that the Authority issues a Demand to the Guarantor Bank on or immediately prior to the Guarantee Expiry Hard Date and the same is received by the Guarantor Bank on or prior to the Guarantee Expiry Hard Date, the Guarantor Bank shall honour such Demand.

Upon expiry, this Guarantee shall be returned to the Concessionaire without undue delay. Multiple **Demands may be made by the Authority under this Guarantee but the Guarantor Bank's aggregate liability** shall be restricted up to the Guaranteed Amount.

The Guarantor Bank hereby agrees that any part of the Agreement may be amended, renewed, extended, modified, compromised, released or discharged by mutual agreement between the Authority and the Concessionaire without:

- (d) in any way impairing or affecting **the Guarantor Bank's liabilities hereunder;**
- (e) notice to the Guarantor Bank; and
- (f) the necessity for any additional endorsement, consent or guarantee by the Guarantor Bank.

This Guarantee for its validity period shall not be affected in any manner by any change in the Guarantor **Bank's constitution or of the Concessionaire's constitution or of their successors and assignees and this** Guarantee shall be legally valid, enforceable and binding on each of their successors and permitted assignees.

³ Where required the option for SWIFT instructions may be inserted.

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All references to any contract, agreement, deed or other instruments are by way of reference only and shall not affect the Guarantor Bank's obligations to make payment under the terms of this Guarantee.

The Authority shall not assign / transfer or cause or permit to be assigned or transferred any of its rights, title, interests and benefits of this Guarantee without the prior written consent of the Guarantor Bank and the Concessionaire.

If one or more of the provisions of this Guarantee are held or found to be invalid, illegal, or unenforceable for any reason whatsoever, in any respect, any such invalidity, illegality, or unenforceability of any provision shall not affect the validity of the remaining provisions of this Guarantee.

The Guarantor Bank hereby declares and confirms that under its constitution, applicable laws and regulations, it has the necessary power and authority (including all necessary authorizations, approvals and consents) to:

- (a) enter into, execute and deliver this Guarantee; and
- (b) perform the obligations it has undertaken under this Guarantee, which obligations are valid and legally binding on and enforceable against the Guarantor Bank under the laws of Pakistan and under the laws of the jurisdiction where this Guarantee is issued. For the avoidance of doubt, in the event of any inconsistency between the laws of Pakistan and the laws of the jurisdiction where this Guarantee was issued, it is agreed that the laws of Pakistan shall prevail.

Further, the Guarantor Bank hereby declares and confirms that the signatory(ies) to this Guarantee is/are its duly authorized officer(s) to execute this Guarantee.

This Guarantee and all rights and obligations arising from this Guarantee shall be governed and construed in all respects in accordance with the laws of Pakistan. The courts in Lahore, Pakistan shall have exclusive jurisdiction in respect of any dispute relating to any matter contained herein.

The issuance of this Guarantee is permitted according to the laws of Pakistan and the laws of the jurisdiction where this Guarantee is issued.

[This Guarantee is subject to the Uniform Rules for Demand Guarantee, ICC Publication No.758.]⁴

Executed & Issued

For & On Behalf of the Guarantor Bank

.....

Name:

Designation:

Dated:

⁴ May be included and updated on a case to case basis.

DRAFT CONCESSION AGREEMENT

Witnesses

Witness I

Witness II

.....

Name:

CNIC No.:

.....

Name

CNIC No.:

Schedule 3

Form of Vesting Certificate

1. *[insert details]* being the Concessioneing Authority, refer to the agreement entitled “Concession Agreement” dated [●] (as amended from time to time) (the “Concession Agreement”) relating to, *inter alia*, the designing, construction, development, operation and maintenance (through Public Private Partnership on a design, build, finance, operate and transfer basis) of the [●] (the “Project”);
2. The Concessioneing Authority hereby acknowledges the compliance and the fulfillment by the Concessionaire of the divestment requirements set forth in the Concession Agreement and, on such basis, hereby issue this Vesting Certificate (the “Certificate”).
3. Upon issuance of this Certificate, the Concessioneing Authority shall be deemed to have acquired, all title and interest of the Concessionaire in or about the Project Installations and Equipment (as defined in the Concession Agreement) and the same shall be deemed to have vested unto the Concessioneing Authority, free from any encumbrances, charges and liens whatsoever.

Signed this day of, at Lahore.

For and on behalf of

[Insert Details]

Signature

Name

DRAFT CONCESSION AGREEMENT

Designation

Signed in the presence of the following witnesses:

Signature

Signature

Name

Name

NIC No.

NIC No.

For and on behalf of

[•]

Signature

DRAFT CONCESSION AGREEMENT

Name

Designation

Signed in the presence of the following witnesses:

Signature

Signature

Name

Name

NIC No.

NIC No.

Schedule 4

Annex A: International Standards, Technical Specifications and Approved Detailed Plan

Water Meter Specifications:

A) Mechanical Water Meters

- I. Technology: Multi Jet Dry Type /Volumetric Rotary Piston/Notating disc with remote Automatic Meter Reading (AMR) capability through GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.
- II. Certifications:
ISO:4064 (International Organization Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC
- III. General Features:
 - Shall have possibility for both visual and automatic meter reading outputs;
 - Tamper proof
 - Provided with non-return wall
 - Un-affected by grit and particulates
 - Provided with wire and lead seal
 - Not affected by magnetic field
- iv. Detailed metrological specifications
 - Size: 15 mm, 20 mm and 25mm
 - Accuracy: Class II
 - Material: Brass/Non-ferrous metal
 - Protection Class: IP-68
 - Ambient Temperature: +5° to 55° C
 - Liquid Temperature: Up to 50° C
 - Pressure: 16 Bar
 - Flow rate: Q3/Q1 = 160
 - Maximum flow rate: m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- Installation: Any direction.

Or

B. Static Water Meters

- I. Technology: Static Smart Water Meters (ultrasonic technology, electromagnetic, fluidic oscillation with remote Automatic Meter Reading (AMR) capability through

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GSM/GPRS/Radio Frequency (RF) or any other mode of communication compatible to WASA system.

II. Certifications:

ISO:4064 (International Organization Standardization Compliant) or OIML: R49(2013) (International Organization of Legal Metrology) or MID/2004/22/EEC

III. General Features:

- Shall have possibility for both visual and automatic meter reading outputs;
- No moving parts
- Both visual (LCD) with remote Automated Meter Reading outputs.
- As per class 2 of OIML/ ISO specifications (Current)
- Tamper proof
- Provided with non-return valve
- Un-affected by grit and particulates
- No reverse flow measurement
- Provided with wire and lead seal

iv. Detailed metrological specifications

- Size: 15 mm, 20 mm and 25mm
- Accuracy: Class II
- Material: Brass/Non-ferrous metal
- Protection Class: IP-68
- Ambient Temperature: +5° to 55° C
- Liquid Temperature: up to 50° C
- Maximum Working Pressure: 16 Bar
- Flow rate: Q3/Q1 = 160
- Maximum flow rate: m³/h: Q₃

15mm	20mm	25mm
2.5	4.0	6.3

- Battery Life: Minimum 10-years
 - Installation: Any direction.
-

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Annex B: O&M Performance Standards

Technical Specifications / Key Performance Indicators (Operation and Maintenance)

