DEVELOPMENT OF A FIVE STAR HOTEL

AT

CHITTAGONG

THROUGH PUBLIC PRIVATE PARTNERSHIP

REQUEST FOR QUALIFICATION (RFQ)

BANGLADESH RAILWAY

9th September, 2015

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Information provided in this RFQ to the Applicant(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority, the PPP Office and their respective employees, consultants and advisers accept no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

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The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Application. All such costs and expenses shall be borne by the Applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Qualification Process. Furthermore, the Authority or the Government representatives will not accept responsibility for any costs or delays or non-completion of any process associated with any review or approval processes.

The Authority reserves the right to make public the names of all Applicants and it also reserves the right to extend the dates or deadlines established for this RFQ.
The issue of this RFQ does not imply that the Authority is bound to accept any Application that they receive nor invite the Shortlisted Bidders to submit their Proposals for the Project and the Authority reserves the right to reject all or any of the Applications or terminate the Qualification Process without assigning any reason whatsoever. The Authority further reserves the right to re-issue the RFQ after having terminated this Qualification Process.
## PROJECT SUMMARY

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<th>Parameters</th>
<th>Details</th>
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<tr>
<td>1.</td>
<td>Project Title</td>
<td>Development of a Five Star Hotel in Chittagong through Public Private Partnership</td>
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<tr>
<td>2.</td>
<td>Location</td>
<td>Khulshi area, Zakir Hossain Road, Chittagong, Bangladesh</td>
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<td>3.</td>
<td>Authority</td>
<td>Bangladesh Railway, Ministry of Railways, Government of Bangladesh</td>
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<td>Project Site Area</td>
<td>4.14 acre</td>
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<td>5.</td>
<td>Minimum Development Obligations</td>
<td>5 star or equivalent star category of hotel with a minimum of 200 keys</td>
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<td>6.</td>
<td>PPP Model</td>
<td>Build-Operate-Transfer (BOT)</td>
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<td>7.</td>
<td>Contract Period</td>
<td>To be defined in the RFP and PPP Contract</td>
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<td>8.</td>
<td>Construction Period</td>
<td>To be defined in the RFP and PPP Contract</td>
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<td>Access project-related documents on the Data Room <a href="http://www.pppo.gov.bd/dataroom/5starhotel">http://www.pppo.gov.bd/dataroom/5starhotel</a></td>
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1 DEFINITIONS

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

I. “Addenda” or “Addendum” means an additional document which will form an integral part of this RFQ, issued by the Authority prior to the Due Date and will supersede, amend or supplement the documents and schedules in this RFQ.

II. “Applicant” means the entity or a Consortium who submitted an Application in response to this RFQ. The term Applicant used herein shall apply to both a single entity and a Consortium, where an entity can mean physical or juridical individual (proprietorship) and/or a limited company (public or private).

III. “Application” means the application that contains the requirements of this Request for Qualification document which is submitted by the Applicants in order to be pre-qualified and thereafter shortlisted for this Project.

IV. "Associate” means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such Applicant. The expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

V. “Audited Financial Statements” include audited financial accounts of each of the parties comprising the Applicant.

VI. “Authority” means the Bangladesh Railway, an organization of the Ministry of Railways, under the Government.

VII. “Authority Communication Protocol” means the mode of communication used by the Authority which includes posting the information on the Data Room (http://www.pppo.gov.bd/dataroom/5starhotel) and/or communicating in writing through email/letter.

VIII. “Authority's Representative” has the meaning given in Section 10.3 of this RFQ.

IX. “Bangladesh” means the People’s Republic of Bangladesh.

X. “Bid Security” means the security that needs to be submitted at the time of submission of the Proposal as set out in the RFP.

XI. “BDT” means Bangladesh Taka.

XII. “BST” means Bangladesh Standard Time.

XIII. “CCEA” means Cabinet Committee on Economic Affairs, established by the Government under Clause 18 of the Rules of Business, 1996.
XIV. “Chartered Accountant” means an accountant, registered with a recognized professional accounting body, and qualified to audit and certify financial statements.

XV. “Conflict of Interest” has the meaning given in Section 5.5 of this RFQ.

XVI. “Consortium” is a group of entities coming together to submit an Application.

XVII. “Consortium Bidding Agreement” means the agreement entered into by all the Consortium Members as required by Section 5.3(a) of this RFQ and in the format provided in Form III in the Appendix to this RFQ.

XVIII. “Consortium Member” means a member of a Consortium (including both Lead Member and Non-Lead Member(s)).

XIX. “Data Room” refers to an online virtual data room providing certain information and documents relevant to the Project.

XX. “Day” means calendar day.

XXI. “Due Date” has the meaning given in Section 6.4 of this RFQ.

XXII. “Financial Capacity” means the financial capacity as set out in Section 8.2.2 of this RFQ.

XXIII. “Five Star Hotel in Chittagong” is the hotel and commercial cum retail development on an approximately 4.14 acre land parcel located on Zakir Hossain Road in Chittagong.

XXIV. “Form(s)” means Forms I to X provided in the Appendix to this RFQ.

XXV. “GDP” means Gross Domestic Product.

XXVI. “Government” means the government of Bangladesh.

XXVII. “Lead Member” with respect to a Consortium means the Consortium Member:
(a) who has entered into an agreement with the remaining Consortium Members to have at least 26% equity shareholding in the Project Company;
(b) who is or will be the largest shareholder in the Project Company; and
(c) who is authorized by all other Consortium Members to be responsible for the bidding process on behalf of the Consortium.

XXVIII. “LoA” means Letter of Award.

XXIX. “Net Worth” is as per the computation in Form IX.
XXX. “Non-Lead Member(s)” means a Consortium Member who has entered into an agreement with the remaining Consortium Members to subscribe to at least 10% of the equity in the Project Company.

XXXI. “PPP” means Public Private Partnership.

XXXII. “PPP Contract” means the contract signed between the Authority and the Private Partner or the Project Company, as the case may be, for implementation of the Project.

XXXIII. “PPP Office” means the Public Private Partnership Office of Bangladesh, an office under the Prime Minister’s Office.


XXXV. “Pre-Application Meeting” has the meaning given in Section 10.1 of this RFQ.

XXXVI. “Pre-Qualified Bidder” means an Applicant who has submitted an Application and has been pre-qualified by the Authority in order to be shortlisted for the RFP stage of the bidding process.

XXXVII. “Private Partner” means the selected bidder chosen by the Authority following evaluation of the Proposals based on the pre-established evaluation criteria and who will form the Project Company.

XXXVIII. “Project” means the designing, building, financing, operation & maintenance and transfer of the Five Star Hotel in Chittagong in line with the terms and conditions as provided in this RFQ.

XXXIX. “Project Company” means the special purpose company duly incorporated under the laws of Bangladesh by the Private Partner for delivery of the Project. The memorandum and articles of association of the Project Company shall be subject to approval of the Authority.

XL. “Project Facilities” refers to the components of the Five Star Hotel in Chittagong including hospitality, convention centre, exhibition centre, sports complex, shopping centre and any other permissible commercial development as agreed between the Project Company and the Authority.

XLI. “Proposal” means the Shortlisted Bidder’s written offer based on the covenants, terms and conditions as contained in the RFP for the Project.

XLII. “QTEC” means the Qualification and Tender Evaluation Committee set up under the PPP Policy to evaluate the Applications received in relation to this Project.
XLIII. “Qualification Process” means the RFQ stage of the bidding process where Applications submitted by the Applicants are considered in order to pre-qualify and shortlist the Applicants for the RFP stage of the bidding process.

XLIV. “Registered Entities” means interested parties registered with the Authority pursuant to Section 4.1 of this RFQ.

XLV. “Request for Proposal” or “RFP” means the Request for Proposal document issued by the Authority.

XLVI. “Request for Qualification” or “RFQ” means this Request for Qualification document issued by the Authority.

XLVII. “Shortlisted Bidder” means an Applicant who has submitted an Application and has been pre-qualified and shortlisted by the Authority to submit its Proposal in response to the RFP for the Project.

XLVIII. “Technical Capacity” means the technical capacity as set out in Section 8.2.1 of this RFQ.

XLIX. “USD” means United States Dollars.
2 PROJECT AND SELECTION OVERVIEW

2.1 Introduction

2.1.1 The Authority has decided to undertake the Project on a PPP basis. This Project shall be undertaken in accordance with the Policy and Strategy for Public-Private Partnership (PPP), 2010.

2.1.2 The Authority is pleased to invite Applicants to submit their Applications in response to this RFQ to pre-qualify and shortlist Applicants who have the experience, capacity and willingness to undertake the Project. The Shortlisted Bidders from this stage will be invited to submit their Proposals in response to the RFP in order to select the Private Partner.

2.2 Background to Bangladesh's PPP Program

2.2.1 The Government issued the PPP Policy in order to enhance the level of private sector investment in the delivery of public sector social and economic infrastructure services.

2.2.2 The PPP program is a priority initiative by the Government and a key component of the strategy for realizing the Vision 2021 goal of Bangladesh to become a middle income country by the year 2021. To realize this vision, there is a need to ensure a more rapid and inclusive growth trajectory of the GDP. One of the constraints to realizing this growth is the required level of investment in infrastructure. To bridge this investment constraint, the Government has prioritized the PPP program to increase the level of private sector investment in the development and delivery of public sector infrastructure services.

2.2.3 The PPP Policy establishes a streamlined and robust process that draws from international best practice for the development and execution of PPP projects. A new institutional framework has been set up including the creation of the PPP Office (an office under the Prime Minister's Office) and the PPP Unit (in the Ministry of Finance) to support line ministries and their executing agencies to undertake PPP projects.

2.2.4 The role of the PPP Office is to act as a catalyst to proactively realize PPP projects. The PPP Office supports line ministries to identify, develop and tender PPP projects by augmenting Government sector project development efforts with experienced external and internal PPP resources and advisors. The PPP Office is also responsible for the development and recommendation of guidance, rules, regulations, procedures and model documents for approval by the CCEA and for monitoring and ensuring compliance with these approved requirements.

2.3 Brief Description of the Bidding Process

2.3.1 This document is the RFQ component of a series of bid documents for the selection of a Private Partner for development of the Five Star Hotel in Chittagong, Bangladesh. This RFQ invites potential Applicants who are interested to be pre-qualified and shortlisted in order to have their Proposal evaluated for undertaking the Project on a PPP basis.
2.3.2 This document is issued under Clause 2.4 of the Guidelines for Formulation, Appraisal and Approval of Large Projects under Public-Private Partnership (PPP), 2010. Prospective Applicants are encouraged to review the PPP Policy.

2.3.3 The evaluation process is a two stage approach:
- In the first stage, Applicants will be evaluated on their Application, against this RFQ, as per Section 7 and Section 8.
- In the second stage, the Proposals of the Shortlisted Bidders will be evaluated in accordance with the RFP.

2.3.4 The requirements for submitting an Application and the provision of information and supporting documentation are set out in this RFQ. Potential Applicants should read this document thoroughly and ensure that all the requirements are met in submitting their Application. Failure to meet the requirements could lead to an Applicant being found to be ineligible or subsequently disqualified.

2.3.5 Any information contained in the Applications shall not in any way be construed as binding on the Authority, its consultants, successors or assignees, but shall be binding against the Applicant if the Project is subsequently awarded to it on the basis of such information. The Authority shall not be bound to provide any explanation to any Applicant in relation to its decision to accept or reject any Application, which shall be done at the discretion of the Authority, following the processes, procedures and the criteria outlined in this RFQ.

2.3.6 All Applications shall be prepared and submitted in accordance with such terms on or before the Due Date.
3 Details of the Project

3.1 Sector Background and Context

3.1.1 Chittagong accounts for most of the local and international trading activities of the country and is also the center point for major tourism destinations of Bangladesh. To cater to the needs of this vibrant and growing city, the Authority has decided to establish a 5 star hotel in its unused land at Zakir Hossain Road in Chittagong. The Authority has earmarked an area of approximately 4.14 acres of vacant land for this purpose at Zakir Hossain Road, in Khulshi area which is one of the most commercially vibrant areas in Chittagong.

