

**REPUBLIC OF PERU**



**TENDER DOCUMENTS**

**COMPREHENSIVE PROJECT TENDER**

**CONCESSION OF “IMPROVEMENT OF THE SEWERAGE AND  
WASTEWATER TREATMENT SYSTEM OF PUERTO MALDONADO  
CITY, DISTRICT OF TAMBOPATA, PROVINCE OF TAMBOPATA,  
DEPARTMENT OF MADRE DE DIOS”**

**September, 2020**

Important notice: This is an unofficial translation. In the case of divergence between the English and Spanish text, the version in Spanish shall prevail.

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## 1 Introduction

The "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado" project (hereinafter Project) lies within the framework of national policies such as the National Agreement, 2021 Bicentennial Plan, Multiannual Strategic Sector Plan PESEM 2017-2021, National Plan for Disaster Risk Management, National Water Resources Plan, 2021 National Education Plan, National Sanitation Policy, 2017-2021 National Sanitation Plan, National Environmental Action Plan - PLANAA 2011-2021, 2009 National Environmental Policy. Likewise, the Project contributes to achieve the strategic objectives of the sanitation sector established in the 2014-2021 Sanitation Sector Investment Plan and in the 2017 PPP Multi-annual Investment Report (hereinafter, IMIAPP).

The project was declared viable by the Regional Government of Madre de Dios in 2014 based on a Feasibility Study, as well as a Technical File approved by the Provincial Municipality of Tambopata (hereinafter MPT) in 2017 containing Certificates of Non-existence of Archaeological Remains (CIRA) issued by the Ministry of Culture and an Environmental Certificate issued by the Ministry of Housing, Construction and Sanitation (hereinafter MVCS).

The scope of the Project is the construction, rehabilitation, expansion, operation and maintenance of the municipal wastewater collection, treatment and disposal systems in the city of Puerto Maldonado, to be implemented through the Public-Private Partnership mechanism (hereinafter PPP).

To this end, the State of the Republic of Peru, through the Private Investment Promotion Agency - PROINVERSIÓN, calls for the Comprehensive Project Tender to grant in concession the Project to the private sector.

## 2 Background

- 2.1 On March 28th, 2014, the Puerto Maldonado WWPT Project with SNIP code No. 156697 was declared viable, by virtue of Agreement No. 892-2014-VIVIENDA/VMCS/PNSU signed between the National Urban Sanitation Program (hereinafter PNSU) of the Provincial Municipality of Tambopata (MPT) and the Ministry of Housing, Construction and Sanitation (MVCS).
- 2.2 On August 25th, 2017, through Ministerial Resolution No. 316-2017-VIVIENDA, the Ministry of Housing, Construction and Sanitation approved the IMIAPP 2017, which considers the development of the Puerto Maldonado WWTP Project as a PPP under the modality of Co-financed State Initiative (hereinafter IEC).
- 2.3 On September 8th, 2017, the MVCS and the MPT signed the Convention on Delegation of Tasks and Responsibilities, so that the MVCS grants the concession of the Puerto Maldonado WWTP Project.
- 2.4 On May 30th, 2018, the MVCS and PROINVERSIÓN signed the Technical Assistance Agreement No. 292-2018-VIVIENDA under the modality of commissioning, providing, among other

