

**SINDH MASS TRANSIT CELL
TRANSPORT & MASS TRANSIT
DEPARTMENT
GOVERNMENT OF SINDH**



REQUEST FOR PROPOSAL

Comprehensive Assistance and
Transaction Advisory Services for
the Revival of
Karachi Circular Railway

January, 2017

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INTRODUCTION AND BACKGROUND

Revival of Karachi Circular Railway Project

1) INTRODUCTION AND PROJECT BACKGROUND

Karachi is the largest metropolis of Pakistan with a large operational seaport and hence is an economic and financial hub. Karachi's population grew annually by 4.2% since 1998, and is projected to grow from 18.9 million in 2010 to 27.6 million in 2020 and 31.6 million in 2030. Unfortunately due to poor infrastructure and other obvious reasons Karachi is consistently ranked as one of the world's most unlivable cities of the world. One of the most densely populated cities in the world, Karachi. One of the key reasons that contribute in this ranking are severe traffic congestion, induced air and noise pollution, absence of mass transit infrastructure and lack of infrastructure maintenance. With limited infrastructure and low level of public services, the city's urban transport system (UTS) fails to provide mobility to the citizens. Private vehicle ownership (car and motorcycle are 49.7 and 47.4 per 1000 inhabitants in 2010) is still low but increasing rapidly with a growing middle class and government policies. This rapid motorization coupled with various other factors such as poor traffic management, widespread encroachments and hence poor pedestrian facilities, inefficient transport demand management, lack of public transport, poor physical condition of roads and infrastructure exacerbates traffic congestion and safety issues and also leads to increased pollution.

- 2) The Karachi Mass Transit Study (KMTS) in 1990 resulted in an adoption of a 20 year Mass Transit Plan for Karachi. It consisted of 87.4kms network of transit ways in six major corridors of Karachi in addition to recommendations for immediate reforms in bus transit sector, institutional and training needs. The first priority corridor was however accepted to be developed as a Light Rail Line. Despite major efforts, the implementation did not materialize due to political, environmental and economic issues. Later efforts have concentrated on Bus Rapid Transit System planning studies and Revitalization of Karachi Circular Railways (KCR). The Karachi Strategic Development (KSDP2020) adopted by the city district Government of Karachi (CDGK) recommended Rail Mass Transit, Bus Rapid Transit (BRTS) to comprise the future network for Urban Transport Mobility.

Under the Karachi Urban Transportation Improvement Study, JICA recommended a comprehensive Mass Transit Plan comprising of two MRT lines, six BRT lines and revitalization of Karachi Circular Railway.

- 3) While the various BRT / MRT projects have been taken up, the Government of Sindh has been successful in including the KCR project under the CPEC framework. The comprehensive assistance required is in legal, financial and technical aspects, preparation of preliminary designs and tender documents, and in transaction advisory services.

4) BRIEF SCOPE OF WORK

SMTC intends to procure the consultancy services as a step forward towards the revival of the historic Karachi Circular Railway project. The consultant is expected to extend comprehensive financial, legal and technical assistance in all the aspects of this project including but not limited to the,

- i) Refinement of the collected data including population, social, traffic, soil and ground conditions, railway structures, rolling stock and depots, operational & maintenance, power generation, safety, environmental, financial and economic data, etc. Relevant data regarding the integration of on-going BRT projects and the future KCR project also needs to be collected. Wherever required, the consultant is expected to undertake collection of additional data through reliable and proven methodologies.
- ii) Review of urban planning framework, traffic analysis zones and demand forecasting and incorporate any modifications / revisions.
- iii) Review of conceptual designs and to prepare preliminary designs including geometric designs, railway structures, stations and platforms and railway systems designs. Design and manufacturing standards to be incorporated in these designs must be china based and their compatibility with the local conditions (and infrastructure) of Karachi must also be taken into consideration.
- iv) Review of O&M strategy and necessary revisions in technology, equipment, power generation, training and organizational development needs, cost structure and revenue generation, railway fare revenue and non-fare revenue (business development), QHSE and risk management be included.
- v) Review of economic and financial analysis and also the financing plan for O&M of the project. To incorporate necessary changes in relevant parameters to ascertain realistic evaluations.
- vi) Review of environmental and social considerations and the stakeholder management plans.
- vii) Preparation of bid document, bid evaluation and selection of successful bidder.

- viii) Transaction Advisory Services - Drafting of all Transaction related documents such as Expression of Interest (EOI), Request for Proposal (RFP), Contract or Concession documents along with all the requisite enclosures like Scope of Work, Performance Standards, Project Data Sheet, Financing Agreement and all other necessary drafts required for the Project.

5) MODE OF ACCESS FOR REQUEST FOR PROPOSAL

This 'Request for Proposal (RFP) document' has been issued to all the interested bidders who have valid registration with Pakistan Engineering Council in relevant category.

6) SUBMISSION OF DOCUMENTS

Sealed proposals shall reach at the address for communication not later than 03:00 hrs on 14.02.2017. Technical Proposals shall be opened on the same day at 04:00 hrs in the presence of bidders or their representative who choose to be present.

The conditions regarding award of work are stipulated in this RFP document. The Transport and Mass Transit Department shall not be responsible for any delay in receiving the proposals and reserves the right to accept / reject any or all proposals as per Sindh Public Procurement Rules (SPPRA) 2010. The consultancy firm / consortium will be selected as per the guidelines indicated in this RFP document.

7) ADDRESS FOR COMMUNICATION

Director Infrastructure,
Sindh Mass Transit Cell,
Transport and Mass Transit Department, Government of Sindh
2nd floor, Tughlaq House, Sindh Secretariat, Karachi
Tel: 021-99211017,
Fax: 021-99211298
Email: director.infra.smta@gmail.com

Letter of Invitation

Request for Proposals

Dear Pre- Prospective Bidder,

Transport and Mass Transit Department, GOS (hereinafter called “Procuring Agency/Client/TMTD” now invites proposals/bids for: **“Comprehensive Assistance and Transaction Advisory Services for the Revival of Karachi Circular Railway Project”**. More details on the services required are provided in the Terms of Reference.

This request for proposal (RFP) has been addressed to all the prospective Bidders. It is not permissible to transfer this invitation to any other firm. A Firm / Consortium will be selected under Quality and Cost Based Selection (QCBS) method and procedures described in this RFP, in accordance with the SPPRA Rules, 2010 (as amended from time to time).

The RFP includes the following documents:

Section 1- Letter of Invitation

Section 2- Instruction to Consultants (including Data Sheet)

Section 3- Technical Proposal – Standard Forms

Section 4- Financial Proposal – Standard Forms

Section 5- Terms of Reference

Section 6- Evaluation Criteria

Section 7- Draft Consultancy Contract

Section 8- Draft Integrity Pact

Yours sincerely,

Director General

Sindh Mass Transit Cell

Transport & Mass Transit Department, GOS

Instruction to Bidders

Dear Sir,

Subject: “Comprehensive Assistance and Transaction Advisory Services for the Revival of Karachi Circular Railway Project”

1. INTRODUCTION

1.1 Technical and Financial Proposals are invited from the interested competent and experienced consulting firms/ companies /consortia for providing consultancy services regarding **“Comprehensive Assistance and Transaction Advisory Services for the Revival of Karachi Circular Railway Project”** as per the international best practices.

1.2 The consultancy services reports have to be submitted complete in all respect strictly as per the Terms of Reference detailed out in this document.

1.3 A detailed description of the assignment and its objectives are given in the enclosed Terms of Reference (TORs).

1.4 The manner in which the proposals are required to be submitted, evaluated and excerpted is explained in this Request for Proposal (RFP) document. Proposal and Bid shall have the same meaning in this RFP.

1.5 You are encouraged to imbibe fully about the assignment and the local conditions before submitting the proposal by visiting the project site and attending a pre-bid conference (if held) on the date, time and venue specified in the Data Sheet. Please note that no cost of any such visit or queries is reimbursable.

1.6 It shall be deemed that by submitting a Bid, the Bidder has:

- a) Made a complete and careful examination of the Bidding Documents;
- b) Received all relevant information requested from the Procuring Agency;
- c) Acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Procuring Agency relating to any of the matters referred to in Clause 1.4 above;

d) Satisfied itself about all matters, things and information contained in this RFP hereinabove necessary and required for submitting Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;

e) Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance 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 Procuring Agency, or a ground for termination of the Agreement; and

f) Agreed to be bound by the undertakings provided by it under and in terms hereof.

1.7 The Procuring Agency shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Procuring Agency.

1.8 Financial Proposals of only those firms as are technically qualified in accordance with clause 6.3 hereof will be opened.

1.9 Please note that:

(i) Costs of preparing the proposal, including visits to the TMTD offices and project site shall be borne by the Bidders and shall not be reimbursed regardless of the outcome of the evaluation process and the TMTD shall not be liable in any manner for any incurred costs; and

(ii) TMTD is not bound to accept any proposals submitted and reserves the right to reject any or all proposals as per provisions of SPPRA Rules, 2010.

1.10 The proposals must be properly signed as detailed below:

a) By the proprietor in case of a proprietary firm

b) By the partner holding the Power of Attorney in case of a firm in partnership (A certified copy of the Power of Attorney shall accompany the proposal).

c) By a duly authorized person holding the Power of Attorney in case of a Limited Company or a corporation (A certified copy of the Power of Attorney shall accompany the proposal).

- d) By the authorized representative in case of Consortium (A certified copy of the authorization shall accompany the proposal).

1.10.1 In case of Consortium of firms, the proposal shall be accompanied by a certified true copy of the Consortium Agreement / Joint Bidding Agreement. The Consortium Agreement / Joint Bidding Agreement as applicable shall confirm at least the following therein:

- a) Date and place of signing;
- b) Purpose of Consortium (must include the details of contract works for which the consortium has been invited to bid;
- c) A clear and definite description of the proposed administrative arrangements for the management and execution of the assignment;
- d) Delineation of duties, responsibilities and scope of work to be undertaken by each along with resources committed by each partner / member of the Consortium for the proposed services;
- e) Brief description of each member of the Consortium and an outline of recent (not older than ten years) experience on assignments of a similar nature;
- f) List of projects presently being under taken by each member of the Consortium and expertise-wise total number and number of staff deployed on the aforesaid projects being presently under-taken;
- g) An undertaking that the firms are jointly and severally liable to the Client for the performance of the services;
- h) It should mention the Lead Member to be the financial consultant among the consortium, its duties, responsibilities and powers;
- i) The authorized representative of Consortium.
- j) Except as provided under this RFP, there shall not be any amendment to the Consortium Agreement / Joint Bidding Agreement without the prior written consent of the GoS

1.10.2 In case of Consortium, the Lead Member shall be authorized to incur liabilities and to receive instructions and payments for and on behalf of the Consortium. For a Consortium to be eligible for bidding, the experience of lead partner and other partner should be as indicated in the enclosed Data Sheet.

1.10.3 Any alternative proposal, such as one by a firm in sole capacity and another in Consortium with another firm or as a part of 2 or more consortiums, shall be summarily rejected. In such an event, all the proposals submitted by such firm and its Consortium or associate shall be rejected.

1.10.4 Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the Procuring Agency during the Bidding Stage, 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 shall continue to meet the pre-qualification/ short-listing criteria for Applicants; and
- c) The new member(s) expressly adopt(s) the application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member of any other Consortium bidding for this Project.

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

1.10.6 The modified/ reconstituted Consortium shall be required to submit a revised joint Bidding Agreement before the Bid Due Date.

1.10.7 The proposal of a firm is liable to be rejected if the firm makes any false or misleading statement in the proposal(s)

1.10.8 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Draft Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Agreement.

2. DOCUMENTS

2.1 To enable you to prepare a proposal, please find and use the attached Documents listed in the Data Sheet.

2.2 Firms requiring a clarification of the Documents must serve upon the Client, a request in writing, at least two (2) days before the Pre bid conference date (if any). Any request for clarification must be made in writing and sent to the Client's address indicated in the Data Sheet through courier or fax or email. The Client will respond in writing through fax or courier or email. Copies of the responses will be sent to all Consultants who get the RFP document.

2.3 At any time before the submission of proposals, the Client may, for any reason, whether at its own initiative or in response to a clarification requested by a bidder, modify the Documents by amendment. The amendment will be notified in writing through fax or email to all consulting

firms who got the RFP document and will be binding on them. The Client may at its discretion extend the deadline for the submission of proposals or change other specifications of the RFP which will be notified in writing through fax or email to all.

3. PREPARATION OF PROPOSAL

Your proposal shall be prepared in two separate parts, each to be contained in a separate cover as follows:

Cover 1: Technical Proposal

Cover 2: Financial Proposal

The information shall be furnished in the formats prescribed in Appendices **I** and **II**.