3.1.2 The Authority is the implementing agency for the Project. In preparation of the procurement phase, beginning with this RFQ, the Authority, with support of the PPP Office, has completed various studies which will serve as background information to be provided at the RFP stage, but are not included in this RFQ.

3.2 Project Description

3.2.1 Figures 1.1 and 1.2 provided below, illustrate the Project site and its surrounding areas, and the following text provides an overview of the Project.

Figure 1.1: Location of Site in Chittagong
3.2.2 **Site layout and location:** The site identified for the development of the proposed Five Star Hotel in Chittagong is a contiguous land parcel, spread over 4.14 acres, currently under the ownership of the Authority. The site is adjacent to Zakir Hossain Road, which provides excellent connectivity to important commercial, residential, tourism and accessibility nodes in Chittagong.

3.2.3 **Site Characteristics:**
- Contiguous land parcel, spread over 4.14 acres.
- Approximately 70 m frontage on Zakir Hossain Road, a prime commercial location of Chittagong and also the key access road from Dhaka.
- Close proximity to Khulshi residential area, which consists of mid to high end residential developments, healthcare centers and educational institutions.
- Excellent connectivity to important commercial, residential and tourism nodes of Chittagong.

3.3 **Project Objectives**

3.3.1 The Project shall be designed in compliance with the international standards. The Authority intends to achieve the following objectives through this Project:
- Maximization of commercial viability;
- Development of world class hospitality facilities in Chittagong;
- Favorable impact on the local community.

3.4 **Project Concept**
3.4.1 The proposed five star hotel is envisaged as a commercial development focused on promoting business and trade facilities in Chittagong.

3.4.2 The Private Partner will be required to develop the following Project Facilities:
(i) **Mandatory Development**: 5 (five) star or equivalent star category of hotel with a minimum of 200 keys.

(ii) **Optional Development**: The Private Partner can choose to develop other optional commercial activities, including, but not limited to:

- Hotel
- Resort
- Retail / Shopping mall
- Office complex
- Cinema hall / Multiplex
- Convention centre
- Exhibition centre
- Family entertainment centre
- Recreation centre
- Other activities incidental to above

3.4.3 The Authority intends to select a Private Partner to develop the Five Star Hotel in Chittagong on a PPP basis, whereby the Private Partner shall be responsible to design, build & finance the Project Facilities and operate & maintain the Project Facilities for a fixed period of time on the basis of the PPP Contract entered into with the Authority. At the end of the fixed period of time, all assets will be transferred to the Authority at no cost along with all site improvements, infrastructure, fixtures, fittings and equipment.

3.5 **Project Scope**

3.5.1 **Private Partner’s Responsibilities**

The detailed responsibilities to be met by the Private Partner / Project Company will be defined at the RFP stage, but broadly it shall consist of the following:

i. Site investigations;
ii. Detailed design of the Project Facilities;
iii. Achievement of condition precedents and financial closure within a stipulated time period;
iv. Procurement of all approvals required for construction of Project Facilities;
v. Development and construction of Project Facilities;
vi. Operations and maintenance of the Project Facilities for a specified tenure (as mentioned in the RFP and PPP Contract);
vii. Transfer of the land with all immovable assets free of all legal encumbrances at the expiry of the PPP Contract;
viii. Fulfillment of all other obligations in accordance to the PPP Contract.

3.5.2 The Private Partner shall have the right to sub-contract / sub-lease / sub-license a part of the Project during the contract period in accordance with the provisions of the PPP Contract.

3.5.3 The Private Partner shall have the right to levy and collect revenues, as generated pursuant to the operation of the Project Facilities, as per the provisions laid down in the PPP Contract.
3.5.4 **Authority's Responsibilities**

The detailed responsibilities to be met by the Authority will be defined at the RFP stage, but broadly it will consist of the following:

i. Provide unencumbered and vacant possession of the Site;

ii. Provide reasonable support to the Private Partner before and during execution of the Project, as per the terms of the PPP Contract.
4 **BIDDING PROCESS**

4.1 **Process Overview**

4.1.1 The selection of a Private Partner through this RFQ and the RFP will follow the Guidelines for Formulation, Appraisal and Approval of Large Projects under Public-Private Partnership (PPP), 2010 and the PPP Policy.

4.1.2 All interested parties requesting an RFQ information package are required to register online with the Authority through an online registration portal specifically for the purpose of this RFQ. Online registration is to be in accordance with the instructions set out on the following website:  
The last date for registration shall be one calendar day before the Due Date.

4.1.3 Only Registered Entities, will be given access to the Data Room, which will contain the RFQ, any Addenda to the RFQ issued by the Authority, notice of invitation to the Pre-Application Meeting and any other relevant information for the RFQ stage of the bidding process. Only Registered Entities shall be allowed to submit an Application.

4.1.4 For the benefit of the Registered Entities, the Authority has provided a Data Room. The bidding documents can be downloaded from the Data Room. The Data Room can be accessed by any Registered Entity through the website on the following link:  
http://www.pppo.gov.bd/dataroom/5starhotel

4.1.5 The formal bidding process commences with the issue of this RFQ document and will consist of two stages:

**Stage 1: Request for Qualification (RFQ)**

The RFQ stage commences when the RFQ is issued, inviting interested parties to submit their Applications. This stage precedes the RFP stage described below, and is intended to identify the Shortlisted Bidders that are eligible for participation in the RFP stage. The Authority through the QTEC will evaluate the Applicants’ qualifications as per the criteria set out in this RFQ in order to pre-qualify and shortlist the Applicants.

The RFQ stage is a stand-alone and independent stage that is complete once the Shortlisted Bidders are identified by the Authority and all Applicants have received notification of the results of the RFQ stage from the Authority.

**Stage 2: Request for Proposal (RFP)**

In the RFP stage, the Proposals of only the Shortlisted Bidders will be opened and evaluated against the RFP requirements. The RFP stage is the competitive procurement process that follows the RFQ stage and is intended to result in the identification of a Private Partner. The RFP will provide details on the technical and financial Proposals required to be submitted. The Private Partner will be selected based upon the submitted Proposals and the evaluation criteria set out in the RFP. A Bid Security will need to be submitted at this stage.
Once selected, the Authority will finalize and sign the PPP Contract with the Private Partner or the Project Company, as the case may be, to implement the PPP Contract.

Should the Private Partner delay the signing of the PPP Contract or the financial close, the Authority reserves the right to appoint the strongest RFP compliant Shortlisted Bidder in place of the Private Partner.

4.2 Amendment of RFQ

4.2.1 At any time prior to the Due Date, the Authority may, for any reason, whether on its own initiative, or in response to a clarification requested by an Applicant, amend the RFQ by Addendum.

4.2.2 The Registered Entities will be notified of any amendment through the Authority Communication Protocol. The amended documents will be deemed to be the applicable documentation for purposes of the Qualification Process.

4.2.3 In order to allow the Registered Entities reasonable time to take the amendment into account in preparing their Applications, the Authority may, at its discretion, extend the Due Date, in which case, it will notify all the Registered Entities through the Authority Communication Protocol.

4.3 Tentative Timeline

4.3.1 The Authority anticipates carrying out the Qualification Process contemplated hereby in accordance with the tentative timeline set out in Table 1 (Indicative Bid Schedule). However, the Authority reserves the right to make any changes, if it deems necessary. The Registered Entities will be notified of any change to this Indicative Bid Schedule by an Addendum to this RFQ.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item of activities</th>
<th>Approximate calendar days from the previous activity</th>
<th>Approximate cumulative days from the date of issue of RFQ</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Issue of RFQ</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>Submission of queries for Pre-Application Meeting</td>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>3</td>
<td>Pre-Application Meeting</td>
<td>4</td>
<td>40</td>
</tr>
<tr>
<td>4</td>
<td>Authority response to Registered Entities’ queries</td>
<td>7*</td>
<td>47</td>
</tr>
<tr>
<td>5</td>
<td>Receipt of Applications by the Authority</td>
<td>29</td>
<td>76</td>
</tr>
<tr>
<td>6</td>
<td>Complete evaluation for pre-qualifying and shortlisting Applicants</td>
<td>21</td>
<td>97</td>
</tr>
<tr>
<td>7</td>
<td>Approval of Shortlisted Bidders</td>
<td>7</td>
<td>104</td>
</tr>
<tr>
<td>8</td>
<td>Notification of Shortlisted Bidders for RFP stage</td>
<td>7</td>
<td>111</td>
</tr>
</tbody>
</table>

* 7(seven) calendar days from the Pre-Application Meeting or any extended date provided for queries thereof.
5 INSTRUCTIONS TO APPLICANTS

5.1 Scope of Application
5.1.1 The Authority wishes to receive Applications from interested entities in order to pre-quality and shortlist them to be considered in the RFP stage of the bidding process. If only one Application is received, the bidding process shall be cancelled.

5.2 Nature of an Applicant
5.2.1 The Applicant may be a single entity or a Consortium.

5.2.2 An Applicant bidding individually or as a Consortium Member shall not be entitled to submit another Application either individually or as a Consortium Member of any other Consortium and shall not be entitled to participate in any other Consortium bidding for this Project prior to issuance of the LoA. Furthermore, an Applicant can submit only one Application in response to this RFQ. In the event that an entity applying individually or as a Consortium Member participates in more than one Application, all the Applications with that entity’s participation will be deemed invalid.

5.2.3 Conditions for Eligibility
An Applicant shall not be eligible to participate in the RFQ stage of the bidding process if the Applicant:

a) Is from a country which does not have diplomatic relations with the Government;

b) Does not have legal capacity to enter into a contract with the Authority;

c) Is insolvent, in receivership, bankrupt or its business activities are to be suspended or it is to be the subject of legal proceedings for any of the foregoing, or it intends to submit an application for insolvency or liquidation;

d) Is the one with whom the Authority has previously entered into a contract for some other purpose and later terminated the contract (within the last 3 years) prior to the expiry of the contract due to an event of default on the part of the Applicant;

e) Has, including any directors thereof, been convicted of a criminal offence in Bangladesh within the last 10 (ten) years; or

f) Has majority ownership in any entity which is prohibited by the Government of Bangladesh from participating in any project and if that prohibition subsists as on the date of the Application.

5.2.4 The Applicant must submit all necessary Forms, documents and/or any other required information in accordance with the RFQ and as further described in the Appendix hereto in order to prove that it satisfies the Technical Capacity and Financial Capacity as per Section 8. Failure to submit the above-mentioned Forms, documents and/or any other required information may lead to an Applicant being deemed ineligible.

5.2.5 The Applicant shall provide such evidence of its continued eligibility to the Authority, as and when reasonably requested by the Authority.

5.3 Requirements Applicable for Consortium Applicants
5.3.1 Where the Applicant is a Consortium, it shall comply with the following additional requirements:
a) the Application shall include a copy of the signed Consortium Bidding Agreement (as attached in Form III) duly executed by the legal representatives of each Consortium Member on non-judicial stamp paper of value of BDT 300 (BDT Three Hundred) or any other legally equivalent document as permissible under the laws of the respective country where anyone Consortium Member is domiciled, provided that the document is duly authenticated and/or notarized by the relevant authority and signed by all legally authorized representatives of the Consortium Members who are parties to such agreement. However, the Authority reserves the right to make any enquiry with regard to the authenticity of the document. The Consortium Bidding Agreement shall identify the Consortium Member that will assume the role of “Lead Member” to represent and irrevocably bind all other Consortium Members in all matters connected to the bidding process. The Consortium Bidding Agreement shall commit the Consortium Members to the objectives and purposes of the formation of the Consortium, describing their roles and responsibilities with reference to the financial, technical, operation and maintenance obligations of the Project. It shall also spell out their respective shareholding interest in the proposed Project Company;

b) a Consortium shall not have more than 5 (five) Consortium Members (including the Lead Member);

c) the Application should contain the information required for each Non-Lead Member and Lead Member of the Consortium as provided in Form VII of this RFQ;

d) each Non-Lead Member shall provide a power of attorney (either individually or jointly) authorizing the Lead Member in substantially the form for the power of attorney set out in Form IV. In the event that pursuant to the internal policy of any Consortium Member, if it is not possible for them to provide a power of attorney, then a resolution of the board of directors taken in that regard shall be accepted. All Consortium Members shall be liable jointly and separately for meeting the obligations of the Applicant;

e) the Lead Member on behalf of the Consortium shall have the authority to conduct all business in relation to the bidding process for and on behalf of any and all the Consortium Members during the bidding process and in the event that the Consortium is awarded the Project, during the finalization of the PPP Contract.