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- obligations of PROINVERSIÓN, the incorporation and conduction of the Puerto Maldonado WWTP Project through the private investment promotion process.
- 2.5 On October 16th, 2018, the Special Committee on Investment in Water, Sanitation, Irrigation and Agriculture Projects (hereinafter the Committee) granted its approval to the Evaluation Report of the Puerto Maldonado WWTP Project.
  - 2.6 On October 18th, 2018, the Executive Direction of PROINVERSIÓN approved the Evaluation Report.
  - 2.7 On November 6th, 2018, by means of Circular Letter No. 583-2018-VIVIENDA/DM, the MVCS communicated to PROINVERSIÓN its agreement to the Evaluation Report.
  - 2.8 On January 10th, 2019, by means of Circular Letter No. 005-2019-EF/15.01 the MEF issued a favorable opinion on the Evaluation Report.
  - 2.9 On January 16th, 2019, by means of the Pro Agua Committee through agreement No. 12-1-2019-IEC PUERTO MALDONADO WWTP, the Committee agreed: i) To approve the Evaluation Report of the Puerto Maldonado WWTP Project; ii) To approve the Promotion Plan of the referred project; and, iii) To submit the mentioned documents to the Executive Director for their respective ratification.
  - 2.10 On January 17th, 2019, through Resolution of the Executive Direction No. 04-2019/DEP.22, the Executive Director ratified the Pro-Agua Committee through Agreement No. 12-1-2019-IEC PUERTO MALDONADO WWTP, and requested the Steering Council to approve the incorporation of the referred Project to the private investment promotion process.
  - 2.11 On February 6th, 2019, by means of PROINVERSIÓN Agreement No. 77-1-2019-CD, the Steering Council approved the incorporation of the Puerto Maldonado WWTP Project to the private investment promotion process, as well as the modality of promotion of the referred Project.
  - 2.12 On March 18th, 2019, by means of Inter-institutional Cooperation Agreement No. 16-2019/VIVIENDA/VMCS/PNSU/1.0, the PNSU/MVCS, the MPT and the EPS EMAPAT S.A. agreed to formulate and evaluate a drinking water and sewerage project through the Large Cities Program, complementary to the Puerto Maldonado WWTP project, in order to increase the coverage of both services to areas of urban expansion in the City of Puerto Maldonado.
  - 2.13 On August 2nd, 2019, by means of Agreement No. ATC/OC-16389-RG, PROINVERSIÓN and the Inter-American Development Bank (IDB) signed a Contingent Recovery Technical Cooperation Agreement to provide comprehensive advice to PROINVERSIÓN during the private investment promotion process of the Puerto Maldonado WWTP Project.
  - 2.14 On January 20th, 2020, by means of Circular Letter No. 01-2020-VIVIENDA/CPIPCS, the

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Committee for Private Investment Promotion in Construction and Sanitation (CPIP)CS) of the MVCS requested PROINVERSIÓN to consider the inclusion of the town of El Triunfo of the district of Las Piedras, within the Puerto Maldonado WWTP Project, In view of the request made by the MTP.

- 2.15 On March 3th, 2020, by means of Circular Letter No. 05-2020-VIVIENDA/CPIP)CS, the CPIPCS of the MVCS communicated that the PNSU will carry out the corresponding actions to include the water and sewerage extension component of the urban expansion areas of the town of El Triunfo (district of Las Piedras) in the pre-investment study conducted by the Large Cities Program, in order to complete the inclusion of the town of El Triunfo in the Puerto Maldonado WWTP project.
- 2.16 On May 5th, 2020, by Circular Letter No. 07-2020-VIVIENDA/VMCS-CPIP)CS, the Committee for Private Investment Promotion in Construction and Sanitation (CPIP)CS) of the MVCS informed PROINVERSIÓN that the Functional Area on Studies and Projects (AFEP) of the Regional Government of Madre de Dios de-activated the project "Improvement and Expansion of Drinking Water, Sewerage and Wastewater Treatment Systems City of El Triunfo - District of Las Piedras - Province of Tambopata - Department of Madre de Dios", with CUI No. 2358309, in order to avoid duplication of projects.
- 2.17 On June 24th, 2020, by means of Agreement No. 88-1-2020-PTAR MALDONADO, the Initial Draft Concession Contract was approved.
- 2.18 On July 16th, 2020, by means of Circular Letter No. 124-2020-SUNASS-GG the National Superintendence of Sanitation Services issued its favorable opinion to the Initial Draft Concession Contract.
- 2.19 On July 17th, 2020, by means of Circular Letter No. 089-2020-VIVIENDA/DM the Ministry of Housing, Construction and Sanitation issued its favorable opinion to the Initial Draft Concession Contract.
- 2.20 On [\*] [\*], 2020, through [\*] the Ministry of Economy and Finance issued its favorable opinion to the Initial Draft Concession Contract.
- 2.21 By means of Resolution [\*] of [\*], the Executive Director of PROINVERSIÓN ratified Agreement No. [\*] adopted by the Pro-Agua Committee during its meeting of [\*], whereby the Tender Documents were approved and the corresponding call for tender was published. The announcement was made on [\*] of [\*] in the institutional portal of PROINVERSIÓN and in the Official Gazette "El Peruano".