3.1 Technical Proposal

3.1.1 The envelope containing Technical Proposal shall contain all the information in the format prescribed in Appendix I.

3.1.2 While submitting the Technical Proposal, the firm shall ensure the following:

a) The composition of the proposed team and Task Assignment to individual personnel shall be clearly stated. Consultants shall make their own assessment of support personnel to undertake the assignment. Additional staff or personnel if required to complete the assignment in the prescribed time, must be provided, within the total estimated cost only. Client shall not be responsible for any wrong assessment by Consultants and shall not in any case bear any additional cost arising there from.

b) No such key personnel shall be proposed for any position if the CV of the personnel does not meet the requirements of the TOR.

c) The key personnel shall remain available for the period indicated in the TOR. An undertaking to this effect must also be submitted.

d) No alternative proposal to any key personnel shall be made and only one CV for each position shall be furnished.

e) Each CV needs to have been recently signed with date in blue indelible ink by the key personnel and countersigned by the authorized official of the Firm. Photocopy or unsigned/countersigned CVs shall be rejected.

f) Each CV shall contain the proof of qualification as well as an undertaking from the key personnel about his availability for the duration prescribed in the TOR. In order to check incorrect/ inflated bio-data of Key Personnel, the Client has the right to verify details mentioned in CV by writing to the Employer/University/ Institute indicated in the CV. The Consultancy Firm shall be liable for any incorrect information.

g) If a firm as a Consortium is qualified on the strength of experience of a foreign company, requisite key personnel from that foreign company shall be fielded.

h) In case a firm is proposing key personnel from educational/research institutions, a 'No Objection Certificate' from the concerned institution shall be enclosed with his CV.

i) The contact number(s) of each of key personnel in the CV at the time of submission of proposal shall be mentioned.

3.1.3 Failure to comply with the requirements spelt out in Para 3.1.2 shall make the proposal liable to be rejected and the opening of Financial Proposal shall not be undertaken. If, individual, key personnel makes an averment regarding his qualification, experience, and it turns out to be false, or his commitment regarding availability for the project is not fulfilled at any stage after signing of the agreement, he shall be debarred for any future assignment in/with/of the Client. The firm shall also be liable for its authorized representative counter signing a CV, which is subsequently found to contain false and misleading statements or claims.

3.1.4 The Technical Proposal must not include any financial information.

3.2 Financial Proposal

3.2.1 The envelope containing Financial Proposal shall contain all the information in the format prescribed in Appendix II.

3.2.2 While submitting Financial Proposal, the Bidders shall ensure the following:

a) All the costs associated with the assignment shall be included in the proposal. These shall cover remuneration for all the staff (foreign and local, in the field, office etc), research,

accommodation, transportation, equipment, printing of documents, surveys, geo-technical investigations, preliminary facts/Assessment regarding Environmental & Social Impacts/Investigations etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.

b) The Financial Proposal shall take into account all types of the tax liabilities/expenses and cost of insurance specified in the Data Sheet and the draft contract agreement.

c) Costs (including break down of costs) shall be expressed in Pak Rupees as per the requirement assessed by the Consultants. **The payments shall be made only in Pak Rupees.**

4. SUBMISSION OF PROPOSALS

4.1 The Applicants shall submit all the details required in this RFP Document. All pages should be numbered serially and by giving an index of submissions.

4.2 The applicants must submit the proposal as indicated in Data Sheet. Each proposal will be sealed in an outer envelope which will bear the address and information indicated in the Data Sheet. The envelope must be clearly marked:

**“Comprehensive Assistance and Transaction Advisory Services for
the Revival of Karachi Circular Railway Project”**

Do not open, except in presence of the Consultant Selection Committee

4.2.1 The outer envelope will contain two separate envelopes, one clearly marked **‘Technical Proposal’** and the second clearly marked **‘Financial Proposal’**.

4.2.2 The Technical and Financial Proposal must be prepared in indelible ink and must be signed by the authorized representative of the Firm. The letter of authorization must be confirmed by a written power of attorney accompanying the proposals. All pages of the original Technical and Financial Proposals must be numbered and initialled by the person or persons signing the proposal.

4.3 The proposal must contain no interlineations or overwriting except as necessary to correct errors made by the Consultants themselves, in which cases such corrections must be initialled by the person or persons signing the proposal.

4.4 Completed proposal must be delivered on or before the time and date stated in Data Sheet. TMTD shall not be liable for any delay in submission of the Proposal within the stipulated period on any account whatsoever.

4.5 No bidder shall be allowed to alter or modify his bid(s) after the expiry of deadline for the receipt of the bids; Provided that the procuring agency may ask the bidders for clarifications needed to evaluate the bids but shall not permit any bidder to change the substance or price of the bid.

4.6 The proposal shall be valid for the number of days stated in the Data Sheet from the closing date of submission of proposal.

5. CANCELLATION OF BIDDING PROCESS

5.1 The procuring agency may cancel the bidding process at any time prior to the acceptance of a bid or proposal;

5.2 The procuring agency shall incur no liability towards the bidders, solely by virtue of its invoking under 5.1;

5.3 Intimation of the cancellation of bidding process shall be given promptly to all bidders. The bid security shall be returned to the bidders along with such intimation, if the bidding process is cancelled after the submission of bids.

5.4 The procuring agency shall, upon request by any of the bidders, communicate to such bidder, grounds for the cancellation of bidding process, but is not required to justify such grounds.

6. PROPOSAL EVALUATION

6.1 The Single Stage – Two Envelope Procedure as per rule 46(2) of the SPPRA, 2010, will be adopted in evaluating the proposals. Firstly, technical evaluation will be carried out. Only those Technical proposals, which score at least 70 points out of 100, shall be considered technically qualified for opening of financial bid followed by the financial evaluation. The financial bids of technically qualified Bidders (who have received at least 70 points in the technical evaluation), shall be opened at a time, date and venue announced and communicated to Bidders in advance. The evaluation of the technical and financial bids shall be held under the Quality

and Cost Based Selection (QCBS) method. The Evaluation criteria under QCBS is at Appendix III.

6.2 Evaluation of Technical Proposal

The Consultant Selection Committee (CSC) appointed by the Client will carry out its evaluation applying the evaluation criteria and point system specified in the Data Sheet.

6.3 Evaluation of Financial Proposal

6.3.1 For financial evaluation, total cost of Financial Proposal will be considered including all taxes.

6.3.2 The CSC will determine whether the Financial Proposals are complete, qualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services inclusive of all taxes applicable to the bidder. Omissions, if any, in costing any item shall not entitle the firm/consultant to be compensated and the liability to fulfil its obligations as per the terms of reference within the total quoted price shall be that of the Consultant.

7. BID SECURITY

Each Bidder shall provide a Bid Security along with the Financial Proposal equivalent to 1% (one per cent) of the bid price, which shall remain valid for a period of 28 days beyond the validity period for bids, in order to provide the procuring agency reasonable time to act, if the security is to be called; Bid security shall be released to the unsuccessful bidders once the contract has been signed with the successful bidder or the validity period has expired. The Bidder has the option to provide the Bid Security either as a Demand Draft, Pay Order or in the form of a Bank Guarantee, acceptable to the Procuring Agency. Any Bid not accompanied by the required Bid Security, or accompanied by a Bid Security in an amount less than that required or other than in the form of a commercial bank guarantee or from a commercial bank not acceptable to the GoS or from a commercial bank that does not have a minimum credit rating of at least 'AA-' as rated by JCR VIS or an equivalent rating by PACRA or in the form as required by this RFP shall be, in each case, rejected by the TMTD as non-responsive. It is further clarified that no Bid Security in the form of insurance guarantee shall be entertained.

The Bid shall remain valid and open for acceptance for a period of 90 days from the Bid Submission Deadline. The Bid Security submitted along with the financial proposal included

the Second Stage Proposal shall remain valid for at least 90 days plus twenty eight (28) days beyond the original bid validity from the Bid Submission Deadline. In exceptional circumstance, prior to expiry of the original bid validity period, the Procuring Agency may request Bidders to grant a specified extension in the period of validity. This request and the response thereto shall be made in writing or through fax or email. A Bidder may refuse the afore-stated GoS request and can claim for return of its Bid Security. A Bidder agreeing to the GoS's request will extend the validity of its Bid Security correspondingly.

8. DISQUALIFICATION OF BIDDERS / CONSULTANTS

8.1 The procuring agency shall disqualify any bidder/ consultant, whether already pre-qualified or not, if it finds at any time, that the information submitted by him concerning his qualification and professional, technical, financial, legal or managerial competence as, consultant, was false and materially inaccurate or incomplete; or

8.2 The procuring agency shall disqualify any bidder/ consultant if at any stage, the bidder has indulged in corrupt and fraudulent practices, as defined in Section 2 (q) of Part I-General Provisions of SPPRA rules 2010;

8.3 In the event of disqualification under 8.1 and 8.2, the Procuring Agency shall encash and appropriate the Bid Security. A consultant being aggrieved by the decision of the procuring agency regarding disqualification may seek relief through the mechanism of grievance redressal, as provided under Rule 31 of SPPRA 2010.

9. BAR ON HIRING IN CASE OF CONFLICT OF INTEREST

Consultants shall not be hired if there is a conflict of interest. Any Consulting firm(s)/Consortium found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Procuring Agency shall encash and appropriate the Bid Security.

MISCELLANEOUS

The Bidding Process shall be governed by this RFP, and construed in accordance with, the laws of Pakistan and the Courts at Karachi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

10. INDEMNITY

The Consultants will indemnify the Client for any direct loss or damage that is caused due to deficiency in services.

11. AWARD OF CONTRACT

The Contract shall be awarded to the best evaluated Consultant.

Thank you.

Director General

Sindh Mass Transit Cell

Transport & Mass Transit Department, GOS

DATA SHEET

(References to corresponding paragraphs of LOI are mentioned alongside)

1. (a) Date, Time and Venue of Pre-Bid Conference: NA
(b) Date of Receiving Clarification regarding RFP:
2. The Documents are:
 - (i) Terms of Reference (TOR)
 - (ii) Appendices
Appendix-I: **Formats for Technical Proposal**
Appendix-II: **Formats for Financial Proposal**
Appendix-III: **Evaluation Criteria**
3. Type of Contract: **Lump sum**
4. Bid Security: **1 %**
5. Performance Security: **10 %**
6. Agreement Stamping: As per applicable law
7. The Name of the Client is: Transport and Mass Transit Department,
Government of Sindh.
8. The address is:

Director (Infrastructure),
Transport and Mass Transit Deptt, GoS
2nd Floor, Tughlaq House, Sindh Secretariat Building # 2, Karachi
TEL: 021-99211017,
FAX: 021-99211298
Email: director.infra.smta@gmail.com
smtc.tmttd@gmail.com
9. Tax liability

GOS shall deduct all applicable taxes prior to making the payments. The bid should be inclusive of all applicable taxes

10 The envelopes must be clearly marked:

“ORIGINAL PROPOSAL”

DOCUMENTS IN TECHNICAL PROPOSAL or FINANCIAL PROPOSAL as appropriate; and,

DO NOT OPEN, EXCEPT IN PRESENCE OF THE CONSULTANT SELECTION COMMITTEE on the outer envelope.

11. Consultancy Package

Name and Address of Consultant

The date and time of proposal submission are: 14-02-2017 (up to 03:00 pm)

Opening of technical proposal (Technical Proposal shall be opened before the Bidders who choose to be present) Same Day at (04:00 pm)

Proposal Validity period (days, date): 90 days

12. Evaluation criteria

12.1 Technical Evaluation

The evaluation of the technical and financial bids shall be held under Quality and Cost Based Selection (QCBS) method as per rule 72(3) of the SPPRA, 2010.

12.1.1 Evaluation of selected key personnel of the firms qualifying in the first stage will be carried out following a marking system.