1. BROAD PARAMETERS FOR OPERATION AND MAINTENANCE

- 1.1. During the Concession Period, the Concessionaire shall operate and maintain the Project Installations in accordance with this Agreement either by itself, or through an O&M Sub-Contractor and if required, modify, repair or otherwise make improvements to the Project Installations to comply with the provisions of this Agreement and Applicable Laws, and conform to Schedule 4, including the Approved Detail Plan, and Good Industry Practice including the following:
 - (a) minimising incidents affecting the safety and use of the Project Installations by providing a rapid and effective response and maintaining liaison with emergency services of the State;
 - (b) carrying out periodic preventive maintenance of the Project Installations;
 - (c) undertaking routine maintenance
 - (d) undertaking all maintenance in accordance with a maintenance schedule for the Project Installation;
 - (e) preventing, with the assistance of the concerned law enforcement agencies, any encroachments on the Project Installations;
 - (f) protection of the environment and provision of equipment and materials for such purpose;
 - (g) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the Project Installations;
 - (h) maintaining a public relations unit to interface with and attend to suggestions from internal stakeholders as well as external stakeholders such as a Government Agency, media and other Persons;
 - (i) complying with the safety manual;
 - (j) operation and maintenance of the Project Installations diligently and efficiently and in accordance with Good Industry Practice;
 - (k) maintaining punctuality and reliability in operating the Project Installations; and
 - (l) maintaining a high standard of cleanliness and hygiene on the Project Sites.
- 1.2. The Concessionaire shall remove promptly from the Project Site all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project Installations and the Project Site in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice.
- 1.3. Broad operational and maintenance parameters are the measures that monitor the performance of **'key result areas' of business activities, which are absolutely critical to the success and growth**

of the Project. The development and use of such parameter should form the basis for the analysis of an organization's current performance, its future requirements and the improving strategies required for its on-going success. Some general principles regarding the O&M parameters should be taken under consideration during their application:

- O&M parameters should not be an end in themselves, but be considered as an aid to management;
- They may have reference to some international standard but essentially conforming to local context and conditions;
- Concessionaire should be able to provide basis and platform to devise Key Performance Indicators (KPIs) at detailed design and implementation stage of the Project, which should be approved by Quality Assurance Inspector;
- They should be balanced and with built-in sufficient coordination of mutually related and dependable activities and operations;
- After being proposed O&M parameters may be reviewed and updated as per the requirements of the Project and advancement in research.

This section provides few guidelines for O&M parameters, but as this is only feasibility and conceptual design stage the perfectness of these parameters at this stage can be debated at later stage when the functions, detailed design, operations, mode of investment, administrative frame work and other conditions becomes clearer. However, for the purpose of this stage the O&M parameters have been broadly divided into four categories as follows:

- a) Qualitative
- b) Administrative
- c) Operational
- d) Financial

1.4. Qualitative Parameters

As the name shows the qualitative indicators shall indicate the improvement or deterioration of quality in the performance of the Project Installations.

Environment

- Liquid Waste should be treated (if required) to achieve the prescribed standards of PEPA and other international organizations;
- An efficient Solid Waste Management System (SWMS) should be devised to collect, segregate and dispose of all sorts of generated solid waste, as per international standards and practice;
- Emissions of HOV and LOV should be kept below limits and within permitted level of environmental agencies.

Hygienic Parameters

- Daily sweeping and mopping of the relevant working areas of the Project Site as per the devised SOPs to be submitted by the vendor to the management consultant and hygiene standards;

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- Provisions of sufficient hand wash materials as per standard hygiene practices;
- Removal of all kinds solid waste and ensuring transportation to the overall solid waste collection and segregations units on daily basis;
- Daily cleaning of all service areas;
- Daily washing and ironing of uniforms of all service personnel;
- Provision of gloves and other equipment in useable condition to all service personnel;
- Proper and timely cleaning of overhead and underground water tanks as per the devised SOPs and international practices; and

Stakeholders Involvement

- Annual survey of users of building and services may be conducted, to know the level of satisfaction of users of the Project Installations and their suggestions regarding improvement;
- Mechanism should be devised to seek the mitigation measures of issues raised by stakeholders, within resources of building administration/management, without compromising the balance of main functions and activities in respect of the Project Installations.

Quality of Service

- Punctuality of staff should be ensured;
- Appropriate measures should be taken for the security of the Project Installations;
- All facilities and service areas in the building should be handicap friendly, conforming to the international standards; and
- Regular inspection of hygiene and quality of food stuff should be conducted for all areas maintaining cooking facilities. The inspection and quality control should conform to the devised SOPs and international standards of food quality etc.

Greater Uniformity

- In any business to stay sustainable in the longer run uniformity of the quality and efficiency offered during the commencement period is required to be maintained throughout the functional and operational life of the project.

1.5. Financial Parameters

- Timely payment of all dues;
- Mechanism for collection of receivables should be efficient;
- Timely debit (bank loan) retirement must be ensured;
- Healthy cash flow to be maintained at all times;
- Timely insurance renewals should be ensured;
- Compliance with the provisions of Applicable Laws, including but not limited to the timely payments of direct and indirect taxes should be ensured; and

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- Payments to the Concessions Authority in accordance with Agreement should be made on timely basis.

1.6. Operational Parameters

Operation and maintenance (“O&M”) refer to all activities needed to run the Project Installations. Operation includes the planning and control of the Project Installations and delivery of services to the Users. It also covers the management of client and public relations, legal, personnel, commercial, and accounting functions.

All electrical and electro mechanical equipment should be ready and in functional condition, with proper and timely maintenance & inspection, as per relevant maintenance standards and specific Operations and Maintenance Manuals of such equipment. Standards regarding health and safety of personnel and equipment must also be considered while operating and maintaining electrical and electromechanical equipment and appliances.

- Supply chain of maintenance parts and operational equipment should always be intact and functioning;
- Efficient mechanism should be devised to generate alerts regarding up-gradation and replacement time of all the electrical, electro-mechanical and mechanical machines and equipment;
- Operation beyond the specified capacity of any machine or vehicles should be avoided;
- Daily washing and regular inspection and maintenance of all HOV, LOV and service vehicles;
- External Water Supply and Sanitation

1.7. Maintenance Parameters

There are following two types of maintenance which Concessionaire should take into account:

- Preventive
- Reactive

1.7.1. Preventive Maintenance:

Preventive maintenance including inspection, cleaning, lubrication, consists of the systematic routine actions needed to keep the utilities in good condition. It sometimes also includes minor repairs and replacement as dictated by the routine examination. Visual inspection of external service lines should be carried out from time to time, so that any possible seepage may be noted and replaced of damaged pipelines shall be made possible.

1.7.2. Reactive Maintenance:

Reactive maintenance normally occurs as a result of reported pipe breaks and the malfunctioning or breakdown of Equipment. Any reported damage or malfunction shall be repaired accordingly..

1.8. Administrative Parameters

- Signing and timely renewal of MOUs/agreements with all stakeholders including financial institutions, security agencies, JV partners and associates, legal consultants, inspection and maintenance agencies and national and international certification agencies etc.

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- Proper and timely record maintenance
- Devising SOPs for all administrative and management functions of all activities of the Project/complex as per international standards;
- Emergency numbers should be displayed at all prominent locations at the Project Site;
- Timely watering of plants and shrubs, to maintain proper health of each element of soft landscape;
- Daily cleaning, weekly washing and regular maintenance of all element of hard landscape;
- Preparation and maintenance of efficient Management Information System (MIS) for the building functions/ activities;
- Whitewashing and repainting of such areas on a tri-annual basis;
- Cleaning and maintenance of all interior and exterior building architectural elements;
- Cleaning and maintenance of electrical parts, including street lights and other elimination systems;
- Establishment and maintenance of emergency/first aid unit to deal with minor accident etc. The unit should be equipped with necessary functional equipment and qualified/trained human resource;
- Ensuring removal of all sorts of encroachment by any user of the building against the prescribed and allocated areas of each user;
- Regular cleaning, inspection and maintenance of driveways, parking spaces, shades, ticketing booths, staircases, ramps, signboards, furniture, office equipment,
- Proper channelization through markings for vehicles movement and parking should be made and maintained on regular basis;
- Electric short circuiting/breakdowns, water and gas leaks should be reported and promptly attended;
- SOPs should be made for utilization of all resources and monitored accordingly;
- Efficient use of machines and manpower should be ensured and improved through technically accepted SOPs for the same;
- Care must be practiced for wastage/losses of fuel and other energy resources;
- Efficient mechanism should be devised to inform all stakeholders regarding maintenance, shutdown and replacement schedules of all machines (rides, lifts, generators, pumps, fire-fighting equipment etc.) and equipment;
- Handing over of all sorts of machines, equipment and building to Concessioning Authority in perfect functional and maintained condition, at the end of concession period, as per the mutually agreed terms and conditions;
- Inventory and remaining functional life of each machine and equipment should be clearly indicated, at the handing over.