5.4 Change in the Composition of the Consortium

5.4.1 Change in the composition of the Consortium will not be permitted by the Authority during the RFQ Process.

5.4.2 Change in the composition of the Consortium may be permitted by the Authority after the Qualification Process but before the submission of the Proposals only where:

i.) the Lead Member continues to be the Lead Member of the Consortium;

ii.) the substitute is at least equal, in terms of Technical Capacity and Financial Capacity to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and shortlisting criteria for Applicants; and
iii.) the new Non-Lead Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and has not previously bid for the Project as an Applicant.

5.4.3 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.

5.4.4 The modified/reconstituted Consortium shall be required to submit a revised Consortium Bidding Agreement and other relevant documents before the date of submission of the Proposal.

5.4.5 Any change in the composition of a Consortium other than as set out above shall lead to the rejection of the Application and/or Proposal.

5.4.6 Applicants will not be permitted to change the composition of the Consortium from the time of issue of the LoA up to the signing of the PPP Contract without the prior approval of the Authority which will be in its absolute discretion.

5.5 Conflict of Interest
5.5.1 Applicants shall not have a Conflict of Interest with this Project. Any Applicant found to have a Conflict of Interest shall be disqualified. An Applicant shall be considered to have a Conflict of Interest in the following cases:

a) Such Applicant (or any constituent thereof) and any other Applicant (or any constituent thereof) have either directly or indirectly common controlling shareholders;

b) Such Applicant receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated loan from any other Applicant, or has provided any such direct or indirect subsidy, grant, concessional loan or subordinated loan to any other Applicant;

c) Such Applicant has the same legal representative for purposes of this Application as any other Applicant;

 d) Such Applicant has a relationship with another Applicant, either directly or through common third parties, that puts them in a position to have access to each other’s information or influence the Application of the other;

 e) Such Applicant has participated as a consultant(s) and/or adviser(s) or has directly assisted the Authority in the preparation of any documents, design or technical specifications of the Project; or

 f) Such Applicant employs or has employed an officer or employee of the Authority in relation to the Project during the Qualification Process. An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is appointed by the Applicant in any manner for matters related to or incidental to the Project and which will affect the Qualification Process thereof.
5.6 Application Costs

5.6.1 The Applicant shall bear all costs associated with the preparation and submission of its Application and the Applicant’s participation in the Qualification Process, including all costs and expenses related to the Applicant’s involvement in but not limited to the following:

a) Site visits and inspections;

b) All other information gathering processes;

c) Interviews;

d) Preparation of responses to questions or requests for clarification from the Authority;

e) Preparation of Applicant’s questions during the clarification process;

f) Discussions relating to the RFQ and RFP documents.

5.6.2 The Authority shall not be held responsible for or in any way be held liable to pay any costs or expenses of any Applicant, regardless of the conduct or outcome of the Qualification Process.

5.7 Site Visit and the Verification of Information

5.7.1 Prior to the Pre-Application Meeting, Applicants are encouraged to visit the Project location and ascertain for themselves the conditions, site surroundings, civil structures, availability of power, water and other utilities for construction, access to the site, handling and storage of materials, soil testing, applicable laws and regulations, labour laws, local bye-laws and any other matters considered relevant by them which may affect the outcome of the Project, at their own risk and responsibility.

5.7.2 Any costs incurred during the site visit shall be fully borne by the Applicants.

5.8 Applicant’s Representation

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

a) Made a complete and careful examination of this RFQ and has received all relevant information from the Authority;

b) Accepted the RFQ and the terms and conditions governing the Qualification Process;

c) Acknowledged that it does not have a Conflict of Interest;

d) Acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the Authority relating to the Project;

e) Carried out all necessary Project site investigations and satisfied itself about the conditions and location of the Project site and all other matters, things and information including matters referred to in Section 5.7 hereinabove necessary and required for submitting an informed Application in accordance with this RFQ;

f) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFQ or ignorance of any of the matters, 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 PPP Contract; and

g) Agreed to be bound by the undertakings provided by it under the terms and conditions stipulated herein. The Authority shall not be liable for any omission, mistake or error on the part of the Applicant in respect of any of the above or on account of any matter
arising out of or concerning or relating to the RFQ or the Qualification Process, including any error or mistake therein or in any information or data given by the Authority. It is the sole responsibility of the Applicant to ascertain the accuracy of the data provided by the Authority.

5.9 Right to Accept or Reject any or all Applications
5.9.1 Notwithstanding anything contained in this RFQ, the Authority reserves the right to accept or reject any Application or annul the Qualification Process at any time without any notice, any liability or any obligation and without assigning any reasons thereof. In the event that the Authority rejects all Applications, it may, in its discretion, re-issue the RFQ after having terminated the Qualification Process.

5.9.2 The Authority reserves the right to disqualify any Applicant and/or reject any Application, if at any time, a misrepresentation that could lead to failure to meet any mandatory requirements set out in this RFQ is made or discovered in the Application, or if any one or more of the mandatory pre-qualification conditions are not met by the Applicant, or if the Applicant provides materially incorrect or false information. In case of such disqualification, the Authority reserves the right to take any such measures as may be deemed fit by the Authority and at the sole discretion of the Authority, including annulment of the Qualification Process.

5.9.3 The Authority reserves the right to reject the Application of any Applicant whose response is incomplete, inconsistent or ambiguous.

5.9.4 It is clarified that notwithstanding anything to the contrary contained in this RFQ, the Authority shall not be liable to the Applicant in any manner whatsoever in the event of rejection of an Application.

5.9.5 The Authority further reserves the right to waive any minor informality, non-conformity or irregularity in an Application that does not constitute a material deviation and that does not prejudice or affect the pre-qualification and shortlisting of any Applicant pursuant to the technical and financial evaluation of their Applications.
6 PREPARATION AND SUBMISSION OF APPLICATIONS

6.1 Language
6.1.1 The Application, and correspondence and other documents related to the Application submitted by the Applicant shall be written in English. Any printed literature furnished by the Applicant may be written in another language, provided that such literature is accompanied by a certified translation of the relevant passages in English, in which case, for purposes of interpretation of the Application, the certified translation shall govern.

6.2 Currency Amounts
6.2.1 All figures in currency amounts must be submitted in USD.

6.2.2 The exchange rate in the event that the Applicants need to convert foreign currency amounts to USD, shall be those rates listed on www.oanda.com/currency/historical-rates as on the date of the issue of the RFQ. The Applicant must state the exchange rate applied and the relevant currency for any converted sums.

6.2.3 The Authority reserves the right to make arithmetical corrections in respect of all figures contained in the Applications.

6.2.4 In the event of any discrepancy between the amount in words and figure, the amount in words shall prevail.

6.3 Signing, Sealing and Marking of Applications
6.3.1 The Applicant shall provide all the information sought under this RFQ including the Forms in the Appendix to this RFQ. The Application including all the Forms and supporting documents shall have page numbers and be bound, sealed and submitted in a single package.

6.3.2 The outer single package / envelope shall contain 3 (three) inner envelopes:
   1) ORIGINAL: One original set of the documents comprising the Application (together with the documents required to be submitted along therewith pursuant to this RFQ) and shall clearly mark it as “ORIGINAL”.
   2) COPY: The Applicant shall submit 6 (six) copies of the Application, marked as “COPY”.
   3) Electronic Versions: 2 (two) electronic versions of the ORIGINAL Application should be provided on compact discs, suitable for electronic reproduction in PDF format and 2 (two) electronic versions of the ORIGINAL Application should be provided on memory sticks, suitable for electronic reproduction in PDF format.

6.3.3 All the three envelopes shall be sealed in an outer envelope. In the event of discrepancy between the originals and the copies, the original shall prevail.

6.3.4 The Application shall be typed or written in ink and signed by the authorized signatory of the Applicant who shall also initial each page of the “ORIGINAL” documents, preferably
in blue ink. All the alterations, omissions, additions or any other amendments made to the Application shall be initialed by the authorized signatory of the Applicant.

6.3.5 The Authority reserves the right to evaluate only those Applications which are received in the required formats and are complete in all respects. Incomplete and/or conditional Applications may be rejected by the Authority at its discretion. In case the Application is not rejected, the Authority reserves the right to only evaluate those parts of the Application which are received in the required format and are complete. The Authority reserves the right not to evaluate any loose sheets which are included as part of the Application.

6.3.6 Each of the envelopes shall clearly be marked as follows: “Application for Development of a Five Star Hotel in Chittagong through PPP” and shall clearly indicate the name and address of the Applicant. In addition, the Due Date should be indicated on the right hand corner of each of the envelopes. Each of the envelopes should be individually sealed.

6.3.7 Each of the envelopes should be addressed and submitted to:
Designation: Director General,
Bangladesh Railway,
Address: Rail Bhaban
16 Abdul Gani Road,
Dhaka – 1000, Bangladesh

6.3.8 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Application submitted and subsequent losses, if any, suffered by the Applicant.

6.3.9 The Applicant may deliver or submit the Application either through pre-paid courier or in person, at the address as provided in Section 6.3.7. Applications submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

6.4 Due Date
6.4.1 Applications shall be submitted on or before 1600 hours BST, on Wednesday, 25th November 2015, i.e. “the Due Date” to the address provided in Section 6.3.7 above, in the manner and form as detailed in this RFQ.

6.4.2 It is the sole responsibility of each Applicant to make sure that its Application is delivered on or before the Due Date and an acknowledgment of submission is requested and received from the Authority.

6.4.3 The Authority may, in its sole discretion, extend the Due Date by issuing an Addendum to all Registered Entities.

6.5 Late Applications
6.5.1 Applications received by the Authority after the specified time on the Due Date shall not be eligible for consideration and shall be rejected.
6.6 Modifications, Substitutions or Withdrawal of Applications

6.6.1 The Applicant may modify, substitute or withdraw its Application after submission, provided that a written notice of the modification, substitution or withdrawal is received by the Authority prior to the Due Date. No Application shall be modified, substituted or withdrawn by the Applicant after the Due Date.

6.6.2 The modification, substitution or withdrawal notice shall be prepared, signed, sealed, marked, and delivered in accordance with Section 6.3, with the envelopes being additionally marked as “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

6.6.3 Authenticity of the modification, substitution or withdrawal of the original Application, if any, made by an Applicant in the specified manner, may be examined and verified by the Authority based on the documents submitted.

6.6.4 Any modification, substitution or withdrawal of the Application or additional information supplied subsequent to the Due Date, unless the same has been expressly sought by the Authority, shall be disregarded.

6.7 Return of Applications

6.7.1 The Authority will not return any Application or any information provided along therewith by an Applicant. However, Applications that are duly withdrawn under Section 6.6, maybe collected by the Applicant or their authorized representatives on or after the Due Date. If the Applications are not collected within 30 (thirty) days of the Due Date, the Authority reserves the right to dispose the Applications.
7 OPENING AND EVALUATION PROCESS

7.1 Opening and Evaluation of Applications
7.1.1 The Authority shall open the Applications at 1630 hours BST on the Due Date at the place specified in Section 6.3.7 and in the presence of the Applicants or the authorized person(s) of the Applicant(s) who may choose to attend. The Applications for which a notice of withdrawal has been submitted in accordance to Section 6.6 shall not be opened.

7.1.2 The Authority will subsequently examine and evaluate the Applications in accordance with the provisions set out in this RFQ.