12.1.2 Rating System

The Technical Proposal will be evaluated on the basis of Firms Experience and the experience of the personnel. The criteria to be used for evaluation and working system to be followed shall be as over leaf:

| S. No. | Description of Criteria | Points |
|--------|---|--------|
| 1. | Firm's Relevant Experience | 20 |
| 2. | Specific Experience related Mass Transit projects | 20 |
| 3. | Adequacy of Approach, Innovative measures & Methodology | 15 |
| 4. | Qualification & Relevant Experience (no forgery will be accepted) of the Proposed Key Personnel | 45 |
| Total | | 100 |

The number of points to be given under each of the evaluation criteria is:

| (1) Firm's relevant experience | | Points |
|---------------------------------------|--|---------------|
| 1. | <p>Firms/Consortiums must have transport sector (road, rail infrastructure) project experience and exposure to legal aspects/issues/requirements.</p> <p>10 or more projects 4 marks 8 -10projects 2 marks 3 - 7 projects 1 marks</p> | 5.0 |
| 2. | <p>Firms/Consortiums must have relevant mass transit and public transport (BRTS/LRT/MRT etc.) projects experience and also have experience of working on concession contracts.</p> <p>3 or more projects 3 marks 2 projects 2 marks 1 project 1 marks</p> | 6.0 |
| 3. | <p>Firm/Consortium must have conducted Feasibility study for consultancy contracts worth more than 2 billion in last 5 years</p> <p>4 or more projects 2 marks 3 projects 1 marks</p> | 2.0 |
| 4. | <p>Firm/Consortium must have conducted Transaction Advisory for consultancy contracts worth more than 2 billion in last 5 years</p> <p>5 or more projects 3marks 4 projects 2 marks 2 projects 1marks</p> | 3.0 |
| 5. | Firm/Consortium having a financial institution with in its team | 1.0 |
| 6. | <p>Firm/Consortium must have drafted bidding documents, conducted bid evaluations and must have clear track record in fair practices.</p> <p>4or more projects 3 marks 3projects 2 marks 2projects 1 marks</p> | 3.0 |
| Total | | 20 |

| (2) Specific Experience related to Mass Transit Projects | | |
|--|---|-----------|
| 1. | Firms must have experience of working on Mass Transit Projects: | 20 |
| | 2 or more projects 20 marks | |
| | 1 Project 10 marks | |
| (3) Adequacy of the proposed work plan and methodology in responding to the TOR | | |
| (a) | Understanding of TOR and Comments | 4 |
| (b) | Quality of Approach, Innovative Methodologies | 4 |
| (c) | Work Program and Manning Schedule | 2 |
| (d) | Presentation to Selection Committee | 5 |
| Total | | 15 |

| (4) Qualification and Relevant Experience of the Proposed Key Personnel to be deputed on the assignment | | |
|--|--|---------------|
| SNo. | Key Personal | Points |
| | Technical Team | 23 |
| 1. | Team Leader (Transport Expert) | 8 |
| 2. | Technical Expert I (Infrastructure/Railway Expert) | 5 |
| 3. | Technical Expert II (Traffic/Transport Expert) | 5 |
| 4. | Technical Expert III (O&M Expert) | 5 |
| | Financial Team | 17 |
| 3 | Deputy Team Leader (Finance) | 7 |
| 4 | PPP and Transaction Structuring Expert | 5 |
| 5 | Financial Modeling Expert | 5 |
| | Legal Team | 5 |
| 6 | Deputy Team Leader (Legal) | 5 |
| Total | | 45 |

□ The consultant is advised to submit the C.V of the relevant personnel only for the above mentioned designations (only these CVs will be evaluated). Any forgery will be strictly dealt with. It's expected that these persons will work throughout the length of projects however the consultant must mention the time period of the availability of the proposed personnel.

The weight age points given to evaluation sub-criteria for qualifications and competence of key staff are.

| Description | | | Weight (%) |
|--|-----------------------------|-------------------|------------|
| General Qualification | | | 30 |
| Technical Expert | Financial Team | Legal Team | |
| Masters or above (25 marks) | CA/CFA (25 marks) | LLM (25 marks) | |
| Bachelor (15 marks) | MBA (Finance) (15 marks) | LLB (15 marks) | |
| Employment with firm | | | 10 |
| 5 or more years | 25 marks | | |
| 4 years | 20 marks | | |
| 2-3 years | 10 marks | | |
| Less than 2 years | 5 marks | | |
| Relevant Experience and Adequacy for the Project | | | 60 |
| 15 or more years | 60 marks | | |
| 10-14 years | 40 marks | | |
| 5-9 years | 20 marks | | |
| Less than 5 years | 10 marks | | |
| Total | | | 100 |

12.2 Evaluation of Financial Proposal

Financial Proposal of all the firms who pass in Technical Evaluation will be opened and award shall be made according to Quality and Cost Based Selection (QCBS) method.

12.2.1 The common currency is “**Pak Rupee**”.

12.2.2 Commencement of Assignment: The Consultant shall commence the services from the date of effectiveness of the contract at the project site within 7-days.

APPENDIX-I
(FORMATS FOR TECHNICAL PROPOSAL)

FORM TECH-1. TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: [Name and address of PA]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope¹.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant]²

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

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in the Data Sheet, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in the Data Sheet.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

For FTP Only

FORM TECH-2. CONSULTANT’S ORGANIZATION AND EXPERIENCE

A - Consultant’s Organization

[Provide here a brief (two pages) description of the background and organization of your firm/entity and each associate for this assignment.]

(Form-II)

**NAME OF PROJECT FOR WHICH TECHNICAL AND
FINANCIAL
PROPOSALS HAVE BEEN SUBMITTED**

B - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually or as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment. Use 20 pages.]

| | |
|---|---|
| Assignment name: | Approx. value of the contract (in current US\$ or Euro): |
| Country: Location within country: | Duration of assignment (months): |
| Name of PA: | Total No of staff-months of the assignment: |
| Address: | Approx. value of the services provided by your firm under the contract (in current US\$ or Euro): |
| Start date (month/year): Completion date (month/year): | No of professional staff-months provided by associated Consultants: |
| Name of associated Consultants, if any: | Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader): |

| | |
|--|---|
| Name of associated Consultants, if any: | Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader): |
| Narrative description of Project: | |
| Description of actual services provided by your staff within the assignment: | |

For FTP Only

FORM TECH-3. COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON COUNTERPART STAFF AND FACILITIES TO BE PROVIDED BY THE PA

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

(FORM-IV)

CONSULTANT NAME

Approach and methodology proposed for performing the assignment

The approach and methodology will be detailed precisely under the following topics:

- 1) Composition of the team with reference to the ToR.
- 2) Methodology for services, surveying, data collection, analysis, design and supervision in responding to the ToR.
- 3) Approach for consultancy assignment with reference to the ToR.

FORM TECH-4. DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

(For small or very simple assignments the PA should omit the following text in *Italic*)

[Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (50 pages, inclusive of charts and diagrams) divided into the following three chapters:

Technical Approach and Methodology,

Work Plan, and

Organization and Staffing,

Technical Approach and Methodology. In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities (cost effective innovative methodologies based on indigenous solutions will be appreciated) and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

Work Plan. In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the PA), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.

Organization and Staffing. In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.]

FORM TECH-5. TEAM COMPOSITION AND TASK

ASSIGNMENTS

| Professional Staff | | | | |
|--------------------|------|-------------------|-------------------|---------------|
| Name of Staff | Firm | Area of Expertise | Position Assigned | Task Assigned |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

FORM TECH-6. CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

1. Proposed Position [only one candidate shall be nominated for each position]:
2. Name of Firm [Insert name of firm proposing the staff]:

Name of Staff [Insert full name]:

Date of Birth: Nationality:

Education [Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:

Membership of Professional Associations:

Other Training [Indicate significant training since degrees under 5 - Education were obtained]:

Countries of Work Experience: [List countries where staff has worked in the last ten years]:

Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:

Employment Record [Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:

From [Year]: To [Year]:

Employer: Positions held:

| | |
|--|--|
| <p>11. Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p> | <p>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p> <p>PA: _____</p> |
|--|--|

13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Date:

[Signature of staff member or authorized representative of the staff]

Day/Month/Year

Full name of authorized representative:

FORM TECH-7. STAFFING SCHEDULE¹

| N° | Name of Staff | Staff - months | | | | | | | | |
|----------------|---------------|----------------|---|---|---|---|---|------|--------------------|-------|
| | | 1 | 2 | 3 | 4 | 5 | 6 | Home | Field ³ | Total |
| Foreign | | | | | | | | | | |
| 1 | | [Home] | | | | | | | | |
| | | [Field] | | | | | | | | |
| 2 | | | | | | | | | | |
| | | | | | | | | | | |
| n | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| Local | | | | | | | | | | |
| 1 | | [Home] | | | | | | | | |
| | | [Field] | | | | | | | | |
| 2 | | | | | | | | | | |
| | | | | | | | | | | |
| n | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).

2 Months are counted from the start of the assignment. For each staff indicate separately staff input for home and field work. 3 Field work means work carried out at a place other than the Consultant's home office

Full time input



Part time input

FORM TECH-8. WORK SCHEDULE

| N ^o | Activity ¹ | | | | | | Months | | |
|----------------|-----------------------|---|---|---|---|---|--------|--|--|
| | | 1 | 2 | 3 | 4 | 5 | 6 | | |
| 1 | | | | | | | | | |
| 2 | | | | | | | | | |
| 3 | | | | | | | | | |
| 4 | | | | | | | | | |
| 5 | | | | | | | | | |
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| | | | | | | | | | |
| n | | | | | | | | | |

- 1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as PA approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in the form of a bar chart.

APPENDIX-II
(FORMATS FOR FINANCIAL PROPOSAL)

(Form-I)

FINANCIAL PROPOSALS

FROM: -----

TO: -----

DATE: -----

SUBJECT: “Comprehensive Assistance and Transaction Advisory Services for the Revival
of Karachi Circular Railway Project”

Regarding: **Price Proposal**

I/We Consultant/ Consultancy Consortium firm herewith enclose Financial Proposal for selection
of my/our firm/organization as consultant for -----

Yours sincerely,

Signature _____

Full Name _____

Designation _____

Address _____

(Authorized Representative)

***The Financial Proposal is to be filled strictly as per the format given in RFP.**

Form-(II)

Format of Financial Proposal

Summary of Cost (in Local Currency PKR)

| No. | Description | Amount (in PKR) |
|-----|---|--------------------|
| | | |
| | Subtotal (Including withholding Tax) | |
| | Applicable GST | |
| | TOTAL COSTS (Including All Applicable Taxes)** Taxes) | |

** Total Cost Including all applicable Taxes shall be considered for financial evaluation

Note: No escalation shall be payable during the services

Cost of Insurances shall not be allowed separately. These will be incidental to main items.

Rates for all items shall be quoted in figures as well as in words.

APPENDIX - III

EVALUATION CRITERIA

FORM FIN-3. BREAKDOWN OF COSTS BY ACTIVITY¹

| Group of Activities (Phase): ² | Description: ³ | | | |
|---|--|--|--|---------------------------|
| Cost component | Costs | | | |
| | [Indicate Foreign Currency # 1] ⁴ | [Indicate Foreign Currency # 2] ⁴ | [Indicate Foreign Currency # 3] ⁴ | [Indicate Local Currency] |
| Remuneration ⁵ | | | | |
| Reimbursable Expenses ⁵ | | | | |
| Subtotals | | | | |

- 1 Form FIN-3 shall be filled at least for the whole assignment. In case some of the activities require different modes of billing and payment (e.g.: the assignment is phased, and each phase has a different payment schedule), the Consultant shall fill a separate Form FIN-3 for each group of activities. For each currency, the sum of the relevant Subtotals of all Forms FIN-3 provided must coincide with the Total Costs of Financial Proposal indicated in Form FIN-2.
- 2 Names of activities (phase) should be the same as, or correspond to the ones indicated in the second column of Form TECH-8.
- 3 Short description of the activities whose cost breakdown is provided in this Form.
- 4 Indicate between brackets the name of the foreign currency. Use the same columns and currencies of Form FIN-2.

The evaluation of the technical and financial bids shall be held under the Quality and Cost Based Selection (QCBS).

1. Evaluation of Technical Proposals

- 1.1 The Technical Proposal will be evaluated on the basis of Consultants' relevant experience, its understanding of assignment, proposed methodology and Work Plan, the experience of Key Personnel. Only those Consultants' whose Technical Proposals score **70% marks** or more shall

qualify for further consideration, and shall be ranked from highest to lowest on basis of their technical score. Financial proposals of those bidders who secure less than 70% marks shall be returned un-opened to the firm/consortium.

- 1.2 The total score of the technical and financial evaluation shall be 100, out of which 70% weight age shall be for the technical and remaining 30% weight age shall be allocated to the financial evaluation.
- 1.3 The technical proposals shall be assigned marks / score without weight age (Str) on the basis of the criteria mentioned earlier. Subsequently, this score shall be scaled up by assigning weightage as mentioned above to this proposal. The final technical score (Stw) shall be calculated in the following manner: $Stw = Str \times 0.70$.

2. Financial Bid opening

- 1.5 A Financial Bid opening shall be held at the time, date and venue, which shall be communicated to all technically qualified Bidder(s).
- 1.6 Confirm submission of bid security. In case the security is not submitted along with the financial proposal in the same sealed envelope, such proposal(s) shall be rejected without being evaluated.
- 1.7 The financial proposals shall first be checked for arithmetic errors. Financial scores shall be computed on the basis of following the formula:

$$Sf = 100 \times (Fmin/Ff)$$

Where, Fmin = Lowest Total bid fee,

and Ff = Total bid fee by the consortium under consideration.