1.9. Fire Protection Parameters

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- Sufficient (as per prescribed standards) water in tanks at all times;
- Hydrants and all system (sprinkle system) should be checked regularly and maintained (monthly/as prescription by the manufacturer);
- Fire Fighting Drills should be conducted after every six months;
- Circuit breakers should be checked regularly;
- Electrical faults should be attended promptly;
- Gas system must be checked for leakages and all such complaints must be attended efficiently;
- Fire/emergency exits should be checked and maintained for their functionality on monthly basis;
- Fuel leakages in all sort of vehicles should be attended efficiently to provide efficient and timely mitigation;
- All category users of building should be provided training to cope with emergency situation and use of emergency/fire exits.

2. MAINTENANCE MANUAL AND MAINTENANCE PROGRAM

- 2.1 No later than within ninety (90) days after the Financial Close, the Concessionaire shall, in consultation with the Quality Assurance Inspector, develop a comprehensive repair, operation **and maintenance manual (the "O&M Manual") for the regular and preventive maintenance of** the Project Installations in conformity with this Annex B of Schedule 4, the O&M requirements, Safety Requirements and Good Industry Practice, and shall provide five (5) copies thereof to the Concessions Authority and two (2) copies to the Quality Assurance Inspector. The Maintenance Manual shall be revised and updated once every two (2) years and the provisions of this Clause shall apply, mutatis mutandis, to such revision.
- 2.2 Without prejudice to the provision of above clause, the Maintenance Manual shall, in particular, include provisions for maintenance of the Project Installations and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Installations, including replacement thereof, such that its overall condition conforms to Good Industry Practice.
- 2.3 Maintenance Programme
- 2.3.1 On or before the Project Construction Completion Date and no later than forty-five (45) days prior to the beginning of each Accounting Year during the O&M Period, as the case may be, the Concessionaire shall provide to the Concessions Authority and the Quality Assurance Inspector, its proposed annual programme of preventive, urgent and other scheduled maintenance (the "Maintenance Programme") **to comply with the O&M requirements, O&M Manual and Safety Requirements.** Such Maintenance Programme shall include:
- (a) preventive maintenance schedule;

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- (b) arrangements and procedures for carrying out urgent repairs;
 - (c) criteria to be adopted for deciding maintenance needs;
 - (d) intervals and procedures for carrying out inspection of all elements of the Project Installations;
 - (e) intervals at which the Concessionaire shall carry out periodic maintenance;
 - (f) arrangements and procedures for carrying out safety related measures; and
 - (g) intervals for major maintenance works and the scope thereof.
- 2.3.2 Within fifteen (15) days of receipt of the Maintenance Programme, the Quality Assurance Inspector shall review the same and convey its comments to the Concessionaire with particular reference to its conformity with the O&M requirements, O&M Manual and Safety Requirements.
- 2.3.3 The Concessionaire may modify the Maintenance Programme as may be reasonable in the circumstances, and the procedure specified in Clauses 2.3.1 and 2.3.2 shall apply mutatis mutandis to such modifications.

3. SAFETY REQUIREMENTS

3.1. Safety Requirements means:

- a) Safety Requirements aim at reduction of injuries, loss of life and damage to property resulting from accidents on the Project Sits, irrespective of the person(s) at fault. Users of the Project Installations include staff of the Concessionaire and its Sub-Contractors working on the Project.
- b) Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.
- c) Safety Requirements include measures associated with safe movement, safety management, safety equipment, fire safety, enforcement and emergency response, with particular reference to the Safety Guidelines specified in this Schedule.

3.2. Obligations of the Concessionaire

The Concessionaire shall abide by the following in so far as they relate to safety of the Users:

- (a) Applicable Laws;
- (b) a manual for safety and safety certification prepared by Concessionaire and approved by Quality Assurance Inspector (“Safety Manual”);
- (c) Provisions of this Agreement; and
- (d) Relevant Standards/Guidelines contained in internationally accepted codes; and
- (e) Good Industry Practice.

3.5. Safety measures during Operation Period

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3.5.1 The Concessionaire shall develop, implement and administer a surveillance and safety program for Users, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.

3.5.2 The Concessionaire shall **establish a Project Safety Management Unit (the “PSMU”) to be functional on and after the Project Completion Date and designate one of its officers to be in-charge of the PSMU. Such officer shall have specialist knowledge and training in the safety of the Project Installations by having attended a course conducted by a reputed organization on the subject.**

3.6. Safety Guideline

3.6.1 Safe movement

In the operation and maintenance of the Project Installations, particular care shall be taken to ensure safety of Users in use of the Equipment.

3.6.2 System integrity

In the design of power supply, signaling, circuits and Equipment, particular care shall be taken to minimize the likely incidence of failure or Emergency.

3.6.3 Restoration of service

The Project shall be designed such that in the event a fault occurs, a limited service can be provided within a few minutes by isolation of the affected area or Equipment, to the extent possible.

3.6.4 Safety management

A safety statement shall be prepared by the Concessionaire once in every quarter to bring out clearly the system of management of checks and maintenance tolerances for various assets and compliance thereof. The statement shall also bring out the nature and extent of, staff training and awareness in dealing with such checks and tolerances. Two copies of the statement shall be sent to the Quality Assurance Inspector within fifteen (15) days of the close of every yearly quarter.

3.7 Safety Equipment

The following equipment shall be provided at the Project Site:

- (a) Fire extinguishers and fire alarms at the appropriate locations on the platforms;
- (b) Five stretchers and ten standards first aid boxes; and
- (c) Such other equipment as may be required in conformity with Good Industry Practice.

3.8 Emergency

A set of emergency procedures shall be formulated to deal with different potential emergency **situations and the Concessionaire’s staff shall be trained to respond appropriately during an** emergency through periodic simulated exercises as laid down in an emergency management manual to be prepared by the Concessionaire prior to the Project Construction Completion Date,

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which should be presented to Quality Assurance Inspector for approval prior to implementation (the "Emergency Management Manual").

3.9 Fire Safeties

To prevent fire, the Concessionaire shall use fire resistant materials in the construction thereof and shall avoid use of materials which are to some extent flammable, or which emit smoke and harmful gases when burning.

3.10 User safety and information system:

The Concessionaire shall establish User call points located at convenient locations to allow Users to contact the PSMU telephonically in emergencies.

4. SAFETY, BREAKDOWNS AND ACCIDENTS

4.1 The Concessionaire shall ensure safe conditions for the Users of the Facility Installations, and in the event of unsafe conditions, it shall follow the relevant operating procedures and undertake removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

4.2 The Concessionaire's responsibility for rescue operations at the Project Installations shall include safe evacuation of all Users and staff from the affected area as an initial response to any particular incident and shall also include prompt removal of debris or any other obstruction, which may endanger or interrupt the smooth functioning of the Project Installations.

5. DE-COMMISSIONING DUE TO EMERGENCY

5.1 If, in the reasonable opinion of the Concessionaire, there exists an emergency which warrants de-commissioning and closure of the whole or any part of the Project Installations, the Concessionaire shall be entitled to de-commission and close the whole or any part of the Project Installations to Users and for so long as such emergency and the consequences thereof warrant; provided that such de-commissioning and particulars thereof shall be notified by the Concessionaire to the Concessions Authority without any delay, and the Concessionaire shall diligently carry out and abide by any reasonable directions that the Concessions Authority may give for dealing with such Emergency.

5.2 The Concessionaire shall re-commission the Project Installations or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist or have so abated as to enable the Concessionaire to re-commission the Project Installation and shall notify the Concessions Authority of the same without any delay.

5.3 Any de-commissioning or closure of any part of the Project Installations and the re-commissioning thereof shall, as soon as practicable, be brought to the notice of affected persons by means of public announcements/notice.