7.1.3 Applicants are advised that pre-qualification and shortlisting of the Applicants will be entirely at the discretion of the Authority, following the processes, procedures and the qualification criteria outlined in this RFQ. Applicants should be aware that the Authority reserves the right to use and interpret the documentation it receives in accordance with its own judgment in order to properly apply the published qualification criteria to pre-qualify and shortlist the Applicants, and to decide alone and without any potential Applicant being entitled to any recourse, which Applicants will be determined as Shortlisted Bidders.

7.2 Confidentiality
7.2.1 Communications between the Applicants and the Authority shall be treated as confidential during as well as after preparation and submission of the Application. In the event of any such breach of confidentiality by the Applicant, the Authority, at its sole and absolute discretion, may at any time reject the Application by the Applicant without any further consideration and terminate that Applicant’s right to continue in the Qualification Process.

7.2.2 It is the requirement of this RFQ that Applicants shall treat all information obtained in connection with or arising out of this RFQ stage, as property of the Authority. Moreover, all correspondence, documentation and information provided to the Authority by the Applicant in connection with, or arising out of this RFQ and the Application shall become the property of the Authority.

7.2.3 Applicants must treat all such information in a highly confidential manner and not use this information for any purpose other than for replying to this RFQ and for the fulfillment of any related requirement from the RFP stage. Without limiting the generality of the foregoing, Applicants participating in any aspect of the RFQ stage, shall keep highly confidential all such developments and participation. All information pertaining to recommendations and information collected and processed for the Authority are for the sole use of the Authority at its discretion.

7.2.4 Notwithstanding the foregoing, the obligation of confidentiality shall not pertain to information which was at the time of disclosure, or which thereafter became, part of the public domain or is required to be disclosed by law or a court order, where, in such cases
cases, all reasonable attempts will be made to notify the Authority in advance of doing so.

7.2.5 Subject to the provisions of this RFQ, the Authority will endeavour to maintain the confidentiality of such information and any information relating to the examination, clarification, evaluation and recommendation for the Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to matters arising out of, or concerning the Qualification Process. The Authority will further require all those who have access to such material to treat the same in confidence.

7.2.6 The Applicant must however be aware that the information may become public through the operation of the Right to Information Act, 2009 and at all times due to the need for transparency and accountability, and in protection of the Authority’s wider public interest, in decisions made by the Authority. The Authority shall not be liable if any such confidential information becomes public or if it is disclosed by the Authority upon being 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.

7.3 Test of Compliance / Responsiveness
7.3.1 Prior to evaluation of the Applications, the Authority shall determine whether each Application is responsive to the requirements of this RFQ and whether the Applicants are eligible for evaluation under the provisions of this RFQ. An Application shall be considered responsive only if:
   a) It is received as per the requirements of this RFQ;
   b) It is received on or before the Due Date including any extension thereof pursuant to Section 6.4;
   c) It is signed, sealed, bound and marked as stipulated in Section 6.3;
   d) It is accompanied by the power(s) of attorney as per the format in Form V, authorizing the nominated representative of the Applicant and other authorizations required as per this RFQ;
   e) It is accompanied by the power(s) of attorney as per the format provided in Form IV authorizing the Lead Member of the Consortium (if applicable);
   f) It does not breach any of the provisions set out in Section 5 of this RFQ;
   g) It is accompanied by the Consortium Bidding Agreement specific to the Project, as stipulated in Section 5.3, (if applicable);
   h) It does not contain any conditions or qualifications; and
   i) It contains all the information (complete in all respects and in the formats prescribed) as requested in this RFQ including the Forms in the Appendix to this RFQ.

7.3.2 Applications that are responsive and eligible and do not breach any of the stipulated provisions for disqualification will be evaluated to see whether they meet the Technical Capacity and Financial Capacity criteria set out in Section 8.2 of this RFQ.

7.3.3 For the purpose of evaluating the Technical Capacity and Financial Capacity of a Consortium which is an Applicant, the Technical Capacity and Financial Capacity of the
Consortium Members will be considered as set out in Section 8.2 of this RFQ. Applicants that do not meet these criteria or provisions shall be rejected.

7.3.4 The Authority reserves the right to reject any Application which is non-responsive and no request for modification, substitution or withdrawal from an Applicant shall be entertained by the Authority in respect of such Application following the Due Date.

7.4 Clarification Requests by the Authority

7.4.1 The evaluation of the Applications will be based solely on the contents of the Applications and any clarification and/or supplementary information provided pursuant to this section.

7.4.2 To facilitate evaluation of the Applications, the Authority may at its sole discretion, seek written clarifications and/or supplementary information from any Applicant regarding its Application through letter and/or email after the Applications are received. The Applicant shall submit clarification(s) and/or supplementary information by letter and a copy by email to the Authority’s Representative within the time specified by the Authority for this purpose. Any extension to the clarification date will be at the sole discretion of the Authority.

7.4.3 If an Applicant does not provide clarifications and/or supplementary information sought above within the prescribed time, its Application shall be liable to be rejected. If the Application is not rejected, the Authority may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding and that of its advisors, and the Applicant shall not subsequently be allowed to question such interpretation of the Authority.

7.4.4 An Applicant shall not be permitted to make amendments to its original Application in the form of a clarification.

7.4.5 The Authority reserves the right to verify all statements, information, references and documents submitted by the Applicant in response to this RFQ. Failure of the Authority to undertake any such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority.
8 PRE-QUALIFICATION AND SHORTLISTING PROCESS

8.1 Overview

8.1.1 This RFQ sets out the process and requirements to pre-qualify and shortlist the Applicants. Applicants are required to ensure that all the information requested in this RFQ is submitted to the Authority with the Application. The Authority reserves the right to seek references in order to verify the information provided herein.

8.1.2 The goal of the evaluation of the Applications is to identify the Pre-qualified and Shortlisted Bidders for the RFP stage. Applicants are advised that the pre-qualification and shortlisting of the Applicants will be entirely at the discretion of the Authority following the processes, procedures and the criteria outlined in this RFQ.

8.1.3 If only one Applicant is pre-qualified, the bidding process shall be cancelled.

8.1.4 Applicant’s Experience
a) Each Applicant must be able to demonstrate its experience in order to meet the technical requirement stipulated in this RFQ.

b) In determining the experience of the Applicants, the experience of their respective Associates would also be eligible for consideration hereunder.

8.1.5 The Applications will be evaluated under a two-step process:
- Pre-qualification step – Pre-qualification of Applicants on the basis of a technical and financial evaluation carried out on a pass / fail criteria (see Section 8.2 of this RFQ)
- Shortlisting step – Shortlisting of Applicants, who have passed the pre-qualification step, on a ranking basis and which will be carried out to identify the Shortlisted Bidders (see Section 8.3 of this RFQ).

8.2 Pre-Qualification Step (Pass / Fail)

8.2.1 Technical Capacity
The Applicant must demonstrate a minimum level of Technical Capacity. For demonstrating Technical Capacity and experience, the Applicant shall, over the past 10 (ten) financial years preceding the Due Date, have developed, paid for or received payments for construction of either Category 1 Eligible Project(s) or Category 2 Eligible Project(s), as specified below:

**Category 1 Eligible Projects:** Single or multiple completed project(s) across exhibition centre / convention centre / hotel / resort / office complex / shopping mall / multiplex / school or other educational institutions / hospital such that the sum total of the built-up

1“Developed” shall mean conceptualize, design, finance, build and market.
area in the project(s) is equal to or more than 500,000 sq. ft. and / or the cumulative capital cost of the project(s) is equal to or more than USD 30 (Thirty) million.

In the case of multiple projects, at least one project shall have built-up area larger than 125,000 sq. ft. and / or capital cost greater than USD 10 (Ten) million.

**Category 2 Eligible Projects:** Single or multiple completed project(s) in core sector (roads, highways, power, telecom, ports, airports, railways, metro rail, industrial parks / estates, logistic parks, pipelines, irrigation, water supply, sewerage and real estate development) such that the minimum cumulative capital cost of the projects is USD 125 (One Hundred and Twenty Five) million.

Only the gross payments actually made or received, as the case may be, during last 10 (ten) financial years shall qualify for purposes of evaluation of Technical Capacity. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turnkey construction contract / Engineering, Procurement and Construction (EPC) contract for the project. Further, the cost of land shall not be included hereunder.

Where the Applicant is a Consortium, the experience of the Lead Member and other Member(s) shall be counted as experience towards meeting Technical Capacity of the Applicant.

Experience for any activity relating to any previous project jointly undertaken by Consortium Members shall not be claimed separately by those Consortium Members for the purpose of this Project and shall only be counted as a single project for the purpose of this section.

The Applicant must provide the necessary information and proof relating to the Technical Capacity as per Form VIII.

8.2.2 **Financial Capacity**

The Application must contain the financial statements and other information listed herein-below. The Applicant must demonstrate that it has adequate capability to finance the Project and to sustain the financing requirements for the Project. Applicants must meet the requirements below regarding Net Worth in order to demonstrate Financial Capacity\(^2\).

**(i) Minimum Net Worth of the Applicant**

The Applicant must have a minimum Net Worth of at least USD 20 (Twenty) million in each of the last 3 (three) completed financial years preceding the Due Date.

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\(^2\)The financial and accounting terminologies used under this section 8.2.2 and any other section in the RFQ shall be considered as per International Accounting Standards, unless separately defined.
In the case of a Consortium, the Financial Capacity will be based on the total Net Worth of the Consortium Members.

The Applicant shall furnish the financial information required and relevant documents in order to demonstrate its Financial Capacity and must complete Form IX which sets out the table for calculating the Financial Capacity, including the Net Worth.

Where this RFQ or any Forms in the Appendix to this RFQ require submission of financial statements, Audited Financial Statements should be submitted, if available. Regardless of whether financial statements are audited or unaudited, the financial statements should be accompanied by a certificate from a Chartered Accountant verifying the contents contained therein.

8.3 Shortlisting Step

8.3.1 Applications, which meet the pre-qualification step requirements specified hereinabove, will thereafter be shortlisted under this shortlisting step. Upon completion of the Qualification Process, the Shortlisted Bidders will be invited to participate in the RFP stage of the bidding process.

8.3.2 Where following the Due Date, the Authority has received four or less than four Applications which have met the compliance requirements in Section 7.3 and pre-qualification requirements in Section 8.2, those Pre-Qualified Bidders will be deemed as Shortlisted Bidders.

8.3.3 Where more than four Applicants meet the compliance requirements in Section 7.3 and pre-qualification requirements in Section 8.2, then the Applicants will be ranked on the basis of aggregate Net Worth over the last 3 (three) completed financial years, and the top four Applicants will be shortlisted for the RFP stage of the bidding process.

8.4 Evaluation and Selection Process

8.4.1 QTEC as established by the Ministry of Railways will review and evaluate the Applicant’s qualifications as per the qualification criteria set out in this RFQ in order to pre-qualify and shortlist the Applicants for the RFP stage of the bidding process.

8.4.2 The QTEC reserves the right to create sub-committees for technical support.

8.5 Basis of Evaluation and Reference Checks

8.5.1 Reference checks may be conducted with some or all of the references cited in an Application. If, in the Authority’s sole discretion, specific experience or information referred to or otherwise described in any Application cannot be reasonably verified through reference checks, or if information provided by a cited reference is unsatisfactory, the Authority may, in its sole discretion, exclude the cited experience or information from further consideration in connection with the Application.
8.5.2 The Authority may rely on and consider any information obtained from any reference or source in connection with any Application and it may further apply any such information in evaluating any Application.

8.6 Notification and Debriefing

8.6.1 Subject to the provisions of this section and following approval by the Authority, the Authority’s Representative will contact all Applicants to inform them whether or not they have been selected as the Shortlisted Bidders for participation in the RFP stage of the bidding process. The Authority will then publicly disclose the names of the Shortlisted Bidders, and issue the RFP to those Shortlisted Bidders.