### **3 Purpose of the Tender**

- 3.1 The Republic of Peru, through the Private Investment Promotion Agency - PROINVERSIÓN, calls for a Comprehensive Project Tender whose purpose is to select a national or foreign legal entity, a consortium of these, or a consortium of individuals with national or foreign legal

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entities, which will conform the concessionary company that will sign the Concession Contract and will be in charge of:

- The design, financing, construction, expansion and rehabilitation of household connections, secondary collectors, primary collectors, pumping stations, drive lines, treatment and final disposal system of the wastewater in the city of Puerto Maldonado.
- The operation and maintenance of main collectors, pumping stations, drive lines, treatment and final disposal system of the wastewater in the city of Puerto Maldonado.
- Technical support for the monitoring and control of the Maximum Allowable Values (MAV) for discharges into the sanitary sewer system from non-domestic connections.

3.2 For this purpose, the Tender Documents regulate the procedure of the Tender which has the following general objectives:

- ✓ To achieve a clear, simple, fair and equitable procedure.
- ✓ To achieve the attendance and participation of the greatest number of Bidders experienced in the required obligations.
- ✓ To define the basic rules on which the Bidder will be able to submit its Offer.
- ✓ To choose the most convenient Offer for the State.

3.3 The Tender will be carried out in accordance with the provisions contained in the Tender Documents, and what is not foreseen in them, the applicable laws and provisions will be applicable.

3.4 Any Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder that participates in the Tender is considered to know the contents of these Tender Documents, the Draft Concession Contract, and the applicable laws and regulations, without admitting evidence to the contrary.

#### **4 Overview**

4.1 The Tender Documents and the documents that comprise them shall be governed and interpreted in accordance with the applicable Laws and provisions.

4.2 National or foreign legal entities, consortia of these, consortia of natural persons with national or foreign legal entities may participate in the Tender.

4.3 An individual or legal entity, individually or through a Consortium, may not participate in more than one Bidder.

4.4 Those who fall within the scope of Article 29 of Legislative Decree No. 1362, Legislative Decree regulating the Private Investment Promotion through Public-Private Partnerships and Projects

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in Assets, are prohibited from participating as Bidders, either directly or indirectly, with respect to:

- i) Those referred to in Article 1366 of the Civil Code,
- ii) The individuals (or legal) persons subject to restrictions established in Law No. 30225, Public Procurement Law, or a rule that replaces it,
- iii) The individuals (or legal) persons subject to restrictions established by legally binding rules,
- iv) The individuals (or legal) persons who, having been awarded public-private partnership contracts, have ceased to be so due to their breach of contract. This restriction is valid for two (2) years and extends to the strategic partners and/or those who have exercised control at the time of the resolution and/or expiration of the respective contract, without prejudice to those restrictions established in Law No. 30225, Public Procurement Law, which are ruled by the terms stipulated in that regulation.

- 4.5 The Bidders, Pre-Qualified Bidders and Qualified Bidders may not contract, directly or indirectly, the advisory services of individual or legal entity from the private sector that have provided or are providing advisory or consulting services to PROINVERSIÓN, for the private investment promotion process in which they are participating. In accordance with the provisions of point 33.3 Article 33 of the Regulations on Legislative Decree No. 1362, it is hereby informed that the companies mentioned in Exhibit No. 3 provide consulting or advisory services to PROINVERSIÓN in the present private investment promotion process.

Failure to comply with the provisions of this point leads to the automatic exclusion of the Bidders, Pre-Qualified Bidders and Qualified Bidders from the Tender in any of its stages without generating any type of responsibility for PROINVERSIÓN, its officers and/or advisors or consultants.

- 4.6 The State or any of its agencies, including PROINVERSIÓN, its consultants or advisors, are not responsible for, nor do they guarantee, expressly or implicitly, the totality, integrity, reliability or veracity of the information in the Virtual Data Room of the Project. Said information is only for reference purposes, and the Stakeholders, the Bidders, Pre-Qualified Bidders and Qualified Bidders of the Tender are obliged to develop their own research for the preparation of their Offer. Consequently, none of the persons participating in the Tender may attribute any responsibility to PROINVERSIÓN or any of the referred entities or their representatives, agents or dependents, for the use that may be given to such information or for any inaccuracy, insufficiency, defect, lack of updating or for any other cause not expressly contemplated in this Point.