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6. SECTION CLOSURE

6.1 The Concessionaire shall not close any section of the Project Installations for undertaking maintenance or repair works except with the prior written approval of the Quality Assurance Inspector. Such approval shall be sought by the Concessionaire through a written request to be made to the Quality Assurance Inspector, and a copy thereof furnished to the Concessions Authority, at least seven (7) days before the proposed closure of such section and shall be accompanied by particulars thereof. Within three (3) days of receiving such request, the Quality Assurance Inspector shall grant permission with such modifications as it may deem necessary and a copy of such permission shall be sent to the Authority.

6.2 Upon receiving the permission pursuant to Clause 6.1, the Concessionaire shall be entitled to close the designated section for the period specified therein, and in the event of any delay in re-opening such section, the Concessionaire shall be liable for damages in accordance with the Agreement.

7. DAMAGES FOR BREACH OF MAINTENANCE OBLIGATIONS

7.1 In the event that the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Agreement within the period specified therein, it shall be deemed to be in breach of this Agreement and the Concessions Authority shall be entitled to take over the Project Installations in order to cure the defect or deficiency and shall have the right to recover its cost in accordance with the Agreement.

8. **AUTHORITY'S RIGHT TO TAKE REMEDIAL MEASURES**

8.1 In the event the Concessionaire does not maintain and/or repair the Project Installations or any part thereof in conformity with the Agreement, the Maintenance Manual or the Maintenance Programme, as the case may be, and fails to commence remedial works within fifteen (15) days of receipt of the O&M Inspection Report or a notice in this behalf from the Concessions Authority or the Quality Assurance Inspector, as the case may be, the Concessions Authority shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover its cost from the Concessionaire. In addition to recovery of the aforesaid cost, a sum equal to twenty per cent (20%) of such cost shall be paid by the Concessionaire to the Concessions Authority as damages. For the avoidance of doubt, the right of the Concessions Authority under this Clause 8.1 shall be without prejudice to its rights and remedies provided under Clause 7.

9. OVERRIDING POWERS OF THE CONCESSIONING AUTHORITY

9.1 If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and, in particular, the O&M requirements, and such breach is causing or likely to cause material hardship or danger to the users, the Concessions Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

9.2 In the event of a national emergency, civil commotion or any other act, Concessions Authority may take over the performance of any or all the obligations of the Concessionaire to the extent

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deemed necessary by it, and exercise such control over the Project or give such directions to the Concessionaire as may be deemed necessary; provided that the exercise of such overriding powers by the Concessions Authority shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by the Concessions Authority. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisions of Article 10 of this Agreement. It is also agreed that the Concessionaire shall comply with such instructions as the Concessions Authority may issue in pursuance of the provisions of this Clause 9, and shall provide assistance and cooperation to the Concessions Authority, on a best effort basis, for performance of its obligations hereunder.

10. RESTORATION OF LOSS OR DAMAGE TO THE PROJECT

Save and except as otherwise expressly provided in this Agreement, in the event that the Project Installations or any part thereof suffers any loss or damage during the Concession Period from any cause whatsoever, the Concessionaire shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project Installations conforms to the provisions of this Agreement.

11. EXCUSE FROM PERFORMANCE OF OBLIGATIONS

The Concessionaire shall not be considered in breach of its obligations under this Agreement, if any part of the Project Installations is not available to Users on account of any of the following and for the duration thereof:

- (a) a Force Majeure Event;
- (b) measures taken to ensure the safe use of the Project Installations except when unsafe conditions occurred because of a failure of the Concessionaire to perform its obligations under this Agreement; or
- (c) compliance with a request from the Concessions Authority or the directions of any Government Agency the effect of which is to close all or any part of the Project Installations.

12. BARRIERS AND DIVERSIONS

Concessions Authority shall ensure that during the O&M Period, no barriers are erected or placed by any Government Agency around the Project Installations except for reasons of emergency, national security, or law and order.

13. MONITORING OF OPERATION AND MAINTENANCE

(i) Monthly status reports

During the O&M Period, the Concessionaire shall, no later than seven (7) days after the close of each month, furnish to the Concessions Authority and the Quality Assurance Inspector a monthly report stating in reasonable detail the condition of the Project Installations including its compliance or otherwise with the Agreement, O&M Manual, Maintenance Programme and Safety

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Manual, and shall promptly give such other relevant information as may be required by the Quality Assurance Inspector. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

(ii) Inspection

Quality Assurance Inspector shall inspect the Project Installations at least once per calendar month. It shall make a **report of such inspection (the "O&M Inspection Report")** stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Agreement, Maintenance Manual, the Maintenance Programme and Safety Manual, and send a copy thereof to the Concessions Authority and the Concessionaire within seven (7) days of such inspection.

(iii) Tests

For determining that the Project conforms to the O&M requirements, the Quality Assurance Inspector shall require the Concessionaire to carry out, or cause to be carried out, tests specified by it in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Quality Assurance Inspector and furnish the results of such tests forthwith to the Quality Assurance Inspector.

(iv) Remedial Measures

(a) The Concessionaire shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report or in the test results referred to in Clause 13(iii), and furnish a report in respect thereof to the Quality Assurance Inspector and the Concessions Authority within fifteen (15) days of receiving the O&M Inspection Report or the test results, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than fifteen (15) days, the Concessionaire shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.

(b) The Quality Assurance Inspector shall require the Concessionaire to carry out or cause to be carried out tests, at its own cost, to determine that such remedial measures have brought the Project Installations into compliance with the Agreement and the procedure set forth in this Clause 13(iv), shall be repeated until the Project Installations conforms to the requirements under the Agreement. In the event that any remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the Concessions Authority shall be entitled to recover damages from the Concessionaire under and in accordance with the provisions of Clause 7.

(v) Reports of Emergencies and Accidents

The Concessionaire shall, prior to the close of each day, send to the Concessions Authority and the Quality Assurance Inspector, by facsimile or e-mail, a report stating any emergency, accident and unusual occurrences that occurred on the Project Installations relating to the safety and security of the Users when using the Equipment. A weekly and monthly summary of such reports

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shall also be sent within three (3) days of the closing of each week and month, as the case may be. For the purposes of this accidents and unusual occurrences on the Project Site shall include:

- (a) death or injury to any person;
- (b) damaged or dislodged fixed equipment;
- (c) any obstruction on the Project, which results in slow down of the services being provided by the Concessionaire;
- (d) disabling of any equipment during operation;
- (e) communication failure affecting the operation of Project;
- (f) smoke or fire;
- (g) flooding of the Project Site; and
- (h) such other relevant information as may be required by the Concessioneing Authority or the Quality Assurance Inspector.

14. O&M MANAGER

- (a) The Concessionaire shall appoint at its own cost and expense the O&M Manager who may be a firm or a team of in-house professionals.
 - (b) The O&M Manager shall design a cost effective management procedure to ensure that the Project Installation is operated and maintained effectively, in accordance with this Agreement and the Applicable Laws.
 - (c) The O&M Manager shall monitor the performance of the O&M Contractor, if any with the O&M Contract or otherwise ensure compliance with O&M requirements as stipulated in this Schedule and the Agreement.
 - (d) The appointment of the O&M Manager shall not in any way absolve the liability of the Concessionaire of its obligations with respect to the operation and maintenance of the Project Installations in accordance with this Agreement.
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Annex C: Equipment Description and Specifications along with detailed list of existing Equipment

[please insert]

Schedule 5

FORM OF LENDER'S DIRECT AGREEMENT

THIS DIRECT AGREEMENT (the "Agreement") is entered into on this the [●] day of [●], 2019 at [●],

BY AND AMONGST:

1. Lahore Water and Sanitation Agency , through its Managing Director having its office at 31-B Zahoor Ilahi Road, Block B Gulberg III, Lahore, Punjab, Pakistan (hereinafter referred to as the "Concessions Authority" or "WASA", which expression shall, mean and include its successors-in-interest and permitted assigns);
2. [●], a company incorporated under the provisions of the Companies Act 2017, having its registered office at [●] through _____ (hereinafter referred to as the "Concessionaire", which expression shall include its successors and permitted assigns);
3. [●], the bidder consortium consisting of [●], [●] and [●] having its registered office at [●], through its Lead Member, [●] (hereinafter referred to as the "Successful Bidder", which expression shall include its successors and permitted assigns); and
4. [●], a banking company having its registered office at [●] (hereinafter referred to as "the Lender", which expression shall include its successors and permitted assigns).