8.6.2 Thereafter, the Authority may, upon request of any unsuccessful Applicant, conduct a debriefing session with such unsuccessful Applicant. Any information given to the Applicant in a debriefing session must remain confidential and the Applicant must, if so requested by the Authority, enter into a confidentiality agreement to that effect. During such debriefing, the evaluation, ranking and content of any Applications will not be disclosed. Only the strengths and weaknesses of the Applicant’s Application relative to the evaluation criteria will be disclosed and discussed.
9 FRAUDULENT AND CORRUPT PRACTICES

9.1 Provisions for Fraudulent and Corrupt Practices

9.1.1 The Applicant and their respective partners, suppliers, sub-contractors, sub-consultants, officers, employees, agents, service providers and advisers shall observe the highest standard of ethics during the Qualification Process. Notwithstanding anything to the contrary contained herein, the Authority shall reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Qualification Process.

9.1.2 Furthermore, the Applicant shall not be eligible to participate in any bidding process for any other project of the Authority for a period of 2 (two) years from the date such Applicant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

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

(a) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence the actions of any persons connected with the Qualification Process for or on behalf of the Authority;

(b) “fraudulent practice” means any act or omission including a misrepresentation that knowingly or recklessly misleads or attempts to mislead a person involved in the Qualification Process to obtain a financial or other benefit or to avoid an obligation;

(c) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or the property of that person to influence improperly the actions of a person involved in the Qualification Process;

(d) “collusive practice” means an arrangement between two or more persons involved in the Qualification Process designed to achieve an improper purpose, including influencing improperly the actions of another person;

(e) “obstructive practice” means (i) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or (ii) acts intended to materially impede the exercise of the inspection and audit rights of the Authority, or financier/s of the Project including any development partner of the financier/s.

(f) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in
any manner influencing or attempting to influence the Qualification Process; or (ii) having a Conflict of Interest;

(g) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among the Applicants with the objective of restricting or manipulating a full and fair competition in the Qualification Process.

9.1.4 In the absence of any specific provision set out under the PPP Policy, necessary action will be taken against the Applicant for any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, under applicable laws.
10 PRE-APPLICATION MEETING AND CLARIFICATION REQUESTS

10.1 Pre-Application Meeting
10.1.1 A Pre-Application Meeting will be held for Registered Entities at the designated date, time and place as mentioned below and shall cover the RFQ. Only the Registered Entities shall be allowed to participate in the Pre-Application Meeting. A maximum of two representatives for each Registered Entity shall be allowed to attend the Pre-Application Meeting.

10.1.2 The purpose of the Pre-Application Meeting shall be to provide further information about the Project and procurement process. During the course of the Pre-Application Meeting, Registered Entities will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive procurement process.

10.1.3 Minutes of the Pre-Application Meeting, including the text of the questions raised and the responses given, together with any responses prepared after meeting, will be uploaded to the Data Room. Any revision to the bidding documents that may become necessary as a result of the Pre-Application Meeting will be made by the Authority exclusively through the issue of an Addendum and not through the minutes of the Pre-Application Meeting.

10.1.4 The details of the Pre-Application Meeting are set out below:
   Date: 20/10/2015
   Time: To be decided and notified
   Venue: To be decided and notified

10.1.5 The Authority reserves the right to revise the date, time, venue and the number of delegates permitted to attend the Pre-Application Meeting. If the Authority makes any such changes it will inform only the Registered Entities.

10.1.6 The Authority further reserves the right to set up a follow up meeting after the initial Pre-Application Meeting if it deems necessary.

10.2 Clarification Requests from Applicants
10.2.1 Registered Entities requiring any clarification on this RFQ may notify the Authority in writing by e-mail and/or letter, preferably no later than 4 (four) days prior to the Pre-Application Meeting. The Authority shall respond to written queries within 7(seven) days after the Pre-Application Meeting, or as agreed in the Pre-Application Meeting but in no case later than 10 (ten) days prior to the Due Date. The responses will be sent by e-mail and/or letter. The Authority will share all the queries and its responses thereto, with all Registered Entities, through the Authority Communication Protocol, without identifying the source of the questions.

10.2.2 However, the Authority reserves the right not to respond to any question or provide any clarification, at its sole discretion, and nothing in this section shall be taken to or be read
as compelling or requiring the Authority to respond to any question or to provide any clarification.

10.2.3 The Authority further reserves the right to make changes to the abovementioned time frames at its sole discretion. The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Applicants. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFQ only if issued as an Addendum. Verbal and/or written clarifications and information given by the Authority or its employees or representatives shall not in any way or manner be binding on the Authority, if not issued as an Addendum.

10.3 Authority Contact Details

10.3.1 All correspondence and contact by Applicants (including their Consortium Members in case of a Consortium) with the Authority in relation to this RFQ must be made directly with the following individual as designated by the Authority or any alternative representative designated by the Authority (Authority’s Representative):

Mr. AFM Masudur Rahman  
Director Engineering  
Bangladesh Railway  
Rail Bhawan, 16 Abdul Gani Road,  
Dhaka 1000  
Tel: +88-02-955738  
Email: 5starhotel-br@ppo.gov.bd
11 MISCELLANEOUS

11.1 Governing Law
11.1.1 The Qualification Process shall be governed by and construed in accordance with the laws of Bangladesh and the courts of Bangladesh shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Qualification Process.

11.2 Authority's Right
11.2.1 The Authority, in its sole discretion and without incurring any obligation or liability reserves the right at any time to:

(a) suspend and/or cancel the Qualification Process and/or amend and/or supplement the Qualification Process and/or modify the dates or other terms and conditions relating thereto;
(b) consult with any Applicant in order to obtain clarification or further information. However, receiving any such clarification and/or information will not amount to qualification of the Application;
(c) decide to pre-qualify and shortlist or disqualify any Applicant for the RFP stage of the bidding process, following the processes, procedures and the qualification criteria outlined in this RFQ;
(d) retain any information and/or evidence submitted to the Authority by or on behalf of and/or in relation to any Applicant; and/or
(e) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.

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

The Applicant will be required to submit the RFQ submission Forms provided in the Appendix herein below.

- Form I: RFQ Submission Identification Sheet
- Form II: Letter of Application
- Form III: Consortium Bidding Agreement
- Form IV: Power of Attorney for Lead Member of Consortium
- Form V: Power of Attorney to the Signatory
- Form VI: Affidavit
- Form VII: Applicant’s Organizational Structure, Responsibilities and Organizational Chart for this Project
- Form VIII: Technical Capacity-Development Experience
- Form IX: Financial Capacity – Net Worth
- Form X: Application Checklist
## Application Submission Guide-list

<table>
<thead>
<tr>
<th>Form</th>
<th>Description</th>
<th>Supporting Documents</th>
<th>Remarks</th>
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</table>
| I Page 45 | RFQ submission Identification Sheet | NA | 1) To be attached to the outside of the package containing the Application  
2) One duplicate copy of the Form needs to be furnished for receipt of submission |
| II Page 46 | Letter of Application | NA | To be provided on the letter head of the Applicant or the Lead Member of the Consortium |
| III Page 51 | Consortium Bidding Agreement | Copy of the extracts of Memorandum & Articles of Association (if applicable) | 1) To be submitted in case the Applicant is a Consortium  
2) To be executed on a non-judicial stamp paper of BDT 300 or any other legally equivalent document as permissible under the laws of the respective country where any one Consortium Member is domiciled.  
3) For an agreement executed and issued overseas, the document shall have to be duly authenticated and/or notarized by the relevant authority. |
| IV Page 60 | Power of Attorney for Lead Member of the Consortium | NA | 1) To be submitted in case the Applicant is a Consortium  
2) To be provided on a non-judicial stamp paper of BDT 1000/- or any other legally equivalent document as permissible under the laws of the respective country  
3) To be signed by authorized signatory of all the Non-Lead Members (either individually or jointly) nominating the Lead Member  
4) In case, power of attorney is not possible, a board resolution, taken in that regard is sufficient  
5) To be notarized |
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<th>Form</th>
<th>Description</th>
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<th>Remarks</th>
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| V Page 61 | Power of Attorney to the Signatory                                            | NA                   | 1) To be provided on a non-judicial stamp paper of BDT 1000/- or any other legally equivalent document as permissible under the laws of the respective country  
2) In case of a Consortium, separate Form V needs to be provided by each Consortium Member separately, authorizing the authorized Signatory of the Consortium Member  
3) In case, power of attorney is not possible, a board resolution, authorizing the signatory is sufficient  
4) To be notarized                                                                                      |
| VI Page 62 | Affidavit                                                                    | NA                   | 1) To be provided on a non-judicial stamp paper of BDT 200/- or any other legally equivalent document as permissible under the laws of the respective country  
2) In case of Consortium, the Form VI needs to be signed by authorized signatories of all Consortium Members. Alternately, separate Form VI signed individually by the Lead Member and other Non-Lead Members will also be accepted.  
3) To be notarized                                                                                      |
| VII Page 65 | Applicant's Organizational Structure, Responsibilities and Organizational Chart for this Project | 1) Certificate of registration / incorporation of each Consortium Member  
2) Documents supporting any additional information provided in the Form | NA                                                                                      |
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<th>Remarks</th>
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| VIII | Technical Capacity - Development Experience | a. **Confirmation of Project Cost**: Certificate(s) from statutory auditors or Chartered Accountants of the Applicant stating the payments made and works commissioned, as the case may be, during the past 10 (ten) financial years Or Project contract showing the first page, preamble page, signing page, pages showing project cost and any other relevant pages of the contracts for each of the projects listed in the Form;  
   b. **Confirmation of built-up area of the project(s)**: Certified building layout plan / approved sanction documents / engineer certificate;  
   c. **Confirmation of construction completion date**: Completion certificate / client certificate / engineer certificate. | 1) In case of Consortium, the information needs to be submitted for each Consortium member separately  
2) Any document issued outside Bangladesh must be notarized. |
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<th>Remarks</th>
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<td>IX</td>
<td>Financial Capacity – Net worth</td>
<td><strong>In case of limited Company (private / public):</strong>&lt;br&gt;a. Copy of Audited Financial Statements for last 3 years-Balance Sheet, P&amp;L Statement &amp; Cash Flow Statement&lt;br&gt;b. Auditor’s report and/or certificate from Chartered Accountant; If audits are not required by the laws of their country of origin and as such, if Audited Financial Statements and/or auditor’s reports are not available, copies of tax returns should be submitted for those years along with a certificate from a Chartered Accountant&lt;br&gt;c. Annual reports, if any&lt;br&gt;<strong>In case of Individual or Proprietorship:</strong>&lt;br&gt;a. Statement or certification of assets from Chartered Accountant or&lt;br&gt;b. Copy of Tax returns for last 3 years</td>
<td>1) In case of a Consortium, the information needs to be submitted for each Consortium Member.&lt;br&gt;2) Any document issued outside Bangladesh must be notarized.&lt;br&gt;3) Any letter or certificate issued by any financial institution or fund manager or bank must be notarized if it is submitted.</td>
</tr>
</tbody>
</table>

Please Note: THE APPLICATIONS NEED TO BE SEALED AND SUBMITTED AS PER GUIDELINES IN SECTION 6.3.
FORM I: RFQ SUBMISSION IDENTIFICATION SHEET
(Note: To be attached to the outside of the package(s) containing the Application)

Name of Applicant:  
Name(s) of the Consortium Members (if applicable):  
Name of Lead Member (if applicable):  
Address:  
Phone Number:  
Fax Number:  
Email:  
Date and Time of Submission of the Application:

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

Note: Please furnish a duplicate of this Form I for receipt of submission.