- 4.7 The above limitation of liability is as broad as possible:

- i) to all information relating to the Tender that was actually known,
- ii) to the unknown information and the information that at some time should have been known, including possible errors or omissions contained therein, by the State or any of its agencies, including PROINVERSIÓN, its consultants or advisors,

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- iii) to any information, whether or not supplied or prepared, directly or indirectly, by any of the aforementioned parties,
  - iv) to all information available in the Virtual Data Room, in the Institutional Portal of PROINVERSIÓN, and to all information provided through Circular Letters or any other form of communication, that which is acquired during the visits to the facilities related to the Tender and those mentioned in these Tender Documents, including all its forms and exhibits.
- 4.8 All Pre-Qualified Bidders shall support their decision to submit Envelopes No. 2 and No. 3 on their own investigations, examinations, inspections, visits, studies, interviews, analyses and conclusions on the available information and that they have particularly sought, at their own risk.
- 4.9 The sole submission of the forms provided for in the Tender Documents will constitute, without the need for any subsequent action, the acceptance by the Bidder, Pre-Qualified Bidders and Qualified Bidders of the Tender and, if applicable, the Successful bidder, concerning the limitation of liability with respect to the information in the Virtual Data Room, as well as its irrevocable and unconditional waiver, to the fullest extent permitted by the applicable laws and provisions, to bring any action, counterclaim, exception, claim, suit or request for compensation against the State or any of its agencies, including PROINVERSIÓN, its consultants and/or advisors, except as provided in Point 26.
- 4.10 The Stakeholder who decides not to participate in the Tender may assign its Participation Fee to a third party. For this purpose, the person acquiring the right must submit in Envelope No. 1, apart from all that is required in these Tender Documents, the documentation by means of which the assignment is accredited in its favor, with legalized signature of the assignor.
- 4.11 The Bidder, Pre-Qualified Bidder or Qualified Bidder, is responsible for the accuracy, integrity and suitability of the documentation submitted during the different stages of the Tender, with no limitation whatsoever on PROINVERSIÓN's right to verify.
- 4.12 The Project Manager has the right to verify the accuracy of the documentation submitted by the Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder during the different stages of the Tender and even after its completion, with no limitation whatsoever on the responsibility of the Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder for the possible inadequacy or lack of accuracy of the data or information submitted.
- 4.13 The lack of accuracy or unsuitability in the data or information submitted by the Bidder, Qualified Bidder or Qualified Bidder in this Tender according to these Tender Documents will cause PROINVERSIÓN to disqualify it automatically, in any of its stages, without prejudice to the responsibilities that may arise and the implementation of the Guarantee of Validity, Effectiveness and Seriousness.
- 4.14 PROINVERSIÓN is not obliged to declare the Bidder as Pre-Qualified for the sole presentation of the information provided in these Tender Documents or requested by PROINVERSIÓN for

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the purpose of prequalification, nor is the submission of a Technical Proposal or Economic Offer an obligation for PROINVERSIÓN to accept it.

- 4.15 Any decision made by PROINVERSIÓN in relation to this Tender is final, and shall not give rise to compensation of any kind, nor shall it be subject to any administrative or legal challenge, except as expressly set forth in these Tender Documents. Consequently, those persons who are included in the scope of these Tender Documents waive any appeal against such decisions just for participating in the Tender.

## 5 Definitions

Any reference made herein to "Point", "Form", and "Exhibit" should be understood as made to the points, forms, and exhibits in these Tender Documents, unless otherwise specified.

All references to time should be understood as being in Peruvian local time, in the twenty-four (24) hour system.

The terms in capital letters in the present Tender Documents, and that are not specifically defined, relate to Applicable Laws or to terms defined in the Contract or to the meaning given to them in the use of the activities related to the development of the project or to terms that are currently used in the upper case.

In the present Tender Documents, the following terms shall have the meanings set out below; however, in case of discrepancy, the definition set forth in the Concession Contract shall prevail.