The financial scores thus obtained shall be assigned weightage (20%) and final weighted score will be arrived at:

$$Sfw = Sf \times 0.30$$

Where, Sfw is weighted financial score.

3. Combined Score

- 3.1 The combined technical and financial proposal (Sc) shall be calculated in the following manner:

$$Sc = Stw + Sfw$$

- 3.2 Bid obtaining maximum combined score shall be declared as the Best Evaluated Bid and the consultants offering the Best Evaluated Bid shall be declared the successful

Bidder and issued Letter of Acceptance, containing invitation for contract negotiation. Any factor having a bearing on the quoted price shall not be subject to negotiations.

- 3.3 The Agreement shall however, be signed after getting the same duly vetted and approved from the competent authority.

Terms of Reference

The Karachi Circular Railway [KCR] is a historic project which was first commissioned in 1964 and remained an effective mass transportation system in Karachi. However the operational efficiency of KCR kept deteriorating until its subsequent closure. The KCR project has recently been brought under the CPEC framework by Joint Cooperation Committee. This became possible due to considerable efforts of Government of Sindh (GOS) and the Federal Government.

This Terms of Reference (TOR) proposes the areas for comprehensive assistance in the revival of KCR project, undertaking preparation of Preliminary Designs, Bidders' solicitation process and Transaction Advisory Services for the KCR project.

The selected Consultant will also be required to undertake tasks for preparation of RFP for undertaking bidders' solicitation process and assist TMTD in tendering process, help evaluate bids and to act on behalf of TMTD to respond to prospective bidder's questions and provision of information pertaining to the project. The detailed scope of work (TORs) for the Consultancy Services / Transaction Advisor that leads to implementation of the project has been provided in this document. The Consultancy Services are divided into two stages.

Stages of the Assignment

The assignment will consist of two stages:

Stage 1 – Comprehensive Assistance and Preparation of Preliminary designs

Stage 2 – Bidders' Solicitation and Transaction Advisory Services

Stage 1 – Comprehensive Assistance

Comprehensive assistance in preparing preliminary designs, O&M plans and other technical and financial aspects for KCR project (further refer to detail TOR and Scope of Work). Components to be worked on may include but not limited to: Demand forecast and integration with mass transit network, infrastructure design including track alignment, traffic engineering & management, operation & maintenance, environmental and social impacts, project schedule and cost estimates, risk and quality management system, detailed financial analysis and economic evaluation, project structuring and implementation plan. It must be noted that all technical works must be carried out based on Chinese design standards.

Stage-2 - Bid Documents, Evaluation and Transaction Advisory Services

Bidders' Solicitation process, comprising of Transaction Marketing, Preparation of Bid documents and Bid process management up to the stage of signing of contracts, concessions as the case maybe of successful bidders, negotiation with Private Parties, Banks etc. till financial close.

Detailed Terms of Reference

STAGE-I: Comprehensive Assistance and Preparation of Preliminary Designs

Task 1.1: Project Mobilization

- Preparation & Submission of Inception Report

Task 1.2: Background Information Review

- Review of relevant reports and comparison of parameters & issues
- Review of status of existing scenario of BRT Projects development
- Review of existing / future transportation plans for Karachi

Task 1.3: Demand Forecast Review

- Review of social framework and planning data
- Review of demand forecasts analysis
- Review of KCR Demand in the light of existing BRT Project implementation in Karachi.

Task 1.4: Demand Enhancement Measures Review

- Review of proposed ridership enhancement measures & intermodal facilities.
- Study of physical integration of KCR with considered BRT Projects.

Task 1.5: Geometric Design & Alignment Review

- Review of station location plans
- Review of geometric alignments with reference to Chinese design standards
- Preparation of Preliminary designs based on Chinese design standards

Task 1.6: Technological Specification Review

- Review of track gauge and its comparison with international practices
- Review of rolling stock & train composition plan
- Review of depot planning
- Review of signaling system
- Review of telecommunication system
- Electrification planning
- Review of overall electric traction plan

Task 1.7: Railway Structures Review

- Review of tracks & station structures including bridges
- Review of structural safety consideration

Task 1.8: Operational Aspects Review

- Review & update of transport plan
- Review & update of O&M plan
- Review of O&M Arrangements

Task 1.9: Power Generation & Transmission Review

- Estimation of Power Demand for KCR
- Review of various power generation / distribution options

- Review of possibilities of various fuels to be used

Task 1.10: Cost Estimation, Revenue Generation & Investment Plan Review

- Review of capital & O&M cost estimates
- Review of fare structure & its integration with other transport modes
- Review of proposed rail & non-railway revenues
- Review of previous investment plans for KCR
- Review of possible options for investment plans under CPEC

Task 1.11: Economic & Financial Analysis Review

- Review of Economic Analysis
- Review of Financial Analysis

Task 1.12: Management Review

- Review of management structure and institutional setup
- Review of framework for financial sharing
- Review of Proposed model for private sector for O&M contract

Task 1.13: Environmental & Social Considerations Review

- Review of social considerations
- Review of Environmental Aspects
- Review of Land Acquisition Framework

STAGE-II: Bidders' Solicitation process and Transaction Advisory Services

Task 2.1: Preparation of Bid Documents

Task 2.2: Advertising of Bid & Bid Administration

Task 2.3: Bid Evaluation

Task 2.4: Selection of Successful Bidder

STAGE III: Supervision Stage

Task 3.1: Design Review

- Review consistency of all project documents prepared by the concessionaire
- Review of Project Prerequisites
- Land acquisition plan
- Clearance of the ROW from utilities
- Coordination with various departments through client
- Coordination for relocation / resettlement, if any through client
- Review and approve adequacy of following survey and investigation reports
- Identify project design features or any major component of design not incorporated in the design.
- Review client's requirement & approve following design elements as per concession agreement w.r.t.
 - Adequacy
 - Quality

- Completeness
 - Specifications
 - Implementation schedule
- Review & approve reports prepared by concessionaire for traffic estimation, traffic management, work zone safety etc.
- Review of all detailed designs
- Review & approve project implementation / execution schedule submitted by concessionaire
- Review and approve work methodology proposed by the concessionaire
- Ensuring adequacy of provisions for all procurements
- Review & approve O&M manual
- Review & ensure QA / QC provisions during design, construction & O&M phase.
- Report SMTC in case quality standards & quality control procedures are not met
- Audit safety of project during construction & operations phases
- *Review safety measures proposed by concessionaire during project execution & ensuring their compliance.
- Submission of final reviewed drawings to SMTC and issuing NOC for commencement of Construction Phase.

Task 3.2: Construction & Implementation Phase

- Review and approve work program & methodology of each item of work
- Review / report overall project quality assurance / quality control
- Review resource deployment program
- Ensuring that project implementation work is done in accordance with specification / drawings, applicable standards.
- Check on material quality as per standards
- Identification & apprising SMTC / concessionaire about project delays
- Report on delays and reasons
- Review Construction & As built drawings
- Review and Report on safety measures for traffic & project workers
- Determining and notifying project schedule delays to SMTC
- Ensuring and reporting concessionaire of its obligations under concession agreement
- Ensure compliance to Concession Agreement
- Issue Certificate of Substantial Completion.
- Monitor successful completion of each project completion check list item
- Signing and submitting Final Project Construction Completion Certificate

Task 3.3: Operations Phase

- Review and approve work plan & schedule for various O&M activities.
- Review and approve O&M Manual prepared by the Concessionaire for their completeness & appropriateness.
- Recommend necessary actions to SMTC / Concessionaire to undertake maintenance obligations of concessionaire in event of any deviation from

approved plan.

- Conduct regular checks on:
 - Quality of construction elements
 - Report on repair and maintenance needs
 - Check on traffic accidents and problems & keep their record
 - Identify road surface damages
 - Traffic safety audit and recommendations
 - Periodic reports on Concession Assets and their conditions
 - Verify and ascertain insurance coverage
 - Change of scope approvals

10. SCHEDULE OF SUBMISSION OF DELIVERABLES: -

Schedule for submission of deliverables and payment of fee for consultation shall be as under:

| DELIVERABLES | OUTPUT | WORK DAYS | FEE (% OF QUOTED FEE) |
|--------------|--|-----------|-----------------------|
| Stage 1a | Inception Report | 10 | 5 |
| Stage 1b | Preparation of Preliminary Designs & Comprehensive Assistance – Draft Report | 20 | 15 |
| Stage 1c | Preparation of Preliminary Designs & Comprehensive Assistance – Final Report | 20 | 20 |
| Stage 2a | Bid documents including RFP, Draft Agreements, Package Concessions, Bid Invitations. | 20 | 20 |
| Stage 2b | Bid Evaluation | 20 | 25 |
| Stage 2c | Financial close | 90 | 15 |

The consultant shall adopt four stage travel demand modelling using state of the art VISUM/TRANSCAD travel demand modelling software. A license for the modelling software shall be purchased in the name of the Client i.e. SMTC to run the developed model. The consultant will also conduct training of the client's personnel to operate, modify and use the travel demand forecast model in future. Model so developed in this study will be the property of the SMTC and must provide a complete coverage of the road network consisting of all major and minor urban arterials and major collectors within the city limits.

The model shall also capture the trips coming in, going out or crossing through the city limits from outer zones. The consultant shall also purchase two laptop machines [Intel Core i7, 16 GB memory, 512+ GB storage] in the name of the Client, SMTC, as a part of this contract

As part of the agreement the consultant will assist the employer (TMTD) to prepare power point presentations, sketches, drawings, video clips / simulations for the proposed system to facilitate decision making of various stakeholders regarding the proposed system.

The Consultant will submit a total of 25 copies (hard and soft) for all the deliverables. Consultant will need to assist the selected developer during the construction stage for modification in design or any other purpose.

11. ESTABLISHMENT OF LOCAL OFFICE:

Consultant has to establish a local office in Karachi for the project for the duration of the consultancy services at his own cost for the establishment of the office.

12. PACKAGING OF THE WORK

All documents shall be as per details mentioned in para-9 with deliverables.

The execution of work will be undertaken under packages for segments which will be defined by mutual consultation with the employer.

DRAFT INTEGRITY PACT

(to be filled and submitted with Bid documents by Bidding consulting firm)

DECLARATION OF FEES, COMMISSION AND BROKERAGE ETC PAYABLE BY THE CONSULTANTS

Contract Number: _____ Dated: _____
Contract Value: _____
Contract Title: _____

[Name of Supplier/Contractor/Consultant] hereby declares that it has not obtained or induced the procurement of any contract, right, interest, privilege or other obligation or benefit from Sindh Mass Transit Cell (SMTC) or any administrative subdivision or agency thereof or any other entity owned or controlled by it (SMTC) through any corrupt business practice.

Without limiting the generality of the foregoing, [Name of Supplier/Contractor/Consultant] represents and warrants that it has fully declared the brokerage, commission, fees etc. paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any natural or juridical person, including its affiliate, agent, associate, broker, consultant, director, promoter, shareholder, sponsor or subsidiary, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or inducing the procurement of a contract, right, interest, privilege or other obligation or benefit, in whatsoever form, from Procuring Agency (PA), except that which has been expressly declared pursuant hereto.

[Name of Supplier/Contractor/Consultant] certifies that it has made and will make full disclosure of all agreements and arrangements with all persons in respect of or related to the transaction with PA and has not taken any action or will not take any action to circumvent the above declaration, representation or warranty.

[Name of Supplier/Contractor/Consultant] accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this declaration, representation and warranty. It agrees that any contract, right, interest, privilege or other obligation or benefit obtained or procured as aforesaid shall, without prejudice to any other right and remedies available to PA under any law, contract or other instrument, be voidable at the option of PA.

Notwithstanding any rights and remedies exercised by PA in this regard, [Name of Supplier/Contractor/Consultant] agrees to indemnify PA for any loss or damage incurred by it on account of its corrupt business practices and further pay compensation to PA in an amount equivalent to ten times the sum of any commission, gratification, bribe, finder's fee or kickback given by [Name of Supplier/Contractor/Consultant] as aforesaid for the purpose of obtaining or

inducing the procurement of any contract, right, interest, privilege or other obligation or benefit, in whatsoever form, from PA.

[Procuring Agency]

[Consultant]

DRAFT

CONTRACT

THIS CONTRACT is made at Karachi on this [date] day of [Month] 2017 (the “**Signing Date**”).