WHEREAS:

- A. The Concessions Authority is developing the Project on BOT mode through a public-private partnership as regulated by the Punjab Public Private Partnership Act, 2019 and has issued the Letter of Award to the Successful Bidder;
- B. **Through the Concession Agreement dated [●] entered into between the Concessions Authority and the Concessionaire (hereinafter referred to as the "Concession Agreement")** the Concessionaire, a special purpose vehicle incorporated by the Successful Bidder to undertake the Project to plan, construct, develop, design, engineer, monitor, procure, finance, equip, operate, maintain and manage the Project Installations at the Project Sites;
- C. With a view to facilitate the financing of the Project by the Concessionaire, the Successful Bidder, the Concessions Authority and the Concessionaire have agreed to enter into this Direct Agreement with the Lender to provide step-in rights in case of a **Concessionaire's Event of Default** pursuant to the Concession Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement the following words and expressions shall, unless repugnant to the

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context or meaning thereof, have the meaning hereafter respectively assigned to them.

“Agreement” means this agreement and its Schedules and includes any amendment or modification made to this agreement in accordance with the provisions hereof.

“Financial Assistance” means the financial assistance set forth in Schedule A hereto, agreed to be provided by the Lender(s) to the Concessionaire for financing the Project.

“Lender(s)” means the financial institutions/banks whose name(s) and addresses are set out in Schedule 1 hereto.

“Residual Concession Period” means the period which shall be the remainder of the Concession Period computed from the date of suspension of the Concession in terms of Article 2.3.

“Selectee” means a Person proposed by the Lender pursuant to this Agreement and **approved by the Concessioneing Authority to undertake the Successful Bidder’s obligations** pursuant to the Concession Agreement for the Residual Concession Period, in accordance with the provisions of this Agreement.

“Security” shall mean the shares constituting one hundred percent (100%) of the total issued and paid up capital of the Concessionaire issued to the Successful Bidder and pledged in favor of the Lender through the Share Pledge Agreement, entered into between the Lender, the Successful Bidder and the Concessionaire, dated as of [●].

"Suspension Period" means the period commencing from the expiry of the Cure Period specified in the Preliminary Notice to Remedy and ending on the date on which all formalities connected with substitution of the Successful Bidder by the Selectee including any handing over of Project Site, in accordance with this Agreement are completed and the substitution has become effective.

- 1.2 Capitalized terms used in this Agreement but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

2. APPOINTMENT OF SUB-CONTRACTORS

2.1 Lenders Right to Step-in

The Concessioneing Authority and the Successful Bidder hereby irrevocably agree that upon occurrence of a Concessionaire Event of Default, the Lender(s) shall, without prejudice to any other rights or remedies available to them under law and Financing Documents, and without being required to exercise or exhaust such rights or remedies, have the right to enforce the Security for the Residual Concession Period in accordance with the provisions of this Agreement and the Concession Agreement.

2.2 Preliminary Notice of Termination

The Concessioneing Authority shall as soon as possible but in any case not later than thirty

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(30) days of its knowledge of the occurrence of the Concessionaire Event of Default issue a Preliminary Notice to Remedy to the Concessionaire in terms of Article 11.2.1(b) of the Concession Agreement, with a copy thereof simultaneously couriered to the Lender.

2.3 Suspension of Concession and Takeover of the Project Installations

The Concessionaire irrevocably agrees that if the Cure Period specified in Article 11.2.1(c) of the Concession Agreement lapses without the Concessionaire Event of Default having been cured, the Concession Agreement shall, effective from the expiry of such Cure Period, stand suspended without any further notice or other act of the Concessions Authority being required, and that the Lender shall have the right to enter upon and takeover the Concessionaire through the enforcement of its Security and to take all such steps as are necessary for the continued operation and maintenance of the Project Installations. The Successful Bidder hereby irrevocably consents to the takeover of the Concessionaire by the Lender forthwith upon suspension becoming effective.

In case of any unlawful suspension or suspension which is not permitted under the terms of this Agreement or the Concession Agreement by the Concessionaire, then: (a) in case such suspension occurs prior to the issuance of the Certificate of Compliance, will cause the Concessionaire to lose its right to any outstanding payments/ Termination Payments under the Concession Agreement; and (b) in case following the issuance of the Completion Certificate, it will cause the Concessionaire to be liable for damages which shall be the actual genuine estimate of costs suffered by the Concessions Authority on account of such suspension and the same may be adjusted from any amounts payable by the Concessions Authority to the Concessionaire.

2.4 Substitution Notice

The Concessions Authority and the Concessionaire hereby irrevocably agree that in the event of the **Concessionaire's failure to cure the Concessionaire's Event of Default** specified in Article 11.2.1(c) of the Concession Agreement, the Lender may, within thirty (30) days of the expiry of the Cure Period specified therein notify the Concessions Authority and the Successful Bidder about the intention of the Lender to enforce its Security and ensure fulfillment by the Concessionaire of its obligations pursuant to the Concession Agreement for the Residual Concession Period (the "Takeover Notice").

2.5 Criteria for selection of the Sub-Contractor or Selectee

Following issuance of the Takeover Notice, the Lender shall in addition to any other criteria that it may deem fit and necessary, apply the following criteria in the selection of a Sub-Contractor or Selectee:

- (a) the Sub-Contractor or Selectee shall possess the net worth, experience, technical capability and managerial ability to perform and discharge all the residual duties, obligations and liabilities of the Concessionaire or Successful Bidder in respect of the Concession, under the Concession Agreement;
- (b) the Sub-Contractor or Selectee shall have the capability and shall

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unconditionally consent to assume the liability for the payment and discharge of dues, if any, of the Concessionaire to the Concessing Authority under and in accordance with the Concession Agreement, and also payment of amounts due to the Lender(s) under the Financing Documents upon terms and conditions as agreed to between the Selectee and the Lenders.

2.6 Approval of the Concessing Authority

The Sub-Contractor or Selectee shall be subject to the approval of Concessing Authority.

3. MODALITY FOR SUBSTITUTION

3.1 Modalities for Substitution

3.1.1 Sub-Contractor

The following procedure shall be followed for selection of the Selectee pursuant to this Agreement:

- (a) The Lender shall be entitled, within a period of sixty (60) days from the date of delivery of the Takeover Notice pursuant to the preceding Article 2.4 to invite or procure offers either through private negotiations or public auction or process of tender or otherwise from eligible Persons, for sub-contracting of all obligations of the Concessionaire pursuant to the Concession Agreement and propose to the Concessing Authority for its approval of the **Sub-Contractor (the "Sub-Contractor Proposal")**. **The Sub-Contractor Proposal** of the Lender shall contain the particulars and information in respect of the Sub-Contractor, particulars of the amounts due to the Lenders under the Financing Documents, the terms of the sub-contract and such data and information as would be necessary and relevant for the Concessing Authority to decide as to the acceptability of the Sub-Contractor. The Lender shall provide to the Concessing Authority such additional information and clarification in respect of any data, particulars or information contained in the Proposal, as the Concessing Authority may reasonably require.
- (b) The Sub-Contractor Proposal shall be accompanied by an unconditional undertaking of **the Lender substantially in the form of the Successful Bidder's Undertaking to the effect** that it shall upon acceptance by the Concessing Authority of the Sub-Contractor Proposal observe, comply with, perform and fulfill the residual terms, conditions and **covenants of the Successful Bidder's Undertaking as if the Lender had been the Successful Bidder pursuant to the Successful Bidder's Undertaking and the Sub-Contractor had been the Concessionaire under the Concession Agreement**, and the Sub-Contractor shall assume, take over, discharge and pay the **Concessionaire's obligations under the Financing Documents** on the terms and conditions agreed to by the Sub-Contractor with the Lender. The Sub-Contractor shall also undertake to enter into such documents and writings with the Concessing Authority and the Lender(s) as may be necessary or required to give effect to the substitution of the Concessionaire by the Sub-Contractor.