- 5.1 **Confidentiality Agreement:** This is the agreement that the Stakeholder, through their Authorized Agents or Legal Representatives, must sign in case of using PROINVERSIÓN's Virtual Data Room. The format of the Confidentiality Agreement text appears in Exhibit No. 14 hereto.
- 5.2 **Concession Award:** It is the statement, expressed through minutes, to be made by the Committee will make once it has determined which of the Qualified Bidders submitted the best Economic Offer, under the terms and conditions established in the Tender Documents and which, consequently, has been the successful bidder of this Tender.
- 5.3 **Successful Bidder:** This is the Qualified Bidder that submitted the best Economic Offer, who is awarded with the Concession Award.
- 5.4 **Private Investment Promotion Agency – PROINVERSIÓN:** This is the specialized technical body under the Ministry of Economy and Finance, with legal status and technical, functional, administrative, economic and financial autonomy, responsible for designing, conducting and concluding the private investment promotion process of projects developed through the modalities of Public-Private Partnership and Projects in Assets, under its jurisdiction, consolidating decision-making within the process, as provided in Legislative Decree No. 1362, concerning the Private Investment Promotion through Public-Private Partnerships and

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Projects in Assets, and its regulations; the Regulations on Organization and Functions of PROINVERSIÓN, approved by Supreme Decree No. 185-2017-EF, in accordance with the applicable laws and provisions.

- 5.5 **Authorized Agents:** They are the individuals appointed by the Stakeholder or Bidder to carry out the actions of the Tender on its behalf and representation as required.
- 5.6 **Government Authority:** This is any entity or body of the Republic of Peru, acting in accordance with the applicable laws and provisions, holding executive, legislative or judicial powers.
- 5.7 **Tender Documents:** The document herein, including its Exhibits, Appendices and Circular Letters issued by the Project Manager, establishing the terms that shall govern the Tender.
- 5.8 **Letter of Guarantee:** It is a civil guarantee issued by one of the Financial Entities in support of the obligations established in the Tender Documents.
- 5.9 **Circular Letters:** All the directives or dispositions issued in writing by the Project Manager, either of specific or general effects, aimed at completing, clarifying, interpreting, specifying or modifying the contents of these Tender Documents, other Circular Letter, or answering inquiries made by parties authorized to do so pursuant to the Tender Documents. These Circular Letters shall be an integral part hereto. They can also be issued to communicate to the Stakeholders, Bidders, Pre-Qualified Bidders and Qualified Bidders, information related to the process, prior approval of the Project Manager, Committee, Executive Director or Steering Council, if applicable.
- 5.10 **Evaluation Committee of Envelope No. 1:** This is the group of officials or servants that are appointed by the Project Manager to receive and evaluate the Envelopes No. 1. of the Bidders and the reorganization of Consortia of the Pre-Qualified Bidders, whose results will be expressed through reports and/or minutes addressed to the Project Manager.
- The Evaluation Committee of Envelope No. 1 may be advised by professional experts on the matters of evaluation.
- 5.11 **Evaluation Committee of Envelope No. 2:** This is the group of officials or servants who are appointed by the Committee to evaluate Envelopes No. 2, whose results will be expressed through reports and/or minutes addressed to the Committee. This committee will also have one or more members appointed by the Grantor, which will be requested in a timely manner by the Project Manager.
- The Evaluation Committee of Envelope No. 2 may be advised by professional experts on the matters of evaluation.
- 5.12 **Committee:** This is the Special Committee for Investment in Water, Sanitation, Irrigation and Agriculture Projects - PRO AGUA, whose members were appointed through CD PROINVERSIÓN Agreement No. 65-1-2018-CD.