BY AND BETWEEN

The Governor of Sindh, acting through Secretary, Transport and Mass Transit Department, GoS, having its offices at Tughlaq House **Sindh Secretariat**, Karachi, represented by **[Insert authorized person’s designation]** (hereinafter referred to as the “**Client**”);

AND

The Advisory Consortium comprising of _____, (hereinafter collectively referred to as the “**Advisory Consortium**”). having registered office and principal place of business at _____ (hereinafter referred to as “_____” or the “**Lead Advisor**”, or the “**Financial Consultant**”); _____ (hereinafter referred to as “_____” or the “**Technical Consultants**”), having their registered office and principal place of business at _____; and _____ (hereinafter referred to as “_____” or the “**Legal Consultants**”), having registered office and principal place of business at _____;

(The Client and the Advisory Consortium are hereinafter referred to individually as a “**Party**” and collectively as “**Parties**”).

WHEREAS:

- A. The Client intends to procure comprehensive assistance (technical, financial and legal) and avail transaction advisory services for the Revival of Karachi Circular Railway (hereinafter referred to as the “**Project**”) by engaging a consortium of transaction advisors in relation to the Project in accordance with the Scope of Work listed in Schedule A of this Agreement (“**Assignment**”);
- B. The ‘Request for Proposal’ (RFP) for the Assignment was sought through advertisement in accordance with the procurement laws of Sindh.
- C. In response to the RFP, [**] were received by the Client on the bid submission deadline date. The Consultant Selection Committee notified by the Government of Sindh, assisted by the Client and the PPP Unit, evaluated the technical and financial proposals of potential bidders/firms to provide the Services for the Project. After the technical and the subsequent financial evaluation, the Advisory Consortium led by _____ was selected as the preferred bidder to undertake the Assignment,
- D. The Advisory Consortium led by the Lead Advisor is hereby appointed to provide the Services on the terms and conditions as set out herein. The Advisory Consortium agrees to provide the Services and undertake the Assignment as per the terms and conditions set out herein this Agreement;

NOW THEREFORE, the Parties hereto agree as follows:

1. Definitions

- 1.1 In this Agreement, unless the context indicates otherwise, the following words and expressions shall have the following meanings unless inconsistent with the context:

“Applicable Laws” means all applicable laws, ordinances, regulations, judgments and orders of any competent court, central bank or governmental agency, authority in any relevant jurisdiction within the Republic of Pakistan, and such other laws as may be applicable;

“Advisory Consortium” shall mean all the members of the advisory team comprising of _____, _____ and _____;

“Agreement” means this contract executed between the Client and the Advisory Consortium and includes all the schedules, if any, attached thereto;

Assignment shall have the meaning ascribed thereto in the Recitals;

“Assignment Team” means the persons described under Clause 13 of the Agreement, subject to changes arising from the negotiations;

“Associate” means, (a) officers, directors, employees, representatives, advisors, attorneys, accountants and agents from time to time; (b) subsidiaries, holding companies (if any) and each of the subsidiaries of such holding company and each of their representative officers, directors, employees, representatives and agents from time to time; and (c) in the case of the Advisory Consortium, to the extent that they are not included in the definition, are the persons who, by virtue of any applicable law or regulation or sub-contractual arrangements, regarded as associated with the Advisory Consortium;

Bid Security

“Business Day” means any day other than Sunday or public holiday in the Republic of Pakistan or the province of Sindh;

“Client” means the Karachi Mass Transit Cell, Karachi Metropolitan Corporation, represented by Director General, Karachi Mass Transit Cell, Karachi Metropolitan Corporation for the purpose of this Agreement;

“Client Default” means an act or omission by the Client which results in a breach of any of its material obligations under the Agreement;

“Commencement Date” means the date of signing of this Agreement;

“Completion Date” means the date on which the services provided by the Advisory Consortium are completed;

“Confidential Information” means any information:

- (a) determined by the Client to be privileged or confidential;

- (b) discussed in closed session by the bid evaluation panel;
- (c) which if disclosed would violate a person's right to privacy;
- (d) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in the relevant Freedom of Information Ordinance, 2002 of the Republic of Pakistan;

Provided that Confidential Information shall not include such information which has been exclusions in terms of Section 16.3

"Deliverables" means those deliverables as set out in the term of Reference (TOR) ;

"Effective Date" shall have the meaning ascribed thereto in 3.2;

"Lead Advisor" means a lead member of the Advisory Consortium, which shall be _____;empowered by the other members of the Advisory Consortium to (i) coordinate and liaise with the Client on their behalf and to undertake the project management aspect of the engagement (ii) undertake responsibility to the Client for execution of the entire Scope of Work mentioned in Schedule A ,

"PPP Unit, Finance Department" means the Public Private Partnership Unit established in the Finance Department, Government of Sindh, under Public Private Partnership Act 2010.

"Parties" means the Client and the Advisory Consortium;

"Performance Security" means [insert amount]% of fee payable by the consortium. Bid Security of [insert amount]% furnished at time of bidding to be converted into performance security;

"Proposal" means the Advisory Consortium's response to the Client's Request for Proposal in respect of the carrying out of the services;

Services

"Scope of Work" has been defined in Clause 4.1 of this Agreement details whereof are contained in Schedule A;

"Signing Date" shall mean the date of signing of this Agreement;

"Termination Date" means any date of termination of the Agreement in accordance with the Clause 16.8 of the Agreement;

"Variation" means any variation to the Scope of Work in terms of the Agreement.

2. Interpretation of this Agreement

The Agreement shall be interpreted according to the following provisions, unless the context requires otherwise. In the event of any conflict, inconsistency or ambiguity, the provisions will prevail as follows:

- 2.1 References to the provisions of any law shall include such provisions as amended, re-enacted or consolidated from time to time in so far as such amendment, re-enactment or consolidation applies or is capable of applying to any transaction entered into under the Agreement;
- 2.2 References to clauses, sub-clauses, schedules and attachments are references to the clauses, sub-clauses, schedules and attachments of the Agreement;
- 2.3 The headings of clauses, sub-clauses, schedules and attachments are included for convenience only and shall not affect the interpretation of the Agreement;
- 2.4 Reference to “Agreement”, shall include the Agreement and its schedules, attachments as amended, varied, notated or substituted in writing from time to time;
- 2.5 Words importing the singular shall include the plural and vice versa, and words importing either gender or the neuter shall include both genders and the neuter, and ‘person’ shall include both corporeal and incorporeal entities.

3. Entry into Force, Effectiveness and Termination of the Agreement

- 3.1 The Agreement shall come into force upon the satisfaction of the following conditions precedent:
 - 3.1.1 Submission of Performance Security, which shall be valid for atleast ninety (90) days beyond the date of completion of the Assignment.
 - 3.1.2 Submitting to the Client certified true copies of all resolutions adopted by the Board of Governors of the Advisory Consortium authorizing execution, delivery and performance of this Agreement;
 - 3.1.3 [any others that may be inserted by the Client]
- 3.2 The Advisory Consortium shall satisfy or procure the satisfaction of the Conditions Precedent as soon as reasonably possible and in any event within fifteen (15) days of the Signing Date (the “**Effective Date**”).
- 3.3 The Advisory Consortium shall begin carrying out the Services on the Effective Date.
- 3.4 Unless terminated earlier, this Agreement shall terminate on the Termination Date or at the end of such time as agreed upon by the Parties hereto.

4. Agreement to Provide Services

- 4.1 With effect from the Signing Date, the Client hereby appoints the Advisory Consortium for the purpose of carrying out of the Assignment and the provision of the Services stated in the scope of work as detailed in Schedule A attached hereto (“**Scope of Work**”) and the

Advisory Consortium agrees to such appointment for such consideration as set out in Clause 6 below. The Client agrees that specified portions of the Scope of Work have been distributed between the members of the Advisory Consortium.... It is further agreed between the Parties that unless the Scope of Work is amended in writing with the mutual agreement of the Parties, the work to be undertaken and the services to be provided by the Advisory Consortium will be restricted to the Scope of Work as set out in this Agreement.

- 4.2 Excluding the rights assigned in 4.1 neither the Client nor the Advisory Consortium may assign, transfer or delegate any of the rights or obligations hereunder without the prior written consent of the other party. However any member of the Advisory Consortium may assign its rights and obligations hereunder to any affiliate that is a successor in interest to all or substantially all of the assets or business, without the consent of Client.
- 4.3 This Assignment shall not create or give rise to, nor shall it be intended to create or give rise to any third party rights. No third party shall have any right to enforce or rely on any provision of this Agreement, which does or may confer any right or benefit on any third party, directly or indirectly, expressly or impliedly. The application of any legislation giving to or conferring on third parties contractual or other rights in connection with this Agreement shall be excluded. No Consortium member shall be deemed to be a third party for the purposes of this clause.
- 4.4 This Agreement and the attachments thereto constitute the entire agreement between the Parties, and no other undertaking, representation, warranty, promise or the like not recorded herein, whether express or implied, shall bind the Parties hereto.

5. Scope of Work

- 5.1 The scope of the work and services to be provided under this Agreement is based on the Scope of Work as laid out in **TOR** to this Agreement.
- 5.2 The approach and methodology outlined in the Technical Proposal submitted by the Advisory Consortium and scope of work outlined in RFP shall be used for the purposes of any interpretation of the Scope of Work.
- 5.3 Unless the Client or the Advisory Consortium's instructions are later amended and agreed between the Parties in writing, the work to be undertaken by the Advisory Consortium will be restricted to that set out in **Schedule A**.
- 5.4 Amendment(s) to the Scope of Work as set out in Schedule A shall be done in accordance with the Clause 6.2.
- 5.5 The Client acknowledges and understands and accepts the abovementioned Scope of Work as detailed in Schedule A between the Advisory Consortium and further that although the Lead Advisor shall have overall responsibility, each Consortium member is responsible and liable with respect to the specific work / Deliverables assigned to them in terms of Schedule A.

6. Fee

- 6.1 The Parties have agreed that the fee inclusive of all applicable taxes for this Project shall be **PKR** payable on completion of different milestone achievements as laid out in **Schedule F**. Other related terms with respect to payment of fee and expenses are also set out in Clause 12 and Schedule F.
- 6.2 If the Client seeks to vary the Scope of Work, the Parties shall discuss such matters mutually and any changes to the Scope of Work will be agreed between the Parties in writing, subject to mutual agreement on change in fee and the respective timelines for completion, which will be subsequently recorded by way of an amendment to this Agreement.
- 6.3 Any amendment to the Scope of Work shall only become effective once the Parties have agreed to amendments/changes (if any) to the revised fee as a result of such amendment in the Scope of Work and the revised time period that will be required to provide the said services and recorded the same by way of an amendment to the terms of this Agreement. For the avoidance of doubt it is clarified that the amendment to the agreement between the Parties in relation to the adjustment in the fee and timelines as a result of any amendment in the Scope of Work is a condition precedent to the effectiveness of such amended Scope of Work.
- 6.4 The fee due and payable by the Client to the Advisory Consortium shall be a fixed advisory fee, subject to any amendments and/or adjustments in the same as a result of a change in the Scope of Work in accordance with Clause 6.3.

7. Project Administration

- 7.1 The Advisory Consortium shall comply with all the terms, regulations, rules, and requirements of the Client, as of the date of the Agreement.
- 7.2 The Advisory Consortium shall work in close coordination with the assigned officer of the Client. The assigned officer shall meet regularly with the Advisory Consortium during the course of the Project and will provide guidance and input to the Advisory Consortium and will review the progress of work. All drafts and any other work product submitted by the Advisory Consortium will be reviewed and accepted by the Client within a period of twenty eight (28) working days from submission of the same. In the event the Client does not revert on the Advisory Consortium's drafts/final works within a period of 28 working days, the same will be deemed to have been accepted by the Client. All of the Advisory Consortium's concerns, disputes, and/or proposed changes shall be addressed through the assigned officer.
- 7.3 Any notice, request, or consent made pursuant to this Agreement shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the Agreement.
- 7.4 The Client shall provide prompt written notice to the Advisory Consortium whenever the Client observes or otherwise becomes aware of any matter which may substantially affect the Advisory Consortium's performance of services under this Agreement.

- 7.5 The Client shall have unrestricted access to all plans, drawings, specifications, designs, reports, presentations and other documents produced by the Advisory Consortium during the term of this Agreement and submitted to the Client for the purposes of the Assignment. The Advisory Consortium, shall not later than _____ days, deliver pre-agreed number of copies of all such documents to the Client upon request from the Client.