DEVELOPMENT OF A FIVE STAR HOTEL IN CHITTAGONG THROUGH PUBLIC PRIVATE PARTNERSHIP

REQUEST FOR QUALIFICATION (RFQ) SUBMISSION
BANGLADESH RAILWAY, MINISTRY OF RAILWAYS, GOVERNMENT OF BANGLADESH
FORM II: LETTER OF APPLICATION

Date: [PLEASE INSERT DAY, MONTH, YEAR]

To:
Director General
Bangladesh Railway
Dhaka, Bangladesh

Subject: Request for Qualification for the Development of a Five Star Hotel in Chittagong through Public-Private Partnership (PPP)

Dear Sir,

Being duly authorized to represent and act on behalf of [PLEASE INSERT THE NAME OF THE APPLICANT] (hereinafter the “Applicant”) and having reviewed and examined the RFQ and any Addendum documents and having fully understood all the information provided therein, the undersigned hereby apply to be shortlisted for the RFP stage of the bidding process of the Project and declare that:

1. We acknowledge that the Authority will be relying on the information provided in the Application and the documents accompanying such Application for shortlisting of the Applicants for the RFP stage of the bidding process of the aforesaid Project.

2. This statement is made for the express purpose to be shortlisted for the RFP stage of the bidding process of the aforesaid Project.

3. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Application. The Authority and its authorized representatives are hereby authorized to conduct any inquiries or investigations to verify the statements, documents, and information submitted in connection to this RFQ, and to seek clarification from our bankers and clients regarding any financial and technical aspects of the Application.

4. This letter of application will also serve as authorization to any individual or authorized representative of any institution referred to in the supporting information, to provide such information deemed necessary and as requested by the Authority to verify statements and information provided in this Application, or with regard to the resources, experience, and competence of the Applicant.

________________________

To be provided on letter head of the Applicant or Lead Member of the Consortium (if applicable), including full postal address, telephone no. and email address.

4 Please fill in the blank spaces, as appropriate and delete the square brackets.
5. We acknowledge the right of the Authority to terminate the Qualification Process at any time without assigning any reason whatsoever and we further acknowledge that they are neither bound to accept any Application that they may receive nor invite the Shortlisted Bidders to submit their Proposals for the Project. We hereby waive to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. We are not a Government owned entity / we are a Government entity.\(^5\)

7. We plan to subcontract the following key activities and / or parts of the works:\(^6\)

8. We believe that we/ our Consortium satisfy(ies) and/or meet(s) all the provisions set out in this RFQ and are eligible to submit this Application and meet the technical and financial criteria set out in the RFQ to be shortlisted for the RFP stage of the bidding process.

9. We declare that we/ any Consortium Member is/are not another single entity Applicant, a Non-Lead Member, a Lead Member of any other Consortium which is an Applicant for the Project.

10. We undertake that if due to any change in the facts or circumstances during the Qualification Process, we fall within the scope of the provisions for disqualification in the RFQ; we shall inform the Authority of the same immediately.

11. We agree and undertake to abide by all the terms and conditions of the RFQ.

12. We confirm that if we bid, our Application and/or Proposal as well as any resulting contract will be:\(^7\)

   (a) signed so as to legally bind all Consortium Members, jointly and severally; and
   (b) submitted with a Consortium Bidding Agreement providing the joint and several liability of all Consortium Members in relation to the Project.

13. This Application is made in the full understanding that:

   (a) Proposals by Shortlisted Bidders will be subject to verification of all information submitted for the RFQ stage of the bidding process.
   (b) The Authority reserves the right to amend the scope and value of this Project.

14. We declare that all information provided in the Application and in the Forms I to X is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.

---

\(^5\) Please specify the type of entity and cancel the other option accordingly.

\(^6\) Please clearly list the key activities and/or parts of the works to be subcontracted (if applicable).

\(^7\) This is to be filled out only in the case of an Applicant which is a Consortium.
15. The Authority and its authorized representatives may contact the following persons for further information or clarification.†

**Key Contact Person:**
**Contact 1**
Name: _____________________________
Designation: ___________________________
Address: _____________________________
Tel No.: _____________________________
Mobile: ___________________________ Email: _____________________________
(Please fill in details of the key contact person of the Applicant)

**Alternative Contact Person:**
**Contact 1**
Name: _____________________________
Designation: ___________________________
Address: _____________________________
Tel No.: _____________________________
Mobile: ___________________________ Email: _____________________________
(Please fill in details of the alternative contact person of the Applicant)

**Contact 2**
Name: _____________________________
Designation: ___________________________
Address: _____________________________
Tel No.: _____________________________
Mobile: ___________________________ Email: _____________________________
(Please fill in details of the alternative contact person of the Applicant)

Signed: ___________________________
(Signature of the authorized signatory of the Applicant)

Name: ___________________________
(Name of the authorized signatory)

For and on behalf of: ___________________________
(Name of Applicant or Lead and Non-Lead Member(s) of a Consortium)

*Note: Terms defined in the RFQ shall have the same meaning when used herein unless otherwise stated.*

†In case of a Consortium, equivalent information for each Consortium Member should be provided on a separate sheet.
FORM III: CONSORTIUM BIDDING AGREEMENT

This Consortium Bidding Agreement (hereinafter referred to as the “Agreement”) is entered into on this the [PLEASE INSERT DAY] day of [PLEASE INSERT MONTH],[PLEASE INSERT YEAR].

AMONGST

1. [NAME OF COMPANY], a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESS OF COMPANY] or [NAME OF INDIVIDUAL], a citizen of [PLEASE INSERT THE COUNTRY OF CITIZENSHIP], and having permanent residential address at [ADDRESS OF HE INDIVIDUAL] (hereinafter referred to as the “First Party” and/or the “Lead Member”, as used interchangeably, which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

AND

2. [NAME OF COMPANY], a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESSOF COMPANY] or [NAME OF INDIVIDUAL], a citizen of [PLEASE INSERT THE COUNTRY OF CITIZENSHIP], and having permanent residential address at [ADDRESS OF HE INDIVIDUAL] (hereinafter referred to as the “Second Party” which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

AND

3. [NAME OF COMPANY], a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESSOF COMPANY] or [NAME OF INDIVIDUAL], a citizen of [PLEASE INSERT THE COUNTRY OF CITIZENSHIP], and having permanent residential address at [ADDRESS OF HE INDIVIDUAL] (hereinafter referred to as the “Third Party” which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

9To be executed on non-judicial stamp paper of value of BDT 300.00 or any other legally equivalent document as permissible under the laws of the respective country where any one Consortium Member is domiciled.

10In case of an Applicant which is not a company, the words “a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION]” may be substituted by the words “duly organized and validly existing under the laws of the jurisdiction of its formation” or any other wording, as may be applicable. A similar modification may be made to the other Recitals, as necessary.
AND

4. [NAME OF COMPANY], a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESS OF COMPANY] or [NAME OF INDIVIDUAL], a citizen of [PLEASE INSERT THE COUNTRY OF CITIZENSHIP], and having permanent residential address at [ADDRESS OF INDIVIDUAL] (hereinafter referred to as the “Fourth Party” which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

AND

5. [NAME OF COMPANY], a company incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESS OF COMPANY] or [NAME OF INDIVIDUAL], a citizen of [PLEASE INSERT THE COUNTRY OF CITIZENSHIP], and having permanent residential address at [ADDRESS OF INDIVIDUAL] (hereinafter referred to as the “Fifth Party” which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

Each of the First Party, Second Party, Third Party, Fourth Party and Fifth Party are collectively referred to as the “Parties” and each is individually referred to as a “Party”.

WHEREAS,

(A) Bangladesh Railway, under the Government of Bangladesh, having its principal office at Rail Bhaban, 16 Abdul Gani Road, Dhaka 1000, Bangladesh (hereinafter referred to as the “Authority”) has invited applications (hereinafter referred to as the “Applications”) in response to its Request for Qualification No. [x] dated [xx/xx/xxxx] (hereinafter referred to as the “RFQ”) for shortlisting of the Applicants for the designing, building, financing, operation & maintenance and transfer of the Five Star Hotel in Chittagong (hereinafter referred to as the “Project”).

(B) The Parties are interested in jointly bidding for the Project as Consortium Members and in accordance with the terms and conditions of the RFQ document and other bid documents issued by the Authority in respect of the Project, and

11It is to be noted that a Consortium cannot have more than 5 (five) Consortium Members (including the Lead Member). In the event that there are less than 5 (five) Consortium Members, the recitals may be deleted and the wording amended accordingly.
It is a necessary condition under the RFQ document for the Consortium Members to enter into this Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

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

2. RELATIONSHIP OF THE PARTIES

2.1. The purpose of this Agreement is to establish and record terms to govern the relationships of the Parties with each other. The Parties do hereby irrevocably constitute a Consortium for the purposes of jointly participating in the bidding process for the Project.

2.2. The Parties agree to cooperate with each other in the negotiation, preparation and submission of the Application and/or Proposal and in the event that they are awarded the Project, in the preparation, finalization and execution of the PPP Contract on the terms set out in this Agreement.

2.3. Nothing contained in this Agreement is intended to create a partnership or any other separate legal or corporate entity.

2.4. The Parties hereby undertake that in the event the Consortium is declared as the Private Partner and awarded the Project, it shall incorporate the Project Company under the Companies Act 1994 for the delivery of the Project in accordance with the terms and conditions of the PPP Contract.

3. TERM OF THIS AGREEMENT

This Agreement will commence from the date of execution and shall be valid until the formation of Project Company. However, in the event that the Consortium is either not pre-qualified & shortlisted or is not selected as the Private Partner for the Project, this Agreement will stand terminated in accordance with Clause 9 of this Agreement.

4. EXCLUSIVITY

No Party shall directly or indirectly, except as part of the Consortium, alone or together with some but not all of the Parties or with any third party prepare or submit, or participate in the preparation or submission of, any other Application or Proposal in response to the RFQ and/or the RFP (as applicable).

5. ROLES AND RESPONSIBILITIES OF THE PARTIES

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

a. The Parties hereby acknowledge that the First Party shall be the Lead Member of the Consortium and shall have the authority to conduct all business in relation to the bidding process for and on behalf of any and all the Consortium Members during the bidding
process and in the event that the Consortium is awarded the Project, during the preparation, finalization and execution of the PPP Contract. The Lead Member shall be authorized pursuant to a power of attorney provided by all other Parties (i.e. the Non-Lead Members) to conduct all business and to sign and file relevant documents in connection to the bidding process for and on behalf of the Consortium and represent and irrevocably bind all other Consortium Members in all matters connected to the bidding process. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the First Party/Lead Member are:

1. 
2. 

b. The Second Party shall be the technical/financial/operation and maintenance/ any other [please mention] member of the Consortium. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the Second Party are:

1. 
2. 

c. The Third Party shall be the technical/financial/operation and maintenance/ any other [please mention] member of the Consortium. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the Third Party are:

1. 
2. 

d. The Fourth Party shall be the technical/financial/operation and maintenance/ any other [please mention] member. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the Fourth Party are:

1. 
2. 

e. The Fifth Party shall be the technical/financial/operation and maintenance/ any other [please mention] member. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].
The roles and responsibilities of the Fifth Party are:
1.
2.

6. JOINT AND SEVERAL LIABILITY
The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFQ, RFP and the PPP Contract, until such time that the Agreement is terminated pursuant to Clause 9.

7. SHAREHOLDING IN THE PROJECT COMPANY
The Parties agree that in the event that the Consortium is awarded the Project, the proportion of shareholding among the Parties in the Project Company shall be as follows:

First Party: [PLEASE INSERT SHAREHOLDING OF LEAD MEMBER]
Second Party: [PLEASE INSERT SHAREHOLDING OF SECOND PARTY]
Third Party: [PLEASE INSERT SHAREHOLDING OF THIRD PARTY]
Fourth Party: [PLEASE INSERT SHAREHOLDING OF FOURTH PARTY]
Fifth Party: [PLEASE INSERT SHAREHOLDING OF FIFTH PARTY]

8. REPRESENTATION AND WARRANTIES
8.1. Each Party represents to the other Parties as of the date of this Agreement that:

(a) It is duly organized, validly existing and in good standing under the laws of the country of its incorporation/formation and has the requisite powers and authority to enter into this Agreement.

(b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the memorandum and articles of association and/or board resolution/power of attorney authorizing the legal representatives of the Party to execute this Agreement on behalf of the Party is annexed to this Agreement.