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- 5.13 **Grantor:** This is the Republic of Peru, represented by the Ministry of Housing, Construction and Sanitation, in accordance with the powers delegated by the Provincial Municipality of Tambopata.
- 5.14 **Concession:** This is the legal relationship under public law between the Grantor and the Concessionaire, as of the Closing Date, whereby the Grantor grants the Concessionaire the right of economic exploitation of the Project, during its term, as established by the Concession Contract and subject to applicable laws.
- 5.15 **Concessionaire:** It is the specific purpose company, constituted as a legal entity in Peru and registered as such in the Registry Office of Madre de Dios, with tax domicile in the department of Madre de Dios, by the Successful bidder, between the date of Concession Award and the Closing Date, whose sole corporate purpose is to develop the Project, and in which the Strategic Partner is the holder of the Minimum Participation. The Concessionaire will be the one to sign the Concession Contract, including the Contract for Services Rendered and other Exhibits.
- 5.16 **Comprehensive Projects Tender or Tender:** This is the selection process regulated by these Tender Documents for the granting of the Concession to the private sector, by means of Comprehensive Project Tender.
- 5.17 **Steering Council:** This is the highest authority of PROINVERSIÓN. Its responsibilities include the control and supervision of the management and the correct development of the private investment promotion processes.
- 5.18 **Consortium:** This is the group of two or more national or foreign legal entities, or one or more individuals with national or foreign legal entities, whose legal status depends on its members, and which has been formed for the purpose of participating as a Bidder in this Tender. One of these members must be the Operator.
- 5.19 **Constructor:** This is the Bidder or a member thereof in case of a Consortium or a third party that complies with the technical construction requirements for the prequalification during the Tender and that will assume the rights and obligations established in the Concession Contract.
- 5.20 **Concession Contract or Contract:** This is the document, including the exhibits, appendices and any other document integrating it, entered into between the Grantor and the Concessionaire, through which the relations, rights and obligations between them during its term are regulated, so as to develop the Project, including the Contract for Services Rendered and other exhibits, which is an integral part of it.
- 5.21 **Effective Control:** It is understood that an individual or legal entity has or is under the Effective Control of a legal entity or under joint control with it if:
- a. It has over fifty percent (50%) of the voting rights at the general shareholders' or

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partners' meeting, through direct ownership of securities representing the capital stock or indirectly through usufruct, pledge, trust, syndication and similar instruments or any other legal act; or,

- b. It may directly or indirectly appoint or remove a majority of the members of the board of directors or equivalent body, allowing it to control or have a majority of the votes at the meetings of the board of directors or equivalent body, or to rule the operational or financial policies under a regulation or contract of any kind; or,
- c. By any other mechanism or condition (binding or not) effectively controls the decision-making in the other company.

- 5.22 **Call for tender:** This is the communication by which the participants are invited to the Tender, as provided for in the Tender Documents and in the Applicable Laws and Provisions.
- 5.23 **Schedule:** The time sequence of activities taking place during the process of the present Tender Process and is set out in Exhibit No. 17.
- 5.24 **Sworn Statement:** Written statement submitted by a Bidder, Pre-Qualified Bidder or Qualified Bidder, in the format set forth in the Tender Documents, in which the accuracy of a fact, characteristic or condition is stated, under oath, presumed true, unless proved otherwise, having the consequences set forth in the Applicable Laws and Provisions.
- 5.25 **Correctable defect or error:** This is that defect or error which, in consideration of the Project Manager, Committee, the Evaluation Committee of Envelope No. 1 or the Evaluation Committee of Envelope No. 2, as appropriate, has formal character in any document contained in Envelope No. 1 or Envelope No. 2 and the contents or scope of which are not substantially modified.

Under no circumstances the failure to submit any of the documents that must be contained in Envelope No. 2 will be considered a Correctable Defect or Error.

Envelope No. 3 is not correctable under any circumstances.

- 5.26 **Participation fee:** It is the amount that allows a national or foreign legal entity, or a Consortium, to participate in the Tender. This is the duty that allows a national or foreign legal entity, or a Consortium, to participate in the Tender. This is acquired by paying the amount of US\$ 1,000.00 (One Thousand and 00/100 United States Dollars) including the IGV ("Sales Tax"). The payment of the Participation Fee is non-refundable and is supported by the corresponding receipt of payment.
- 5.27 **Days:** These are the working days, that is, those that are not Saturdays, Sundays or non-working holidays in the province of Lima. It is also understood as holidays those non-working days for the public sector at the national level.
- 5.28 **Calendar Days:** These are every day, including Saturdays, Sundays and holidays.