8. Warranties

- 8.1 The Client represents and warrants to the Advisory Consortium that it has the necessary authorization, mandate and capacity to award the Scope of Work to the Advisory Consortium pursuant to this Agreement and that it has further followed all necessary statutes and procedures in awarding the same to the Advisory Consortium.
- 8.2 The Advisory Consortium represents and warrants that:
- (a) It is duly organized and validly existing under the Applicable Laws, and that it has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
 - (b) It has taken all necessary corporate and other actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement; and validly exercise its rights and perform its obligations under this Agreement;
 - (c) this Agreement and all obligations contained herein constitutes its legal, valid and binding obligations, enforceable against it in accordance with the terms hereof;
 - (d) it has the financial standing and capability to undertake and implement the Project in accordance with the applicable standards and neither the Advisory Consortium nor the consultants individually have committed a breach in respect of their payment obligations in relation to a financial indebtedness;
 - (e) it is subject to the Applicable Laws, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement and/or or matters arising hereunder including any obligation, liability or responsibility hereunder;
 - (f) the execution, delivery and performance of this Agreement does not and shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any of its constitutive and corporate charters, filings with government authorities, documents, or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
 - (g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it under the Applicable Laws before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

- (h) no representation or warranty made by the Advisory Consortium contained herein or in any other document furnished by it to the GoS contains any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty misleading;
- (i) its is jointly and severally liable for the performance of Services under this Agreement;
- (j) that they have the necessary professional, intellectual and material resources to undertake their respective parts of the Scope of Work in connection with the Assignment; and
- (k) It shall abide by the terms of the Agreement and that they shall perform their respective parts of work professionally and according to the international best practices.

9. Communication

- 9.1 All significant communication between the Parties shall be in writing delivered through some established credible medium which will include email but Deliverables shall be in hard copy form. The Client hereby agrees and accepts the inherent risk of correspondence via email (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices) and further agrees to perform virus checks in respect of the same.
- 9.2 All communication of a substantive nature between the Parties shall be sent to the respective key contact persons in addition to any other person(s) or official(s) the Parties to the Agreement may wish to notify or to whom it is necessary and obligatory to send that communication.
- 9.3 The respective key contact persons for communication shall be:

| <i>For Client</i> | <i>For Advisory Consortium</i> |
|---|---------------------------------------|
| Director Infrastructure, Transport and Mass Transit Department, Government of Sindh 2 nd floor, Tughlaq House, Sindh Secretariat, Karachi TEL: 021-99211017, FAX: 021-99211298 Email: director.infra.smta@gmail.com | |

- 9.4 Either party may change its address to any physical address and Fax number for this purpose, by notice in writing to the other party.

10. Reporting

- 10.1 The Advisory Consortium's reporting will be based on Deliverables as described below and mentioned in Schedule D to this Agreement. The Deliverables will be prepared solely in connection with, and for use in accordance with, the terms of this Agreement. The Lead Advisor will report exclusively and directly to the Client. These Deliverables will be provided on the basis that they are for the Client's information only and that they will not be copied or disclosed to any third party or otherwise quoted or referred to, in whole or in part, without prior written consent of the Lead Advisor. If the information to be disclosed has been prepared by the Other Consortium Members, _____ / Lead Advisor shall obtain the prior approval in writing from TMTD, prior to providing a written consent to the Client in terms of this clause.

These Deliverables shall be delivered on the understanding that the Client shall not quote the name or reproduce the logos of the Advisory Consortium in any form without the written consent of the Lead Advisor.

The Client may disclose the Deliverables to their legal and other professional advisers for the purposes of seeking advice in relation to the Services, provided that when doing so the recipients are informed that disclosure by them (save for their own internal purposes) is not permitted without prior written consent and to the fullest extent permitted by law no responsibility or liability would be accepted by the Lead Advisor to them in connection with the Services.

Subject to the Lead Advisor's prior written approval, reports may be released to third parties in its full version only. This release must include a written statement setting out the purpose of the engagement, restrictions on releasing the report to other parties and the restrictions of liability to any third party. The release is conditional upon the third party agreeing in writing to accept that the Advisory Consortium will have no responsibility or liability to such third party in connection with the provision of the report, and confirming that the third party will not release the report to any other parties and will indemnify the Advisory Consortium from any claims arising directly or indirectly from the release of the report to the third party.

- 10.2 If, in carrying out the agreed Scope of Work, the Advisory Consortium becomes aware of any matters outside the agreed scope that the Advisory Consortium considers to be of importance to the Assignment, the Advisory Consortium will bring these to the attention of the Client. The Parties may, after mutual consultation, change the Scope of Work, if so needed, in the manner set out in Clauses 5.3 and 6.2 of this Agreement.
- 10.3 The Advisory Consortium shall provide the Client with the Deliverables described in Schedule D during the course of the Assignment:
- 10.4 The outcome of the Project is to complete the Assignment as per the agreed Scope of Work. The procedures in the Scope of Work do not constitute an audit or review made in accordance with the International Standards on Auditing and consequently, no assurance will be expressed in this regard.
- 10.5 Whilst each submission of the work products shall address different aspects of the Assignment that the Advisory Consortium shall perform, the final feasibility study report shall take into consideration all the outputs from earlier work products submitted by the

Advisory Consortium.

- 10.6 Any additional tasks required by the Client from the Advisory Consortium including tasks/events where the Advisory Consortium is requested pursuant to subpoena or other legal process to produce documents relating to provision of the Services to the Client in judicial or administrative proceedings to which the members of the Advisory Consortium is not a party shall be considered as additional services and the fees for such services shall be governed under Clause 6.2 to this Agreement.
- 10.7 In order to confirm that the Advisory Consortium's reports address all the matters within the agreed Scope of Work, the Advisory Consortium will submit a draft of its reports/ plans/ models to the Client for its comments prior to issuing it in final form. If the Client does not revert with any comments for a period of twenty eight (28) working days from the date of submission by the Advisory Consortium of its draft reports/ plans/ models (as the case may be), the same will be deemed to be accepted by the Client for the purposes of achievement of the Deliverables as set down in Schedule D and the Advisory Consortium will be entitled to (i) issue the final versions of the relevant deliverables; and (ii) raise an invoice for and receive payment for completion of such Deliverable in accordance with Schedule F.
- 10.8 The Advisory Consortium shall be under no obligation to update any advice, reports or any Deliverables provided to the Client, oral or written, for events occurring after the advice, report(s) or Deliverable(s) have been provided to the Client in its final form or after any advice, report or Deliverable is deemed as accepted by the Client in accordance with the terms of this Agreement.
- 10.9 On completion of the Assignment the Client would encourage that the Advisory Consortium to carry out a debriefing where the Client shall provide feedback on the work carried out by the Assignment Team (defined below).

11. Access

- 11.1 For undertaking the Assignment the Advisory Consortium will have access to the Project site(s) and wherever applicable, the relevant and important surveys/studies which would facilitate the Advisory Consortium in connection with this Agreement. These would primarily include, but not be limited to, the following: [To be filled by the Client]
- 11.2 The Client agrees that it shall notify the Lead Advisor as soon as practicable of any change in any material information previously made available to the Lead Advisor or the Advisory Consortium which comes to the attention of the Client.
- 11.3 Based on its past experience and knowledge, the Advisory Consortium shall also endeavour to identify studies, report or data, which have been conducted previously either at the Federal and/ or Provincial level and shall assist, wherever possible, to enable the Client in gaining access to such studies, reports or data.
- 11.4 The Client shall arrange access to and discussions with its relevant officers and officials, on, as well as off Project sites, in addition to coordinating visits to the Project sites.
- 11.5 The Lead Advisor will provide to the Client, information in relation to the Project that it obtains during the term of this Agreement, but shall not be under any obligation, to provide

such information, the disclosure of which would breach any law, any regulation of any governmental supervisory or regulatory authority, the internal rules and/or regulations of the Advisory Consortium, the terms of any agreement to which the Advisory Consortium or any member thereof are/is a party, or any duty of confidentiality that the Advisory Consortium or any member thereof owes to a third party.

- 11.6 The Client hereby agrees and confirms that the Advisory Consortium shall not be held responsible or liable if information material to their task is withheld or concealed or fraudulently represented to them.
- 11.7 Any information provided by the Client shall be validated by the Advisory Consortium who shall inform the Client of any discrepancies or deficiencies in the same before relying on such information. The Advisory Consortium shall retain responsibility for information created as part of the engagement.
- 11.8 The Client acknowledges and irrevocably confirms that any information provided by the Client in relation to the works being performed under the Scope of Work by the Advisory Consortium that has been reviewed and accepted by the Client as being the relevant information to be applied in respect of the Assignment and accordingly the Advisory Consortium will not be liable for any defects, errors and/or omissions in the provision of the services by the application of the information and the utilization of the information specifically provided by the Client.
- 11.9 The Client shall provide guidance and assistance, in the establishment of the liaison and obtaining relevant information/ studies from the concerned governmental agencies, consultants and other stakeholders. In case of absence or non-availability of such information, however, the Advisory Consortium shall rely mainly on its own sources of information. In no event however, shall the Advisory Consortium be responsible for the completeness and accuracy of information collected from Client or other third parties. It is however, agreed by the Advisory Consortium that only authenticated information shall be relied upon, that is, if the information is either signed by the agency concerned or if it is issued/made public with the approval of the same. The Advisory Consortium may rely on any instructions or requests made or notices given or information supplied in writing (including email), by any person that it knows to be authorised by the Client for such purposes (Sources like Wikipedia.com shall not be considered authentic even if the reference to information therein is made to a Government Agency).

12. Payment to Advisory Consortium

- 12.1 The Advisory Consortium shall be responsible for financing its activities until such time as payment is effected by the Client as mentioned in Clause 12.3. The Advisory Consortium shall submit its invoices to the Client in a format agreed between the Parties.
- 12.2 The Client shall compensate the Advisory Consortium for services rendered under the Agreement in accordance with the Advisory Consortium's Time Plan and Reporting Schedule, attached under Schedule C to this Agreement.
- 12.3 Subject to the other terms and conditions of this Agreement, all payments due by the Client to the Advisory Consortium shall be paid within_____working days from the date of approval, or deemed approval, of the relevant reports by the Client, save for payment in respect of the final report which shall be made within_____working days from approval,

or deemed approval, of such report. The Client shall be obliged to approve or reject reports within _____ working days from the date of submission by the Advisory Consortium. In the event that a report is rejected or approval is delayed, the Client shall be obliged to give the reasons within _____ working days of such rejection / delay in approval. Further, in the event a report is rejected, the Client shall hold a meeting with the Advisory Consortium/ relevant Consortium Member (as the case may be) within _____ working days of notice of rejection in order to discuss and resolve issues pertaining to the report and to agree on a timeline for submission of the revised report.

- 12.4 Where a report or any Deliverable of the Advisory Consortium is rejected or objections in respect thereof are raised by the Client, or the Client is otherwise delayed in the performance of any of its obligations under this Agreement, the timelines for delivery / completion of the Services by the Advisory Consortium will be increased to account for such delays.
- 12.5 In relation to payments to be made to the Lead Advisor, the same shall be made through a demand draft or crossed cheque in favour of the Lead Advisor, issued by a scheduled bank in PKR.
- 12.6 In relation to payments to be made to international firms (if any) that are part of the consortia, the same shall be made to the Lead Advisor or the Local Representative of the international firm also in PKR amount indicated on their invoice raised in accordance with Schedule F; mode of such payments will be as per clause 12.5 above.
- 12.7 Where fees remain unpaid beyond the due date, the Advisory Consortium reserve the right to suspend provision of the Services until such time that the fees is paid and also claim an extension in time for the completion of the Deliverables to the extent of the suspended time. Suspension of the Services will not affect the Client's obligation to pay for Services rendered to the date of suspension. The Parties have the right to change the details mentioned in clause 12.5 by sending the Client a written notice.
- 12.8 The Client agrees that any additional expense incurred at the specific request of the Client shall be charged at actual and recovered in addition to the fee mentioned in Schedule F.

13. Assignment Team

- 13.1 The Parties shall, immediately after the commencement date, form an assignment team ("**Assignment Team**"), which will be responsible for the management of the Agreement so as to ensure the smooth and satisfactory delivery of the services by the Advisory Consortium to the Client.
- 13.2 The Assignment Team shall be composed of the following:
- (a) An officer appointed by the Client, who shall have authority to bind the Client;
 - (b) Such other additional members as appointed by the Client;
 - (c) A representative appointed by the Advisory Consortium, who shall have authority to bind the Advisory Consortium
 - (d) Individuals mentioned in the RFP i.e. the CVs of those who were evaluated for the

award of the Bid; and

- (e) Such other members of the Advisory Consortium as appointed by the Advisory Consortium.