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- (c) The Concessioneing Authority shall convey to the Lender its acceptance or otherwise of the Sub-Contractor within fifteen (15) days of: (a) the date of receipt of the Sub-Contractor Proposal by the Concessioneing Authority; or (b) the date of receipt of the additional information and clarifications in respect of any data, particulars or information comprised in the Proposal, provided by the Lender to the Concessioneing Authority, whichever is later.
- (d) At any time prior to the acceptance of the Sub-Contractor by the Concessioneing Authority pursuant to this Agreement, the Concessioneing Authority may require the Lender to satisfy it as to the eligibility of the Sub-Contractor and the decision of the Concessioneing Authority as to acceptance or rejection of any Sub-Contractor (which shall be reasonable), shall be final, conclusive and binding on the Lender, the Sub-Contractor, the Concessioneaire and the Successful Bidder. In the event that the Concessioneing Authority fails to communicate its acceptance or otherwise or the objections if any it has to the acceptance of the Sub-Contractor Proposal/the Sub-Contractor within a period of fifteen (15) days prescribed in the preceding sub-Article (c), the Concessioneing Authority shall be deemed to have accepted the Sub-Contractor Proposal/the Sub-Contractor.
- (e) The rejection of the Sub-Contractor if made by Concessioneing Authority shall be reasoned and be made after hearing the Lender. Following the rejection of the Sub-Contractor Proposal, the Lender shall have the right to submit a fresh Proposal, proposing another Sub-Contractor, within fifteen (15) days of receipt of communication regarding rejection of the Sub-Contractor previously proposed. The provisions of preceding sub-Article (c) and (d) shall apply mutatis mutandis to such fresh Proposal.
- (f) If the Concessioneing Authority accepts the Sub-Contractor Proposal, the Concessioneing Authority shall take all necessary steps to substitute the Concessioneaire by the Sub-Contractor by amendment of the Concession Agreement or by execution of fresh agreement or such other writing as may be required or necessary to give effect to the substitution of the Successful Bidder by the Lender and the substitution of the Concessioneaire by the Sub-Contractor for the Residual Concession Period.
- (g) The substitution of the Concessioneaire by the Sub-Contractor shall be deemed to be complete upon the Sub-Contractor executing all necessary documents and writings with or in favour of Concessioneing Authority and the Lender(s) so as to give full effect to the terms and conditions of substitution subject to which the Sub-Contractor has been accepted by the Lender(s) and Concessioneing Authority and upon the delivery by Concessioneing Authority of the Project Site/Project Installation(s) to the Sub-Contractor. Upon the substitution becoming effective pursuant to this sub-Article all the rights of the Successful Bidder under **the Concession Agreement and the Successful Bidder's** Undertaking shall cease to exist. Provided nothing contained in this sub-Article shall prejudice any pending/subsisting claims of the Successful Bidder against the Concessioneing Authority or any claim of the Concessioneing Authority against the Concessioneaire and the Sub-Contractor shall incur no liability or consequence on account of any previous breach/default and shall subject to the terms and conditions of the substitution, have a period of ninety (90) days to cure any breach/default subsisting on the date of substitution and required or agreed to be cured.

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- (h) The decision of the Lender and Concessioneing Authority in the selection of the Sub-Contractor shall be final and binding on the Successful Bidder and the Concessionaire and shall be deemed to have been made with the concurrence of the Successful Bidder and the Concessionaire. The Successful Bidder and the Concessionaire hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever.

3.1.2 Selectee

The following procedure shall be followed for selection of the Selectee pursuant to this Agreement:

- (a) The Lender shall be entitled, within a period of one hundred twenty (120) days from the date of delivery of the Takeover Notice pursuant to the preceding Article 2.4 to invite or procure offers either through private negotiations or public auction or process of tender or otherwise from the eligible Persons, for the purchase of one hundred percent (100%) of Ordinary Share Capital by the Selectee and propose to the Concessioneing Authority for its approval **of the Selectee (the "Proposal")**. **The Proposal of the Lender** shall contain the particulars and information in respect of the Selectee, particulars of the amounts due to the Lenders under the Financing Documents, the terms of share purchase and such data and information as would be necessary and relevant for the Concessioneing Authority to decide as to the acceptability of the Selectee. The Lender shall provide to the Concessioneing Authority such additional information and clarification in respect of any data, particulars or information contained in the Proposal, as the Concessioneing Authority may reasonably require.
- (b) The Proposal shall be accompanied by an unconditional undertaking of the Selectee **substantially in the form of the Successful Bidder's Undertaking** to the effect that it shall upon acceptance by the Concessioneing Authority of the Proposal observe, comply with, perform and fulfill the residual terms, conditions and covenants of the Concession Agreement as if the Selectee had been the Concessionaire under the Concession Agreement, and to assume, take over, discharge and pay the **Concessionaire's obligations** under the Financing Documents on the terms and conditions agreed to by the Selectee with the Lenders. The Selectee shall also undertake to enter into such documents and writings with the Concessioneing Authority and the Lender(s) as may be necessary or required to give effect to the substitution of the Successful Bidder by the Selectee.
- (c) The Concessioneing Authority shall convey to the Lender its acceptance or otherwise of the Selectee within thirty (30) days of: (a) the date of receipt of the Proposal by the Concessioneing Authority; or (b) the date of receipt of the additional information and clarifications in respect of any data, particulars or information comprised in the Proposal, provided by the Lender to the Concessioneing Authority, whichever is later.
- (d) At any time prior to the acceptance of the Selectee by the Concessioneing Authority pursuant to this Agreement, the Concessioneing Authority may require the Lender to satisfy it as to the eligibility of the Selectee and the decision of the Concessioneing Authority as to acceptance or rejection of any Selectee (which shall be reasonable), shall be final, conclusive and binding on the Lender, the Selectee and the Successful Bidder. In

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the event that the Concessing Authority fails to communicate its acceptance or otherwise or the objections if any it has to the acceptance of the Proposal/the Selectee within a period of thirty (30) days prescribed in the preceding sub-Article (c), the Concessing Authority shall be deemed to have accepted the Proposal/the Selectee.

- (e) The rejection of the Selectee if made by Concessing Authority shall be reasoned and be made after hearing the Lender. Following the rejection of the Proposal, the Lender shall have the right to submit a fresh Proposal, proposing another Selectee, within thirty (30) days of receipt of communication regarding rejection of the Selectee previously proposed. The provisions of preceding sub-Article (c) and (d) shall apply mutatis mutandis to such fresh Proposal.
- (f) If the Concessing Authority accepts the Proposal, the Concessing Authority shall take all necessary steps to substitute the Successful Bidder by the Selectee by amendment of the Concession Agreement or by execution of fresh agreement or such other writing as may be required or necessary to give effect to the substitution of the Successful Bidder by the Selectee for the Residual Concession Period.
- (g) The substitution of the Concessionaire by the Selectee shall be deemed to be complete upon the Selectee executing all necessary documents and writings with or in favour of Concessing Authority and the Lender(s) so as to give full effect to the terms and conditions of substitution subject to which the Selectee has been accepted by the Lender(s) and Concessing Authority and upon the delivery by Concessing Authority of the Project Site/Project Installations to the Selectee. Upon the substitution becoming effective pursuant to this sub-Article all the rights of the Successful Bidder under the **Concession Agreement and the Successful Bidder's Undertaking shall cease to exist.** Provided nothing contained in this sub-Article shall prejudice any pending/subsisting claims of the Successful Bidder against the Concessing Authority or any claim of the Concessing Authority against the Concessionaire and the Selectee shall incur no liability or consequence on account of any previous breach/default and shall subject to the terms and conditions of the substitution, have a period of ninety (90) days to cure any breach/default subsisting on the date of substitution and required or agreed to be cured.
- (h) The decision of the Lender and Concessing Authority in the selection of the Selectee shall be final and binding on the Successful Bidder and shall be deemed to have been made with the concurrence of the Successful Bidder. The Successful Bidder hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever.