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- 5.29 **Project Manager:** This is the person in charge of conducting the private investment promotion process, in accordance with the duties and powers set forth in the applicable laws and provisions and these Tender Documents.
- 5.30 **Executive Director:** This is the highest executive authority and legal representative of PROINVERSIÓN. It performs the duties and powers set forth in the applicable laws and provisions and these Tender Documents.
- 5.31 **Dollar or United States Dollar or US\$:** It is the legal currency or monetary symbol of the United States of America.
- 5.32 **Affiliated Company:** A company will be considered affiliated to another company when the Effective Control of said companies is in the hands of the same Holding Company.
- 5.33 **Parent Company:** This is the company that has the Effective Control of one or several companies. This definition also considers the company that has Effective Control of a Parent Company and so on.
- 5.34 **Subsidiary Company:** It is a company that is under the Effective Control of another company. This definition also considers the company that has Effective Control of a Subsidiary Company and so on, as defined, and so on.
- 5.35 **Related Company:** This is any affiliated, subsidiary or parent company. Unless proved otherwise, the existence of a relationship is assumed, in the following cases:
- a. When they are part of the same economic group.
  - b. When the same guarantee endorses the obligations of both, or when more than fifty percent (50%) of the obligations of one of them is guaranteed by the other, and this other is not a company of the financial system.
  - c. When more than fifty percent (50%) of the obligations of a legal entity are guaranteed by the other, and this other is not a company of the financial system.
  - d. When a legal entity has, directly or indirectly, a share in the capital stock of another which allows it to participate in its Board of Directors.
  - e. When a legal entity has, directly or indirectly, a share in the capital of another one that enables it to have a presence in its board of directors.
  - f. When one third or more of the members of the board of directors or of the managers of one of them are directors, managers or workers of the other.
- 5.36 **Banking Companies:** These are the following entities:
- a. Banking and insurance companies defined in accordance with Law No. 26702, General Law of the Financial and Insurance Systems and Organic Law of the Superintendency of Banking and Insurance referred to in Appendix 1 o Exhibit No. 2.
  - b. The international first class banks referred to in Appendix 2 of Exhibit No. 2.
  - c. The international financial institutions listed in Appendix 2 of Exhibit No. 2.

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- 5.37 **Competition Factor:** This is the variable or set of variables by which the Economic Offers of the Qualified Bidders are compared, so as to determine the successful bidder.
- 5.38 **Closing Date:** This is the day and time that will be announced by the Project Manager through Circular Letter, where the Concession Contract will be signed and the acts set out in Point 28 will be performed.
- 5.39 **Guarantee of Validity, Effectiveness and Seriousness:** This is the Letter of Guarantee or, alternatively, stand-by letter of credit, which must be joint and several, unconditional, irrevocable, without benefit of exemption or division and of automatic enforcement, which will be submitted by the Pre-Qualified Bidder in favor of PROINVERSIÓN, according to the model found in Exhibit No. 7, in order to guarantee the Guarantee of Validity, Effectiveness and Seriousness of its Bid and the compliance with the obligations set forth for the Closing Date, which will become effective in the event that (i) it is involved in the matters set forth in Article 29 of Legislative Decree No. 1362; (ii) fails to submit a valid Technical Proposal in the selection process summoned; (iii) fails to submit a valid Economic Offer in the selection process summoned; (iv) submits or declares false information in the Tender; (v) fails to submit in physical format in the term and form established in the concession award notice, the documents of Envelope No. 1 in case of being the successful bidder; (vi) fails to comply with its obligations on the Closing Date.
- This guarantee must be in effect until the date on which the Economic Offer expires in accordance with the provisions of Point 21.2. and must be issued by one of the Banking Companies referred to in Exhibit No. 2.
- 5.40 **Stakeholder:** This is the legal entity, national or foreign, or Consortium that acquires the Participation Fee and signs the Confidentiality Agreement.
- 5.41 **General Sales Tax – IGV:** This is the tax referred to in the Unique Ordered Text of the General Sales Tax and Selective Consumption Tax Law, approved by Supreme Decree No. 055-99-EF, or regulations that substitute or modify it, as well as the Municipal Promotion Tax, referred to in the Unique Ordered Text of the Municipal Taxation Law, approved by Supreme Decree No. 156-2004-EF, or regulations that substitute or modify it.
- 5.42 **Applicable Laws and Provisions:** The set of rules that directly or indirectly regulate the Tender Documents, and the Concession Contract, such as the Political Constitution of Peru, the legal norms, the supreme decrees, regulations, directives, resolutions, as well as any other that, according to the legal system of the Republic of Peru, is applicable, which will be binding for the Tender Documents and the Concession Contract.
- 5.43 **Offer:** Includes the Technical Proposal and the Economic Offer.
- 5.44 **Economic Offer:** This is the one submitted by the Pre-Qualified Bidder in Envelope No. 3, in accordance with the Competition Factor.