13.3 The functions of the Assignment Team shall be as follows:

- (a) To facilitate communication between the Parties;
- (b) To review the progress on the implementation of the Agreement;
- (c) To manage and resolve potential disputes; to monitor and maintain alignment with institutional policy and strategy;
- (d) To achieve agreement objectives within agreed scope, time, cost and quality;
- (e) To provide advice and consent on scope variation;
- (f) To facilitate all necessary institutional and treasury approvals; and
- (g) To provide feedback to relevant stakeholders.

13.4 The Assignment Team shall determine an appropriate set of meetings to be held and the frequency thereof.

13.5 Except as the Client may otherwise agree, no changes shall be made in the Assignment Team or the sub-consultants. If, for any reason beyond the reasonable control of the Assignment Team, it becomes necessary to replace any of the team members, the Assignment Team shall provide as a replacement a person of equivalent or better qualifications, subject to the approval of the Client. The Client may require the Advisory Consortium to remove and replace any staff member, stating reasons for such action. List of the Assignment Team is attached in Schedule B to this Agreement.

14. Obligation of the Parties

14.1 The Client undertakes:

- (a) to remunerate the Advisory Consortium for its services in a timely manner as set out in the payments clause herein;
- (b) to use its reasonable endeavours to ensure that the Advisory Consortium has timely and adequate access to all information, personnel and documentation available to the institution that will be required by the Advisory Consortium to render the services;
- (c) to inform the Advisory Consortium of any information or developments which may come to their attention during the duration of the Agreement, which might have a bearing on or be relevant to the services to be provided by the Advisory Consortium;
- (d) to co-operate with the Advisory Consortium at all times for the purposes of

facilitating a timely and efficient delivery of the services;

- (e) to retain responsibility and accountability for the management, conduct and operation of its business and affairs;
- (f) to independently decide on the use of and to what extent it wishes to rely on, or implement advice or recommendations made by the Advisory Consortium;
- (g) that all decisions made in respect of the Services or anything ancillary thereto shall be made independently by the Client after careful consideration of the same. It is clarified that the Client shall be solely liable/responsible for the consequences/repercussions of its decisions;
- (h) to retain responsibility and accountability for the delivery, achievement or realization of any benefits directly or indirectly related to the Services which require implementation by the Client;
- (i) to accept the provision of the Services on its own behalf and as agent for any other beneficiaries. The Client shall procure in such circumstances that any other beneficiaries shall act on the basis that they are a party to this Agreement, as if they had each signed a copy of this Agreement and agreed to be bound by it. However, the Client alone shall be responsible for payment of fees. For the avoidance of any doubt, it is clarified that the Advisory Consortium will only be required to accept instructions in connection with the provision of the Services from the Client.

14.2 The Advisory Consortium undertakes:

- (a) to perform the Services using reasonable skill and care in accordance with applicable professional standards;
- (b) to devote the necessary time and attention to providing the Deliverables, as set out in the Deliverables schedule, and not engage in any business or activity that will prevent the Advisory Consortium from providing the Services;
- (c) to maintain, at all times, the highest degree of good faith towards the Client and to ensure that no conflict of interest materializes, and in the event of a conflict of interest arising, to immediately advise the Client of the same. The Parties shall seek to resolve the situation as quickly as possible, however, in the event that the situation cannot be resolved within thirty (30) days the Client or the Lead Advisor may refer the matter for dispute resolution in terms of Clause 16.18 of this Agreement. A deliberate failure by the Advisory Consortium to inform the Client of any conflict of interest shall amount to a material breach of the Agreement and may entitle the Client to terminate the Agreement forthwith;
- (d) to render the services in accordance with the deliverables, timeframes and specifications, as set out in the Deliverables schedule, annexed hereto, as amended by written agreement of the Parties;
- (e) that all actions and commitments agreed upon or pursuant to the Assignment Team meetings or Team Agreement, will be strictly adhered to;

- (f) to provide the Client with any information and reports reasonably requested by the Client in connection with the Services to the extent that the same are covered in the Scope of Work, and which information the Advisory Consortium warrants to be accurate and complete;
- (g) to maintain the professional personnel as promised and committed to by the Advisory Consortium in its proposal throughout the life of this Agreement, and as recorded in the Deliverables schedule, and that in the event of any dedicated member of the Advisory Consortium becoming incapacitated and unable to carry out his or her duties or whose performance the Client reasonably considers to be unsatisfactory in its discretion, to replace, at the Advisory Consortium's cost, such member, subject to the written approval of the Client;
- (h) to observe neutrality and objectivity in its views and opinions; and
- (i) to respect and observe all Applicable Laws.

15. Terms of Business

15.1 The terms of business that are enclosed in Schedule E provides further details of the respective responsibilities of the Parties and, together with this Agreement and its related Schedules, constitutes the entire agreement between the Parties with respect to this Agreement. In the event of any conflict, inconsistency or ambiguity, the provisions will prevail as follows:

- (a) This Agreement;
- (b) Schedule D – Terms of Business;
- (c) Other Schedules to this Agreement;
- (d) Technical and Financial Proposals submitted by the Advisory Consortium.
- (e) Request for Proposal

16. Miscellaneous

16.1 Assignment and Charges:

- (a) Notwithstanding anything contained in Clause 4.2 above and except with regard to Services to be executed and reports to be submitted members of the Advisory Consortium, the Advisory Consortium shall not assign this Agreement or any part hereof except with prior consent in writing of the Client, which consent the Client shall be entitled to decline without assigning any reason whatsoever. Notwithstanding the generality of this clause, nothing herein shall restrict the ability of the Lead Advisor to delegate any part of the Scope of Work to members of the Advisory Consortium.

16.2 Liability and Indemnity:

- (i) The Advisory Consortium shall indemnify, defend and hold the Client harmless against any and all proceedings, actions and third party claims arising out of a

breach by the Advisory Consortium of any of its obligations under this Agreement except to the extent that any such claim has arisen due to the event of Client default. However, any claims for liability shall be subject to limitations set forth in this Agreement;

- (ii) The Client will indemnify, defend and hold harmless the Advisory Consortium against any and all proceedings, actions, third party claims for loss, damage and expense of whatever kind and nature arising out of a breach by the Client, its officers, servants and agents of any obligations of the Client under this Agreement.
- (iii) Without limiting the generality of clause 16.2(a) above and subject to the limitations contained in this Agreement, the Advisory Consortium shall fully indemnify, save harmless and defend the Client including its officers servants, agents and subsidiaries from and against any and all loss and damages arising out of or with respect to (i) a failure of the Advisory Consortium to comply with applicable laws (including intellectual property laws and rights) and applicable permits or (ii) a failure on the part of the Advisory Consortium to make any payments of amounts due as a result of materials or services furnished to the Advisory Consortium by any of its sub-contractors which are payable by the Advisory Consortium to any of its sub-consultants except where such failure to pay occurs due to a non-payment by the Client to the Advisory Consortium.
- (iv) The Client agrees that the Advisory Consortium, its partners, principals, and employees shall not be liable to the Client for any actions, damages, claims, liabilities, costs expenses, or losses in any way arising out of or relating to the Services performed hereunder for an aggregate amount in excess of the fees paid by the Client to the Advisory Consortium under this Agreement up to the date of the claim. In no event shall the Advisory Consortium, its partners, principals, or employees be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs) in connection with this Agreement. The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise.
- (v) The Client hereby indemnifies and agrees to hold the Advisory Consortium harmless from and against any and all liabilities suffered or incurred by, or brought or threatened to be brought or entered or enforced against the Advisory Consortium which arise out of matters or transactions contemplated by, or consequent upon the Advisory Consortium's engagement under the terms of, this Agreement. The liabilities to which this paragraph applies shall include costs of investigating, defending, preparing a defence and disputing any liabilities and costs incurred in establishing any claim against any other person or in mitigating any loss and shall be additional to any rights which the Advisory Consortium may have at law. This indemnity shall not be affected in any way by any enquiry or investigation which the Advisory Consortium may have conducted into any matter.
- (vi) The Client confirms that the abovementioned indemnity provided by the Advisory Consortium is subject to the following; While the Lead retains overall responsibility(a) each Consortium Member shall be liable and responsible for its

own Deliverables as per the Scope of Work detailed in Schedule A, (b) the Consortium Members shall not be deemed to be in partnership and their liability at all times shall be several and; (c) no Consortium Member shall be responsible nor liable for the Deliverables or the contents of the Deliverables of any other Consortium Member.

- (vii) Notwithstanding anything to the contrary contained in this Agreement, the maximum aggregate liability of the Advisory Consortium, under this Agreement shall be restricted to the total fee paid by the Client to them for the Scope of Work assigned as described in Schedule A.

16.3 Confidentiality:

- (a) Neither Party shall during the term of this Agreement ("**Receiving Party**"), without the prior written consent of the other Party ("**Disclosing Party**"), disclose any proprietary or Confidential Information relating to the Assignment, this Agreement or the business or operations of the Disclosing Party to anyone other than those persons who are connected to the Receiving Party and who are required or authorized to have access to such information. Except to the extent otherwise required by Applicable Law or professional standards, the Parties' obligations under this section do not apply to information that: (a) is or becomes generally available to the public other than as a result of disclosure by the Client; (b) was known to either the Client or the Advisory Consortium or had been previously possessed by the Client or the Advisory Consortium without restriction against disclosure at the time of receipt thereof by the Client or the Advisory Consortium; (c) was independently developed by the Client or the Advisory Consortium without violation of this Agreement; or (d) the Client and the Advisory Consortium agrees from time to time to disclose. Each Party shall be deemed to have met its nondisclosure obligations under this paragraph as long as it exercises the same level of care to protect the other's information as it exercises to protect its own Confidential Information, except to the extent that Applicable Law or professional standards impose a higher requirement. Notwithstanding anything contained in this Agreement, the Lead Advisor shall be at liberty to disclose all information as may be required to the members of the Advisory Consortium.
- (b) The Advisory Consortium may retain, subject to the terms of this paragraph, copies of the Client's Confidential Information required for compliance with applicable professional standards or internal policies. If either Party receives a subpoena or other validly issued administrative or judicial demand requiring it to disclose the other Party's Confidential Information, such party shall provide prompt written notice to the other Party of such demand in order to permit such Party to seek a protective order. So long as the notifying Party gives notice as provided herein, the notifying Party shall thereafter be entitled to comply with such demand to the extent permitted by law, subject to any protective order or the like that may have been entered in the matter.
- (c) This clause shall not apply to any of the information that the Advisory Consortium are required by law or by the requirements of any regulators or by specific professional standards to disclose.
- (d) The Client acknowledges that:

- (i) _____ may share Confidential Information with other member firms of _____ International in the course of and for the purpose of delivering the agreed Services.
 - (ii) _____ processes client information using _____'s electronic communications systems, knowledge management, and information technology facilities and applications in its audit and other client service engagements. In connection with that use, the Client's data (including Confidential Information) may be transferred across national borders and processed or stored in remote locations. _____ and _____ International take reasonable steps to preserve the confidentiality of such data.
 - (iii) For the purposes of delivering services to the Client or other clients, _____ and other member firms of _____ International shall be entitled to use, develop and share with each other knowledge, experience and skills of general application gained through performing the services.
 - (iv) _____ may share Confidential Information with _____ International and its member firms in order to improve _____'s understanding of clients and their business processes and metrics, and to develop _____'s intellectual capital.
 - (v) _____ may share Confidential Information within _____ and with _____ International and its member firms in order to allow _____ to identify and offer to the Client additional services or products that may be of interest to the Client.
- (e) The obligation to maintain the confidentiality of information shall survive the termination of this Agreement for a period of two (2) years, but will not apply to Confidential Information which was in the public domain prior to being disclosed by the Advisory Consortium and has come into the public domain other than as a result of being divulged by the Receiving Party.

16.4 Adversarial Conflicts:

_____ including its member firms may be approached to advise another party or parties who are in dispute with the Client, or to advise or represent the interests of a party or parties whose interests are opposed to the Client's through their material concern in matters to which the Services are specifically and directly related ("**Adversarial Conflicts**"). _____ seeks and shall continue to seek to identify Adversarial Conflicts. If the Client knows of or becomes aware of any such Adversarial Conflicts which may arise, the Client shall inform _____ promptly. _____ shall not accept an engagement which may give rise to an Adversarial Conflict for the Assignment Team.

_____ including its member firms may be approached to advise another party or parties where there is no adversarial conflict between the Client and that other party but where the other party's interests compete with the Client's specifically and directly in relation to the subject-matter of the services ("**Competing Party**" or "**Competing Parties**"). _____ seeks and shall seek to identify Competing Parties. If the Client knows of or becomes aware that _____ is advising or proposing to advise a Competing Party, the Client shall

inform _____ promptly. Where a party being advised has been identified by _____ or notified by the Client as a Competing Party, appropriate barriers shall be put in place to protect the Client and the other parties confidentiality and when such barriers are operating _____ shall be entitled to advise the Competing Party concerned at any time and in any capacity (save in relation to a situation where the Client's interests and those of the other party are directly and specifically opposed).