3.2 Termination and Termination Payment

- (a) Where the Lender communicates in writing that: (i) the Lender does not intend to seek substitution of the Successful Bidder; or (ii) that the Lender has not been able to find a suitable Selectee or Sub-Contractor; or (iii) that the Concessing Authority has declined to accept the Selectee or Sub-Contractor proposed by the Lender, the Concessing Authority shall proceed to terminate the Concession and to make Termination Payment in accordance with the provisions of the Concession Agreement.

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- (b) Nothing contained in these presents shall mean or be interpreted as provision of any guarantee or surety by Concessioneing Authority and it is expressly agreed that Concessioneing Authority has not provided any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of amounts advanced by the Lenders to the Concessionaire.

4. MODE OF TERMINATION PAYMENTS

4.1 Mode of Payment

Concessioneing Authority and Concessionaire hereby irrevocably agree, and confirm that so long as the liabilities of the Concessionaire under the Financing Documents are outstanding the Termination Payment due and payable by Concessioneing Authority to the Concessionaire under any of the provisions of the Concession Agreement shall be paid only by way of credit directly to a bank account designated therefor by the Lender(s) and advised to the Concessioneing Authority and the Concessionaire in writing. The Lender(s) shall be entitled to receive and appropriate the same without any further reference to or consent of the Concessionaire to the extent of the amounts outstanding, due and payable under the Financing Documents. Any payment so made shall to the extent of such payment constitute a valid discharge by the Concessioneing Authority of its obligations with regard to the Termination Payment due to the Concessionaire under the Concession Agreement.

5. GENERAL

5.1 General

- (a) The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.
- (b) Notices under this Agreement shall be sent to the addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by registered post acknowledgement due and delivered to the other parties.
- (c) This Agreement shall not be affected by re-organisation of any Lender, the Successful Bidder or the Concessioneing Authority and the successor-in-interest of the Lender or Concessioneing Authority shall have the benefit of this Agreement.
- (d) Any dispute, difference or claim arising out of or in connection with or in relation to this Agreement which is not resolved amicably shall be decided in accordance with Article 13 (*Dispute Resolution*) of the Concession Agreement. Such arbitration shall be held in accordance with and shall be subject to the provisions of the Arbitration Act, 1940. The venue of such arbitration shall be Lahore, Pakistan and the Award shall be final and binding on the Parties. The Parties agree and undertake to carry out the award of the **arbitrators (the "Award") without delay.**
- (e) This Agreement and rights and obligations of the Parties hereunder shall remain

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in full force and effect pending the Award in any arbitration proceeding hereunder.

- (f) The courts of competent jurisdiction in Lahore alone shall have jurisdiction over all matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings thereunder.
- (g) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- (h) It shall not be necessary for the Lender to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- (i) No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorised representatives of all the Parties hereto.
- (j) All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders making such payment for the time being, shall be borne by and be to the account of the Concessionaire.
- (k) The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of the Concession Agreement shall prevail in the event of any inconsistency with this Agreement.

[Signature pages to follow]

Schedule 6

Integrity Pact

[On the Stamp Paper in accordance with the Stamp Act, 1899]

[Insert Name of the Concessionaire] **(the “Concessionaire”)** hereby declares its intention not to obtain or induce the procurement of any contract, right, interest, privilege or other obligation or benefit through any corrupt business practice from the Government of Pakistan, the Government of Punjab, any local government, any administrative subdivision or agency of any of the foregoing or any other entity owned or controlled by any of the foregoing.

Without limiting the generality of the foregoing, the Concessionaire represents, warrants and covenants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone or any authority and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or **indirectly through any natural or juridical person, including the Concessionaire’s affiliates, agents, associates, brokers, consultants, directors, promoters, shareholders, sponsors or subsidiaries, any commission, gratification, bribe, finder’s fee or kickback**, whether described as consultation fee or otherwise, with the object of obtaining or including the procurement of a contract, right, interest, privilege or other obligation or benefit in whatsoever form from any Government Agency, except that which has been expressly declared pursuant by the Concessionaire beforehand.

The Concessionaire certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to any transaction with any Government Agency and has not taken any action or will not take any action to circumvent the above declaration, representation, or warranty or covenant.

The Concessionaire accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation, warranty and covenant. The Concessionaire agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to any Government Agency under any law, contract or other instrument, be voidable at the option of the relevant Government Agency and/or the Government of Punjab and/or the Water and Sanitation Agency.

Notwithstanding any rights and remedies exercised by any Government Agency in this regard, the Concessionaire agrees to indemnify the relevant Government Agency, the Government of Punjab and the Water and Sanitation Agency **for any loss or damage incurred by it on account of the Concessionaire’s corrupt business practices and further to pay compensation to the relevant Government Agency, the Government of Punjab and the Water and Sanitation Agency in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder’s fee or kickback given by the Concessionaire as aforesaid for the purpose of obtaining or the procurement of any contract, right, interest, privilege or other obligation or benefit in whatsoever form from any Government Agency.**

For and on behalf of the Concessionaire:

Signature of Authorized Signatory: _____

Name and Title of Signatory: _____

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Name of Firm: _____

Address: _____

Witness 1:

Signature: _____

Name: _____

Address: _____

CNIC/Passport No.: _____

Witness 2:

Signature: _____

Name: _____

Address: _____

CNIC/Passport No.: _____

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Schedule 7

User Charges

[please insert]

Schedule 8

Annex A: Role and functions of Consultants

QUALITY ASSURANCE INSPECTOR – TERMS OF REFERENCE

1. Role of the Quality Assurance Inspector

The Quality Assurance Inspector is to play a positive and independent role in discharging its functions, thereby facilitating the smooth implementation and operation of the Project. Broadly, the role of the Quality Assurance Inspector is to:

- a. independently review, monitor and where required by the Agreement, to approve activities associated with the Design, Construction, Operation & Maintenance of the Project to ensure compliance by the Concessionaire with the Annex A to Schedule 4 and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*);
- b. report to the Parties on the various physical, technical and financial aspects of the Project based on inspections, site visits and tests;
- c. assist the Parties in arriving at an amicable settlement of disputes, should the need arise; and
- d. review matters related to safety and during operations management measures adopted by the Concessionaire for the Project.

2. Scope of Services

The services to be provided by the Quality Assurance Inspector are listed below. In addition, the scope of services would also include such other functions as are required to be undertaken pursuant to specific provisions of the Agreement.

2.1 Implementation Period - Design and Planning

- (a) The Quality Assurance Inspector shall review the design and drawings submitted by the Concessionaire to ensure conformity with the Technical Specifications, get them amended/improved where necessary and recommend them to Concessioning Authority for approval.
- (b) Review of the following submitted by the Concessionaire:
 - (i) Quality Assurance Plan;
 - (ii) Approved Detailed Plan; and
 - (iii) O&M Plan – Implementation Period.

2.2 Implementation Period – Construction

The Quality Assurance Inspector would monitor, in accordance with Good Industry Practice, the progress in implementation and ensure compliance with the Technical Specifications and provisions of Agreement. For this purpose the Quality Assurance Inspector shall undertake, inter alia, the following activities and where appropriate make suitable suggestions:

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- (a) monitor the progress in implementation of the Project based on the Approved Detailed Plan submitted by the Concessionaire;
- (b) review and approve the material testing and mix designs results and recommend special tests, where required, for materials and/or completed works, require removal/substitution of unsuitable materials and/or works and report deficiencies in respect of the same to Concessioning Authority;
- (c) review and monitor the quality assurance and quality control procedures followed by the Concessionaire;
- (d) review the manpower and equipment deployed by the Concessionaire;
- (e) monitor the construction works for conformity with the Technical Specifications and O&M requirements;
- (f) verify the 'As Built' drawings for each component of the works prepared by the Concessionaire and require removal of deficiencies found therein;
- (g) conduct tests to ensure the compliance with the Technical Specifications, O&M requirements and handback requirements;
- (h) review the safety and operation management measures implemented;
- (i) review and ascertain the cost variation arising as a result of Change in Law and/ or Variation and determine the Additional Cost;
- (j) require, monitor and review the results of Tests to be carried out by the Concessionaire in accordance with Annex A to Schedule 4 and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*);
- (k) require suspension of whole or any part of the construction works if in its reasonable opinion the same does not conform to Annex A to Schedule 4 (*Technical Specifications – Construction*) and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*);
- (l) sign off on the Project Construction Completion Certificate in accordance with the applicable provisions of the Agreement; and
- (m) review and assist in finalization of the O&M Manual and first annual O&M Plan prepared by the Concessionaire.