(c) The execution, delivery and performance by such Party of this Agreement will not, to the best of its knowledge:
   i. require any consent or approval not already obtained;
   ii. violate any applicable law presently in effect and having applicability to it;
   iii. violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
   iv. violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which it is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
v. create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement.

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

(e) Each Party warrants that it has the necessary resources, licenses and permits for the information contained in the Application and/or Proposal and the delivery of services and deliverables contemplated or that will be contemplated in the PPP Contract.

9. TERMINATION
9.1. In the event that the Consortium is not awarded the Project or in case of cancellation of the bidding process by the Authority, this Agreement shall automatically come to an end and the Consortium shall consequently be dissolved, subject to each Party duly completing or performing its pending obligations, if any.

9.2. In the event that the Consortium is awarded the Project, this Agreement shall terminate upon formation of the Project Company.

9.3. Except as provided in Clause 9.1 and 9.2 above, the Parties shall not terminate this Agreement without the prior written approval of the Authority.

10. VALID AND BINDING OBLIGATION
10.1. Each of the Parties agree that this Agreement constitutes a valid and binding obligation upon the Parties concerned and is enforceable against each of them in accordance with the terms and conditions herein contained.

10.2. Unless otherwise agreed, each of the Parties agree that in case of a successful bid, all Parties shall be jointly and severally liable for the execution of the PPP Contract with the Authority, in accordance with the terms and conditions contained therein.

11. COSTS
The Parties agree that each Party will bear its own costs arising out of this Agreement, except as maybe agreed otherwise in writing.

12. CONFIDENTIALITY AND NON-DISCLOSURE
The Parties agree that they will keep confidential and will not disclose to any third parties, firms, corporations or others, this Agreement, or any of the terms of this Agreement, provided that either Party may disclose the information pursuant to the process or otherwise required by other applicable laws including any directions from government
agencies, central bank etc., in which case the Party that has been requested to provide the information shall notify the other Parties of such request, so that the other Parties may object to such production, or take any other action they deem necessary and appropriate.

13. NOTICE
All notices or processes among the Consortium Members, relating to this Agreement, shall be valid and effective if sent by [PLEASE INSERT THE MODE OF COMMUNICATION (E.G. LETTER/E-MAIL)] to the respective addresses as provided herein below.

For the First Party/ Lead Member: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE FIRST PARTY]

For the Second Party: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE SECOND PARTY]

For the Third Party: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE THIRD PARTY]

For the Fourth Party: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE FOURTH PARTY]

For the Fifth Party: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE FIFTH PARTY]

14. MISCELLANEOUS

14.1. This Agreement shall be governed by laws of Bangladesh.

14.2. The Parties acknowledge and accept that this Agreement shall not be amended or modified by the Parties without the prior written approval of the Authority.

14.3. Notwithstanding any of the foregoing, the Parties acknowledge and accept that any change in the composition of the Consortium shall not be permitted by the Authority during the Qualification Process.

However, any change in the composition of the Consortium may be permitted by the Authority after the Qualification Process but before the submission of the Proposals only where:
(a) the Lead Member continues to be the Lead Member of the Consortium;
(b) the substitute is at least equal, in terms of Technical Capacity and Financial Capacity to the Consortium Member who is sought to be substituted and the modified Consortium continues to meet the pre-qualification and shortlisting criteria for Applicants; and
(c) the new Non-Lead Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and has not previously bid for this Project as an Applicant.
Moreover, the Parties acknowledge that the Applicants will not be permitted to change the composition of the Consortium from the time of issue of the LoA up to the signing of the PPP Contract without the prior written approval of the Authority which will be in its absolute discretion.

The Parties further acknowledge and accept that any change in the composition of the Consortium other than as set out above, shall lead to the rejection of their Application and/or Proposal.

14.4. No failure or delay on the part of any Party to this Agreement to exercise any right or remedy under this Agreement and/or no indulgence granted by any one Party to the other will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy.

14.5. Each Party agrees to execute, do and procure all other persons, if any, to execute and do all such further deeds, assurances, acts and things as may reasonably be necessary so that full effect may be given to the terms and conditions of this Agreement.

14.6. If a provision of this Agreement is found to be illegal, invalid or unenforceable:

(a) it is to be read down or severed to the extent of the illegality, invalidity or unenforceability;

(b) the Parties shall negotiate in good faith amendments to this Agreement to include, to the extent possible, legal, valid and enforceable provisions to give effect to the intent of the Parties under the illegal, invalid or unenforceable provision.

14.7. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument.

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

SIGNED, SEALED AND DELIVERED
For and on behalf of

FIRST PARTY (LEAD MEMBER)
(Signature)
(Name)
(Designation)
(Address)
(Please fill in the details of the Lead Member)

SIGNED, SEALED AND DELIVERED
For and on behalf of

SECOND PARTY
(Signature)
(Name)
(Designation)
(Address)
(Please fill in the details of the Second Party)

SIGNED, SEALED AND DELIVERED
For and on behalf of

SIGNED, SEALED AND DELIVERED
For and on behalf of
THIRD PARTY
(Signature)
(Name)
(Designation)
(Address)
(Please fill in the details of the Third Party)

FOURTH PARTY
(Signature)
(Name)
(Designation)
(Address)
(Please fill in the details of the Fourth Party)

SIGNED, SEALED AND DELIVERED
For and on behalf of

FIFTH PARTY
(Signature)
(Name)
(Designation)
(Address)
(Please fill in the details of the Fifth Party)

In the presence of:
1. ____________________  __________________________________________
2. ____________________  __________________________________________
(Please insert names of the witness)  (Signature of the witness)

Note:
- The mode of the execution of the Agreement should be in accordance with the procedure, if any, laid down by the applicable law and the memorandum and articles of association of the executant(s).
- Each Party should attach a copy of the extract of the memorandum and articles of association and/or other documents such as the board resolution / power of attorney authorizing the legal representative of each Party to execute this Agreement on behalf of that Party.
- For an Agreement executed and issued overseas, the document shall have to be duly authenticated and/or notarized by the relevant authority.
FORM IV: POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM¹⁶

This Power of attorney is made on this the [PLEASE INSERT DATE] day of [PLEASE INSERT MONTH] Two Thousand and Fifteen.

We, [PLEASE INSERT NAME OF THE NON-LEAD MEMBER] of [PLEASE INSERT ADDRESS OF THE NON-LEAD MEMBER] do hereby appoint and authorize [PLEASE INSERT NAME OF THE LEAD MEMBER], of [PLEASE INSERT ADDRESS OF THE LEAD MEMBER] to represent the Consortium in all matters in relation to providing information and responding to inquiries etc. as may be required by the Bangladesh Railway in connection with the “Development of a Five Star Hotel in Chittagong through Public Private Partnership”. The Lead Member is further authorized to conduct all business in relation to the bidding process for and on behalf of the Non-Lead Member, during the bidding process and in the event that the Consortium is awarded the Project, during the finalization of the PPP Contract. Furthermore, the Lead Member is hereby authorized to sign and file relevant documents in connection with submission of the Application in response to the RFQ for the “Development of a Five Star Hotel in Chittagong through Public Private Partnership”.

IN WITNESS WHEREOF WE DO HEREBY PUT OUR SIGNATURE ON THE DAY, MONTH AND YEAR MENTIONED HEREIN ABOVE.

_______________________________________________
(Non-Lead Member’s signature)
Name:

Witness:
1 ___________________________________________ 2. ___________________________________________

Name: ____________________________  Name: ____________________________
Address: __________________________  Address: __________________________
(Please fill in name and address of the witness)  ( Please fill in name and address of the witness)

¹⁶ To be provided only in the case of a Consortium. This Power of attorney shall be provided (either individually or jointly) by all the Non-Lead Members nominating the Lead Member of the Consortium. This power of attorney to be provided on a non-judicial stamp paper of BDT 1,000.00 /- (BDT One Thousand) or any other legally equivalent document as permissible under the laws of the respective country, provided that the document is duly authenticated and/or notarized by the relevant authority.
FORM V: POWER OF ATTORNEY TO THE AUTHORIZED SIGNATORY\textsuperscript{17}

This Power of attorney is made on this the \textbf{[PLEASE INSERT DATE]} day of \textbf{[PLEASE INSERT MONTH]} Two Thousand and Fifteen.

We, \textbf{[PLEASE INSERT NAME OF THE APPLICANT]} of \textbf{[PLEASE INSERT ADDRESS OF THE APPLICANT]} do hereby appoint and authorize \textbf{[PLEASE INSERT NAME OF THE AUTHORIZED REPRESENTATIVE]} of \textbf{[PLEASE INSERT ADDRESS OF THE AUTHORIZED REPRESENTATIVE]} to be the person on behalf of \textbf{[PLEASE INSERT NAME OF THE APPLICANT]} to provide information and respond to inquiries etc. as may be required by Bangladesh Railway in connection with the \textbf{“Development of a Five Star Hotel in Chittagong through Public Private Partnership”} and is also hereby authorized to sign and file relevant documents, including power of attorney (if applicable), in connection with submission of the Application in response to the RFQ for the \textbf{“Development of a Five Star Hotel in Chittagong through Public Private Partnership”}.

IN WITNESS WHEREOF WE DO HEREBY PUT OUR SIGNATURE ON THE DAY, MONTH AND YEAR MENTIONED HEREIN ABOVE.

\begin{flushleft}
\textbig{(Applicant’s signature)}
\textbf{Name:}
\textbf{Witness: 1} \hspace{1cm} \textbf{2.} \hspace{1cm} \textbf{Name:}
\textbf{Name:} \hspace{1cm} \textbf{Address:} \hspace{1cm} \textbf{Address:}
\textbf{(Please fill in name and address of the witness)} \hspace{1cm} \textbf{(Please fill in name and address of the witness)}
\end{flushleft}

\textsuperscript{17} This power of attorney is to be provided by the Applicant duly authorizing its nominated representative. In case where the Applicant is a Consortium, this power of attorney will have to be provided by each Consortium Member, duly authorizing its respective nominated representative.

This power of attorney to be provided on a non-judicial stamp paper of BDT 1,000.00 /- (BDT One Thousand) or any other legally equivalent document as permissible under the laws of the respective country, provided that the document is duly authenticated and/or notarized by the relevant authority.

In the event that pursuant to the internal policy of any Applicant, if it is not possible for them to provide a power of attorney, then a resolution of the board of directors in that regard shall be accepted.
FORM VI: AFFIDAVIT

The undersigned, [PLEASE INSERT NAME OF THE OFFICIAL], of legal age, and residing at [PLEASE INSERT ADDRESS] after having been duly sworn deposed states:

(i) that he/she is the [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT THE NAME OF THE APPLICANT], duly organized under the laws of [PLEASE INSERT NAME OF THE COUNTRY].