16.5 Ownership of Material and Intellectual Property:

- (a) Any information provided by the Client to the Advisory Consortium and any studies, reports and documentation produced by the Advisory Consortium in performance of the services (hereinafter referred to as the "**Materials**") shall belong to and remain the property of the Advisory Consortium, however, the Client shall have the right to use such drawings and other documents for the performance of the works of the Project.
- (b) Upon termination of the Agreement for any reason whatsoever, the Advisory Consortium must return to the Client all Materials in its possession which belong to the Client. The Lead Advisor may retain single copies as may be required pursuant to Clause 16.3(b).

16.6 Governing Law and Jurisdiction:

This Agreement shall be construed and interpreted in accordance with and governed by the laws of Islamic Republic of Pakistan and the Courts of Karachi shall have exclusive jurisdiction over all matters arising out of or relating to this Agreement.

16.7 Waiver:

- (a) No waiver by a Party of any right under the Agreement shall be effective unless reduced to writing and signed by or on behalf of all the Parties.
- (b) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement shall not (i) operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement; (ii) be effective unless it is in writing and executed by a duly authorized representative of such Party; and (iii) affect the validity or enforceability of this Agreement in any manner.
- (c) Neither the failure by either Party to insist on the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

16.8 Term, Termination and Survival:

- (a) The appointment of the Advisory Consortium in terms of this Agreement shall automatically terminate upon completion of the Services as per the Scope of Work under Schedule A or upon expiration of a period of twenty four (24) months from the date of signing of this Agreement, whichever comes earlier. During the stated

period the Advisory Consortium shall endeavour to facilitate the Client in the timely completion of all services relating to the Project.

In case the Assignment is not completed within the agreed time due to a delay on the part of the Client, the timelines specified in Schedule C hereto shall stand automatically extended by the period of delay. In the event the Project is not completed within the agreed time due to delay on the part of the Advisory Consortium, the Lead Advisor shall request the Client for reasonable extensions with necessary justifications from the Advisory Consortium. Upon expiry of the term specified herein, this Agreement may be renewed for further services / projects, upon the mutual consent of the Parties.

- (b) Upon termination of this Agreement, other than for a termination of this Agreement by the Client following a breach by the Advisory Consortium of the terms of this Agreement, the Performance Security shall immediately expire and be returned to the Lead Advisor.
- (c) Other than termination per clause 14.2, either Party may terminate this Agreement by giving forty five (45) days written notice to the other Party if the other Party is in breach of its obligations as contained in this Agreement and such breach is not cured within forty five (45) days following receipt of written notice thereof by the non-breaching Party.
- (d) Termination of this Agreement (a) shall not relieve the Advisory Consortium or the Client of any obligations hereunder which expressly or by implication survives Termination hereof; (b) shall not relieve Client for making payment of the advisory fee and any other amounts due and payable in terms of this Agreement; and (c) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations that have already arisen or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

16.9 Amendments:

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

16.10 Notices:

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognized courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth in Clause 9.3 above or such address,

telex number, or facsimile number as may be duly notified by the respective Parties from time to time.

16.11 Severability:

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

16.12 No Partnership:

- (a) Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.
- (b) It is understood and agreed that each of the Parties hereto is an independent party and that neither Party is, nor shall be considered to be, an agent, distributor or representative of the other. Neither Party shall act or represent itself, directly or by implication, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

16.13 Exclusion of Implied Warranties, etc.

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

16.14 No Representations:

No Party may rely on any express, tacit or implied term, representation, promise, warranty or the like which allegedly induced that Party to enter into the Agreement, unless the term, representation, promise, warranty is recorded in the Agreement.

16.15 Costs:

- (a) Each Party shall bear its own legal costs of, and incidental to, the negotiation, drafting and preparation of the Agreement.
- (b) Notwithstanding provisions of liabilities and damages contained in Clause 16.2 any costs, including attorney and own client costs, incurred by a Party, arising out of the breach by either Party of any of the provisions of the Agreement, shall be borne by the Party in breach.

16.16 Counterparts:

This Agreement may be executed in two (2) counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

16.17 Force Majeure:

- (a) For the purposes of this Agreement, “**Force Majeure**” means an event which is beyond the reasonable control of a Party e.g. floods, fire, explosion, accidents, either lack of or failure of power, or by reason of war, revolution, civil commotion, act of public enemies, blockades or embargo or any law and order proclamation, regulation, ordinance, demand or requirement of the Government, or any or other cause, similar to those above enumerated, and which makes a Party’s performance of its obligations under the Agreement impossible or so impractical as to be considered impossible under the circumstances.
- (b) The failure of a Party to fulfil any of its obligations under the Agreement shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event:
 - (i) is not negligent, has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Agreement; and
 - (ii) has informed the other Party as soon as reasonably practicable about the occurrence of such an event.
- (c) Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

16.18 Dispute Resolution:

If at any time the Client wishes to discuss how the Services can be improved or in case of a complaint with respect to the quality of service, the Client is invited to telephone the Key Contact Person of the Lead Advisor (as per Clause 9.3) to call a meeting with the Advisory Consortium.

In the event of any controversy or claim arising out of or relating to this Agreement or the Scope of Work, or a breach thereof, the Parties shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to the Parties. If the Parties fail to settle the controversy or claim at the expiration of thirty (30) days, the matter will be referred to sole arbitrator to be appointed by the Parties with mutual consent within fifteen (15) days from the date of receipt of a notice of arbitration served by any Party hereto. In case the Parties fail to agree on sole arbitrator within the prescribed period, the matter shall be referred to two (2) arbitrators, one to be appointed by each of the Parties to dispute and to an umpire to be appointed by the arbitrators before entering upon the reference. The sole arbitrator or the two (2) arbitrators and umpire shall proceed to arbitrate in accordance with and subject to the provisions of the Arbitration Act 1940 or any statutory modification or re-enactment thereof for the time being in force.

The Parties agree that:

- (a) all arbitration proceedings will take place in the jurisdiction of the Sindh province;
- (b) except as may be required by law, neither a party nor its representatives may disclose the existence, content or results of any arbitration hereunder without the prior written consent of all Parties.
- (c) the language of the arbitration shall be English;
- (d) it is the intent of the Parties that, barring extraordinary circumstances, arbitration proceedings will be concluded within one hundred and twenty (120) days from the date the arbitrator is appointed. The arbitral tribunal may extend this time limit in the interests of justice. Failure to adhere to this time limit shall not constitute a basis for challenging the award;
- (e) the decision of such arbitration to award or awards made by such arbitrator(s) and umpire shall be final and binding upon the Parties hereto;
- (f) pending the decision or award, the Parties shall continue to perform their obligations pursuant to the Agreement and Scope of Work;
- (g) this clause shall continue in force notwithstanding the termination of this Agreement or any Statement of Work; and
- (h) pursuing arbitration shall be a condition precedent to any legal proceedings through a Court of law.

In the event of a dispute, or where fees remain unpaid beyond the due date defined above, the Consortium reserve the right to suspend provision of the Services until such time as the dispute is resolved or the fees are paid. Suspension of the Services will not affect the Client's obligation to pay for Services rendered to the date of suspension.

Should arbitration occur between the Parties relating to the provisions of this Contract, each Party shall bear its arbitration expenses, witness and representation fees.

17. General Provisions

- 17.1 The terms of this Agreement and any attachments or addenda hereto form an integral part of this Agreement. Said attachments are:

Schedule A – Scope of Work
Schedule B – List of Assignment Team
Schedule C – Time Plan and Reporting Schedule
Schedule D – Deliverables
Schedule E – Terms of Business

- 17.2 The Parties agree that the Client is the beneficiary, and that all supplemental agreements,

disputes and other financial, legal and technical documents pertaining to the performance of this Agreement shall be processed through the Client.

- 17.3 The Parties agree that credit on all reports, progress reports, interim reports, and other documents produced under this Agreement shall indicate that the work was conducted under funding provided by the Client.
- 17.4 The Parties shall cooperate and collaborate in the performance of their respective services in accordance with the RFP document, and in accordance with the Scope of Work outlined under Clause 5. The Advisory Consortium shall perform its undertakings in full conformity with the provisions of this Agreement, and shall, at all time, to the extent possible for each Party, prevent any breach in respect thereof.
- 17.5 The Advisory Consortium agrees that it shall carefully, strictly, and specifically comply with each and every provision of this Agreement that relates to the confidential or proprietary information. Further, the work products, including but not limited to, findings, observations, recommendations, system designs, source and object code(s) and procedures shall be deemed important, confidential and material.
- 17.6 The Advisory Consortium or any of its employees shall not, at any time, either directly or indirectly, communicate to any other person, firm, corporation, or public entity in any manner whatsoever, any such confidential or proprietary information, data, or documents gathered, prepared, seen, or generated during the Assignment, except with the explicit permission of the Client.
- 17.7 For the purposes of marketing and publicizing or selling services, and/or for the purposes of presentation to other clients or our internal use, the Lead Advisors and their international affiliates and the Other Consortium Members may disclose that they have performed services for the Client, in which event it may identify Client by name and/or its logo and will indicate only the general nature or category of such services and any details that have properly entered the public domain.
- 17.8 The Client agrees that during the provision of the Services, and for a period of six (6) month thereafter, it will not make any offer of employment to any _____ partner/employee involved in the provision of the Services, without the prior written consent of the team leader involved in the Assignment.
- 17.9 No action, regardless of form, arising under or relating to this Assignment, may be brought by either Party more than one (1) year after the cause of action has accrued, except that an action for non-payment may be brought by a Party even after one (1) year following the date of the last payment due to such Party hereunder.

18. Entire Agreement

This Agreement contains all the express provisions agreed on by the Parties with regard to the subject matter of the Agreement, and the Parties waive the right to rely on any alleged express provision not contained in the Agreement.

19. Exclusivity

This Assignment shall not constitute any exclusivity agreement whereby the Lead Advisor or the Other Consortium Members undertake not to engage in any other work relating to other clients or third parties during the course of this Assignment.

IN WITNESS WHEREOF the Parties have executed and delivered this Agreement as of the date first above written.

For and on behalf of Client

**For and on behalf of Advisory
Consortium**

Signature

**Transport and Mass Transit Department,
Government of Sindh**

Signature

(As Lead/ Financial Advisor)

Signature

(As Technical Advisor)

Signature

(As Legal Advisor)

In the Presence of:

Witness:

1. Name:
CNIC:

2. Name:
CNIC:

**Schedule B
Assignment Team**

| Name | Designation | Organization | Email |
|------------------|--------------------|---------------------|--------------|
| A | | | |
| Key Staff | | | |

The above listed professionals may enlist/ engage other professionals and staff from within the Consortium or outside. The name and credentials of such persons shall be made available to the Client as soon as reasonably practicable so that appropriate access authorisation of such personnel is arranged.

The engagement will be carried out under the overall supervision of the Lead Advisor, who will be the Engagement Partner for the project.

The principal Client contact for this engagement will be the Lead Advisor, who has been given overall responsibility for the performance of the obligations under this Agreement and coordinating with the Other Consortium members in the performance of their services.

Schedule C
Time Plan and Reporting Schedule

Schedule D
Deliverables Schedule

| DELIVERABLES | OUTPUT | WORK DAYS |
|---------------------|--|------------------|
| Stage 1a | Inception Report | 10 |
| Stage 1b | Preparation of Preliminary Designs & Comprehensive Assistance – Draft Report | 20 |
| Stage 1c | Preparation of Preliminary Designs & Comprehensive Assistance – Final Report | 20 |
| Stage 2a | Bid documents including RFP, Draft Agreements, Package Concessions, Bid Invitations. | 20 |
| Stage 2b | Bid Evaluation | 20 |
| Stage 2c | Financial close | 90 |

**Schedule E
Fee Schedule**

| DELIVERABLES | OUTPUT | WORK DAYS | FEE (% OF QUOTED FEE) |
|---------------------|--|------------------|------------------------------|
| Stage 1a | Inception Report | 10 | 5 |
| Stage 1b | Preparation of Preliminary Designs & Comprehensive Assistance – Draft Report | 20 | 15 |
| Stage 1c | Preparation of Preliminary Designs & Comprehensive Assistance – Final Report | 20 | 20 |
| Stage 2a | Bid documents including RFP, Draft Agreements, Package Concessions, Bid Invitations. | 20 | 20 |
| Stage 2b | Bid Evaluation | 20 | 25 |
| Stage 2c | Financial close | 90 | 15 |