2.3 Operations Period

- (a) During this period the Quality Assurance Inspector would monitor, in accordance with Good Industry Practice, the operations and maintenance activities undertaken by the Concessionaire so as to ensure compliance with the O&M requirements. The specific activities to be undertaken would include the following:
 - (i) review the O&M Plans submitted by the Concessionaire from time to time and assist the Concessionaire in finalizing the same;
 - (ii) monitor Operation and Maintenance activities (including maintenance of equipment, standards of service, operations management, safety and environmental issues) and the overall quality of O&M activities so as to ensure compliance by the Concessionaire with the O&M requirements, O&M Plan and

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O&M Manual;

- (iii) Periodically review the O&M Manual for adequacy;
 - (iv) inspect the Project Installations frequently and as and when exigencies require to ascertain conformity with Annex A to Schedule 4 (*Technical Specifications – Construction*) and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*);
 - (v) review and ascertain the cost variation arising as a result of Change in Law and/ or Variation and determine the Additional Cost;
 - (vi) undertake a quarterly review of the various records and registers to be maintained by the Concessionaire (including the records relating to complaints and accidents) and suggest suitable remedial measures/procedures, where necessary.
- (b) In the event of an emergency, the Quality Assurance Inspector shall assist the Concessionaire in dealing with the same and if necessary require or permit, as the case may be, the Concessionaire to take such appropriate steps or measures including decommissioning of any Project facilities where necessary.

2.4 Handback of Project Installations to Concessions Authority

At the time of handing back the Project Installation to Concessions Authority at the end of Concession Period, the Quality Assurance Inspector shall:

- (a) monitor and certify compliance with the handback requirements and
- (b) issue a certificate of compliance with handback requirements to the Concessionaire.

2.5 Breach of Obligations

If during the course or upon review/inspection undertaken by the Quality Assurance Inspector or otherwise, it transpires that either of the Parties is in breach/default of any of its obligations under the Agreement, the Quality Assurance Inspector shall, under intimation to the other Party, require the defaulting Party to remedy such breach/default within such time and in such manner as the Quality Assurance Inspector may deem fit and in each case the same shall be recorded.

2.6 Meetings, Records and Reporting

- (a) The Quality Assurance Inspector would be required to participate in the Project review meetings held from time to time by the Parties, which are ordinarily expected to be held once a month during the Construction Period and once every two months during the O&M Period and also to participate in emergency or extraordinary meetings of the Parties held to deal with any emergency, Force Majeure Event or other exigencies.
- (b) The Quality Assurance Inspector shall, in the ordinary course, maintain record of the activities undertaken by it in discharge of its functions and responsibilities. This would include records in respect of the following:
 - (i) Manpower deployed and other organizational arrangements of the Quality Assurance Inspector;

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- (ii) Reviews of documents submitted to it by the Concessionaire to meet Annex A to Schedule 4 and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*), such as manuals, Drawings, As Built drawings, Schedules, plans and reports;
 - (iii) Inspections undertaken and notices/instructions issued to the Concessionaire or Concessions Authority;
 - (iv) Review of compliance Annex A to Schedule 4 and Annex B to Schedule 4 (*Technical Specifications – Operation and Maintenance*);
 - (v) Tests;
 - (vi) Variation and Change in Law;
 - (vii) Emergency (including accidents);
 - (viii) Force Majeure Events;
 - (ix) Breaches and defaults by the Parties; and
 - (x) Handback requirements
- (c) The Quality Assurance Inspector would be required to submit the following reports to the Parties during the Concession Period:
- (i) Construction Period
 - Monthly Progress Report (including details of slippages and remedial measures);
 - Report on tests and report on notices issued;
 - Inspection Report;
 - Project Construction Completion Certificate;
 - Any supplemental or special report that may be considered necessary by the Quality Assurance Inspector (including Emergency, Force Majeure, and breach of obligations).
 - (ii) O&M Period
 - Monthly O&M Report (including Lane Availability, details of slippages and remedial measures);
 - Report on Tests and report on notices issued;
 - Inspection Report;
 - Any supplemental or special report that may be considered necessary by the Quality Assurance Inspector (including emergency, Force Majeure, and breach of obligations);
 - Annual Review of O&M Manual.
 - (iii) Report on Handback requirements.

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- (iv) Any other report as may be reasonably required by Concessioneing Authority or as may be necessary to give effect to the provisions of the Agreement.

2.7 Remuneration:

The remuneration, cost and expenses of the Quality Assurance Inspector shall be borne by the Parties equally. The Concessionaire shall within seven (7) days of receipt of demand from Concessioneing Authority pay/reimburse to Concessioneing Authority without recourse to the Quality Assurance Inspector from time to time its share of the remuneration.

2.8 Replacement of the Quality Assurance Inspector:

The Concessioneing Authority may in its discretion replace the Quality Assurance Inspector for the time being in any of the following circumstances:

- (i) If the Concessioneing Authority or the Concessionaire has reason to believe that the Quality Assurance Inspector has not discharged its duties in a fair, appropriate and diligent manner;
- (ii) If, in accordance with the terms of its appointment, the Quality Assurance Inspector resigns or notifies its intention not to continue as the Quality Assurance Inspector; or
- (iii) Any other circumstance which in the opinion of the Parties warrants the replacement of the Quality Assurance Inspector.

Annex B: Project Construction Completion Certificate

Project Construction Completion Certificate

Name of the Project:

Comments of the Issuer:

Contractor:

Date of Notice of Award:

Date of Completion:

It is hereby certified that M/s ----- has completed certain requirements of the Concession Agreement pursuant to which this Project Compliance Certificate is being issued under Article 6.2 of the Concession Agreement.

DRAFT CONCESSION AGREEMENT

Concessionaire, [insert name]

**The Punjab Public Private Partnership
Authority**

Quality Assurance Inspector

Schedule 9

Prohibited Activities

The Concessionaire shall not undertake following activities on the Project Site:

- Any activities resulting in pollution to the surrounding areas;
- Any activities creating breach of urban design guidelines;
- Any activities of a hazardous nature;
- Activities resulting in air and noise pollution;
- Any activities mentioned as prohibited in the Concession Agreement; and
- Any other activity in contravention of the Applicable Laws or the Applicable Permits.

Schedule 10

Applicable Laws

The Concessionaire shall obtain, maintain and comply with the Applicable Permits, as required under the Applicable Laws.

An indicative and non-exhaustive list of Applicable Laws is provided hereunder:

- i. The Constitution of the Islamic Republic of Pakistan, 1973
- ii. Punjab Public Private Partnership Act 2019
- iii. Punjab Public Private Partnership Rules, 2014
- iv. Punjab Procurement Regulatory Authority Act, 2009
- v. Punjab Procurement Rules, 2014
- vi. Punjab Environmental Protection Act, 1997
- vii. Review of IEE and EIA Regulations, 2000
- viii. Environmental Impact Assessment Regulations, 2000
- ix. Companies Act, 2017
- x. Any relevant land, water or electricity laws
- xi. Lahore Development Authority Act, 1975
- xii. Pakistan Engineering Council Byelaws, 1976

This List is indicative and non-exhaustive and it is the duty of the Concessionaire to obtain all the Applicable Permits as required under the Applicable Laws.