(ii) that personally, and as [PLEASE INSERT THE OFFICIAL CAPACITY] of [PLEASE INSERT NAME OF THE APPLICANT], is duly authorized to make the following representations for and on behalf of the Applicant:

(a) that all statements, representations, information and other matters of fact made in this Application including any attachments and enclosures are true, complete and accurate; nothing has been omitted which renders such information misleading and all documents accompanying such Application are true copies of their respective originals;

(b) that this Application is made by [PLEASE INSERT NAME OF THE APPLICANT] for the express purpose to be selected as a Shortlisted Bidder for the RFP stage of the bidding process by the Authority for the “Development of a Five Star Hotel in Chittagong through Public Private Partnership”;

(c) that the Applicant will make available to the Authority and to the Government or any other of its authorized agencies any information they may find necessary to verify any item in this Application or regarding its competence and general reputation;

(d) that the Applicant has examined and has no reservations to the RFQ including any Addendum(s) issued by the Authority and will abide by the terms and conditions of the RFQ;

(e) that the Applicant has accepted the pre-qualification and shortlisting criteria laid out in the RFQ;

(f) that the Applicant acknowledges the right of the Authority to reject this Application and waives its right to seek and obtain court injunction or restraining order against the Authority or the Ministry of Railways to prevent or restrain the Qualification Process, the holding of the RFP stage of the bidding process, the award of the PPP Contract or any proceedings related thereto;

(g) that the Applicant has not applied for liquidation nor has it been ordered to be liquidated by any court of competent jurisdiction or any other authority and further certifies that the Applicant is not legally restrained from executing a contract;

18To be provided on a non-judicial stamp paper of BDT 200.00 (BDT Two Hundred).
(h) that the Applicant has not previously entered into a contract with the Authority and later terminated the contract prior to the expiry of the contract due to the event of default on the part of the Applicant;

(i) that the Applicant is not in the process of merger with or acquisition by another entity (applicable for foreign Applicants only);

(j) that the Applicant does not have a Conflict of Interest that affects the Qualification Process as set out in the RFQ;

(k) that the Applicant has never been declared or found guilty of violating the anti-monopoly and/or competition laws of any jurisdiction by any competent court at any time during the last 5 (five) years;

(l) that the Applicant has taken steps to ensure that in conformity with the provisions of Section 9 of the RFQ, no person acting for the Applicant or on behalf of the Applicant has engaged or will engage directly or indirectly in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in relation to any tender or request for proposal or in relation to any agreement entered into with the Authority or any other public sector enterprise;

(m) that if selected as the Private Partner it will ensure that its commitments in relation to other projects do not adversely impact the ability to meet its obligations set out under the PPP Contract for the Project;

(n) that if selected as the Private Partner it will provide from its own source or raise a minimum equity contribution of at least USD 10 (Ten) million;

(o) that if selected as the Private Partner, it will secure adequate financing for the Project;

(p) that neither the Applicant nor any director thereof has been convicted of a criminal offence in Bangladesh in the last 10 (ten) years.

________________________________________
(Signature of the official)

________________________________________
(Name and official capacity of the official)

WITNESSES:
1. __________________________________________ 2. __________________________________________
Name: Name:
Address: Address:
(Please fill in name and address of the witness) (Please fill in name and address of the witness)
SUBSCRIBED AND SWORN TO before me this _____day of _____ 2015 at_____.

_________________
Notary Public

Note:
- Terms defined in the RFQ shall have the same meaning when used herein unless otherwise stated.
- Affidavit to be provided on a non-judicial stamp paper of BDT 200/- (BDT Two Hundred) or any other legally equivalent document as permissible under the laws of the respective country, provided that the document is duly authenticated and/or notarized by the relevant authority.
- Affidavit is to be signed by the authorized representative of the Applicant. Where this is a Consortium, the authorized representatives of each Consortium Member must sign. However, separate Affidavits signed individually by the Lead Member and other Non-Lead Members will also be accepted.
FORM VII: APPLICANT’S ORGANIZATIONAL STRUCTURE, RESPONSIBILITIES AND ORGANIZATIONAL CHART FOR THIS PROJECT

Please fill out the following spaces and provide all necessary information and documents.

1. Name and address of the Applicant and type of organization: __________________
2. Date and place of incorporation of the Applicant: ____________________________
3. Details of the Consortium Members (Please provide the necessary information in the table herein below) 19.

<table>
<thead>
<tr>
<th>No.</th>
<th>Name and Address of Consortium Members</th>
<th>Role</th>
<th>Percentage of Shareholding in the Proposed Project Company (%)</th>
<th>Major Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td>Lead Member</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td>Non-Lead Member</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td>Non-Lead Member</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td>Non-Lead Member</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td></td>
<td>Non-Lead Member</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. Further details to be provided in the case of a Consortium:
(Please fill out the roles and responsibilities in following spaces and also provide all necessary information and documents).

   a) Name of the Lead Member: ____________________________________________

      Details of the roles and responsibilities of the Lead Member:
      1. ____________________________________________
      2. ____________________________________________

   b) Name of the Non-Lead Member: ________________________________________

      Details of the roles and responsibilities of the Non-Lead Member:
      1. ____________________________________________
      2. ____________________________________________

   c) Name of the Non-Lead Member: ________________________________________

      Details of the roles and responsibilities of the Non-Lead Member:
      1. ____________________________________________
      2. ____________________________________________

_____________________________________

19 This is applicable only in the case of a Consortium.
d) Name of the Non-Lead Member: ___________________________________

   Details of the roles and responsibilities of the Non-Lead Member:
   1. ___________________________________
   2. ___________________________________

e) Name of the Non-Lead Member: ___________________________________

   Details of the roles and responsibilities of the Non-Lead Member:
   1. ___________________________________
   2. ___________________________________

5. Organization chart of the single entity Applicant or the Lead Member and the Non-Lead Members (in case of a Consortium), showing their structure, including the key personnel for this Project.\(^{20}\)

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\(^{20}\) Please attach the relevant information and documents to this Form.
FORM VIII: TECHNICAL CAPACITY-DEVELOPMENT EXPERIENCE

Condition for Technical Capacity *(Details in Section 8.2.1, Page 31)*

For demonstrating Technical Capacity and experience, the Applicant shall, over the past 10 (ten) financial years preceding the Due Date, have developed 21, paid for or received payments for construction of either Category 1 Eligible Project(s) or Category 2 Eligible Project(s), as specified below:

**Category 1 Eligible Projects:** Single or multiple project(s) across exhibition centre / convention centre / hotel / resort / office complex / shopping mall / multiplex / school or other educational institutions / hospital such that the sum total of the built-up area in the project(s) is equal to or more than 500,000 sq. ft. and / or the cumulative capital cost of the project(s) is equal to or more than USD 30 (Thirty) million.

In the case of multiple projects, at least one project shall have built-up area larger than 125,000 sq. ft. and / or capital cost greater than USD 10 (Ten) million.

**Category 2 Eligible Projects:** Single or multiple project(s) in core sector (roads, highways, power, telecom, ports, airports, railways, metro rail, industrial parks / estates, logistic parks, pipelines, irrigation, water supply, sewerage and real estate development) such that the minimum cumulative capital cost of the projects is USD 125 (One Hundred and Twenty Five) million.

Only the payments (gross) actually made or received, as the case may be, during such 10 (ten) financial years shall qualify for purposes of evaluation of Technical Capacity. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turnkey construction contract / Engineering, Procurement and Construction (EPC) contract for the project. Further, the cost of land shall not be included hereunder.

Where the Applicant is a Consortium, the experience of the Lead Member and other Member(s) shall be counted as experience towards meeting Technical Capacity of the Applicant.

Experience for any activity relating to any previous project jointly undertaken by Consortium Members shall not be claimed separately by those Consortium Members for the purpose of this Project and shall only be counted as a single project for the purpose of this section.

---

21“Developed” shall mean conceptualize, design, finance, build and market
Information to support Technical Capacity
For each project developed by the Applicant, the Applicant shall fill in the table below and provide the following information and documents:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Project Type</th>
<th>Role of the Applicant</th>
<th>Project Location</th>
<th>Project Size (Land Area and Built Up Area)</th>
<th>% of Applicant's shareholding in Project Company (if applicable)</th>
<th>Project Owners</th>
<th>Project Capital Cost (USD)</th>
<th>Construction Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Project Name: __________________</td>
<td>Name of company: __________________</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Project Name: __________________</td>
<td>Name of company: __________________</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note:
Please attach the following in support of the information provided:

a. **Confirmation of Project Cost**: Certificate(s) from statutory auditors or Chartered Accountants of the Applicant stating the payments made and works commissioned, as the case may be, during the past 10 (ten) financial years
   Or
   Project contract showing the first page, preamble page, signing page, pages showing project cost and any other relevant pages of the contracts for each of the projects listed in the table above;

b. **Confirmation of built-up area of the project(s)**: Certified building layout plan / approved sanction documents / engineer certificate;

c. **Confirmation of construction completion date**: Completion certificate / client certificate / engineer certificate.

Also,
- In case of Consortium, the information needs to be submitted for each Consortium Member separately
- Any document issued outside Bangladesh must be notarized

Note: The Authority reserves the right to seek references for verifying the information provided herein.

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22 Please describe the type of work that was undertaken (e.g. design, construction, financing, etc.).
FORM IX: FINANCIAL CAPACITY – NETWORTH

Condition for Financial Capacity *(Details in Section 8.2.2, Page 32)*

FOR EACH OF THE LAST 3 (THREE) YEARS,
Aggregate Net Worth for all Consortium Members ≥ USD 20 (Twenty) million

Information to support Financial Capacity

Name: [PLEASE INSERT THE NAME OF THE SINGLE ENTITY APPLICANT / LEAD MEMBER / NON-LEAD MEMBER (AS APPLICABLE) FOR WHOM THE FINANCIAL INFORMATION HAS BEEN PROVIDED]

<table>
<thead>
<tr>
<th>Financial Information</th>
<th>&lt;Year 1&gt;</th>
<th>&lt;Year 2&gt;</th>
<th>&lt;Year 3&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Current Assets (inventory, cash &amp; bank balances, trade receivables)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Non-current assets (fixed assets, CWIP, loans &amp; advances)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>3. Total assets (Row 1 + Row 2)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Current liabilities (short term borrowings, trade payables)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Non-current liabilities (provisions, tax liabilities, long term trade payables / borrowings)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>6. Total liabilities (Row 4 + Row 5)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Revaluation reserves + reserves not available for distribution to equity shareholders)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>8. Net Worth (Row 3 – Row 6 – Row 7)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Financial Information | <Year 1> | <Year 2> | <Year 3> |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Subscribed &amp; Paid-up Share capital</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Reserves &amp; Surplus</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note:
- *Where the Applicant is a Consortium, the data and financial information for the Lead Member and each of the other Non-Lead Members should be provided on separate tables*(Please add additional sheets and tables, if required)
- *The Authority reserves the right to seek references in order to verify the information provided.*

Instruction to Applicants:
1) Applicants should summarize the financial amounts and provide the figures in USD. The exchange rate, in the event that the Applicants need to convert foreign currency amounts to USD, shall be those rates listed on www.oanda.com/currency/historical-rates as on the
date of the issue of the RFQ. The Applicant must state the exchange rate applied and the relevant currency for any converted sums.

2) Year 1 will be the latest year for which financial statements are available. Year 2 shall be the year before Year 1 and so on.

**SUPPORTING DOCUMENTS:**

*In case of limited Company (private / public):*
1) Copy of Audited Financial Statements for last 3 years- Balance Sheet, P&L Statement & Cash Flow Statement;

2) Auditor’s report and/or certificate from Chartered Accountant. If audits are not required by the laws of their country of origin and as such, if Audited Financial Statements and/or auditor’s reports are not available, copies of tax returns should be submitted for those years along with a certificate from a Chartered Accountant.

3) Annual reports, if any.

*In case of Individual or Proprietorship:*
1) Statement or certification of assets from Chartered Accountant;
   or
2) Copy of tax returns for last 3 (three) financial years.
### FORM X: APPLICATION CHECKLIST

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Item</th>
<th>Submission Requirement</th>
<th>Checked by Applicant</th>
<th>Checked by Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>RFQ Submission Identification Sheet – (Form I)</td>
<td>Compulsory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Letter of Application – (Form II)</td>
<td>Compulsory</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Consortium Bidding Agreement – (Form III)</td>
<td>Only if Applicant is a Consortium</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Power of Attorney for Lead Member of Consortium – (Form IV)</td>
<td>Only if Applicant is a Consortium</td>
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<td>5.</td>
<td>Power of Attorney to the Signatory – (Form V)</td>
<td>Compulsory</td>
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<td>6.</td>
<td>Affidavit – (Form VI)</td>
<td>Compulsory</td>
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<td>7.</td>
<td>Applicant’s Organizational Structure, Responsibilities and Organizational Chart for this Project – (Form VII)</td>
<td>Compulsory</td>
<td></td>
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<tr>
<td>8.</td>
<td>Technical Capacity – Development Experience – (Form VIII)</td>
<td>Compulsory</td>
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<td>9.</td>
<td>Financial Capacity- Net Worth – (Form IX)</td>
<td>Compulsory</td>
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