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- 5.45 **Technical Proposal:** This is the one submitted by the Pre-Qualified Bidder in Envelope No. 2 according to Point 20.
- 5.46 **Operator:** This is the Bidder, or any of the members in the case of a Consortium, who complies with the technical operation requirements for prequalification during the Tender and who will undertake the rights and obligations established in the Concession Contract for the Strategic Partner.
- 5.47 **Minimum Participation:** This is the minimum share participation, which at no time may be less than thirty-five percent (35%) of the subscribed and paid in cash capital of the Concessionaire, which the Strategic Partner should have and maintain throughout the term of the Concession.
- 5.48 **Institutional Portal of PROINVERSIÓN:** It is as follows:  
[www.PROINVERSIÓN.gob.pe/WWTPpuertomaldonado/](http://www.PROINVERSIÓN.gob.pe/WWTPpuertomaldonado/)
- 5.49 **Bidder:** This is the Stakeholder that is participating in this Tender, through the submission of Envelope No. 1 for its prequalification subject to the conditions set forth in these Tender Documents.
- 5.50 **Qualified Bidder:** This is the Pre-Qualified Bidder that has submitted Envelopes No. 2 and 3, and whose documentation, duly submitted through Envelope No. 2, has complied with the requirements set forth in the Tender Documents, and who is authorized to open Envelope No. 3.
- 5.51 **Pre-Qualified Bidder:** This is the Bidder whose documentation, duly submitted through Envelope No. 1, has complied with the requirements of the Tender Documents, thereby being accepted and expressly declared by the Project Manager, and is enabled to submit Envelope No. 2 and Envelope No. 3.
- 5.52 **PPD:** This is the Available Payment Method as established in the Concession Contract and in these Tender Documents.
- 5.53 **Technical Proposal:** This is the technical solution submitted by the Pre-Qualified Bidder in Envelope No. 2, as indicated in point 20.4.
- 5.54 **Project:** This is the project "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios" which includes:
- a. The design, financing, construction, rehabilitation and expansion of household connections, secondary collectors, primary collectors, pumping chambers, drive lines, treatment and final disposal system of the municipal wastewater of the city of Puerto Maldonado.

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- b. The operation and maintenance of the primary collectors, pumping chambers, drive lines, treatment and final disposal system of the municipal waste water of the city of Puerto Maldonado.
  - c. Technical support for the monitoring and control of the Maximum Admissible Values (MAV) in the discharges to the sanitary sewer system from non-domestic connections.
- 5.55 **Legal Representative:** They are the individuals appointed as such by the Bidder, having enough capacity to bind their principal, in accordance with the provisions of the Tender Documents.
- 5.56 **Virtual Data Room or VDR:** This is the set of referential documents related to the Tender, which are available to the Stakeholders, Bidders and Pre-Qualified Bidders for the preparation of their Technical Proposal and their Economic Offer, under the conditions and with the limitations contained in these Tender Documents.
- 5.57 **Envelopes:** This refers jointly to Envelopes No. 1, No. 2 and No. 3.
- 5.58 **Envelope No. 1:** This is the envelope containing the documents specified in Point 17 herein, to be submitted by the Bidder.
- 5.59 **Envelope No. 2:** This is the envelope containing the documents specified in Point 20 herein, to be submitted by the Bidder.
- 5.60 **Envelope No.3:** This is the envelope containing the Economic Offer prepared in accordance with the Competition Factor, to be submitted by the Pre-Qualified Bidder, as set forth in point 21.
- 5.61 **Strategic Partner:** This is the shareholder of the Concessionaire who demonstrated, directly or through its Related Companies, as appropriate, compliance with the technical operating requirements set forth in the Tender Documents, and holds the ownership of the Minimum Participation in the Concessionaire.
- This condition must be maintained during the entire term of the Concession Contract.
- 5.62 **Sol or S/:** This is the legal tender in the Republic of Peru.

## 6 Legal Framework of the Tender

- 6.1 Political Constitution of Peru.
- 6.2 Legislative Decree No. 295, Civil Code.

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- 6.3 Law No. 26887, General Law of Corporations
- 6.4 The Supreme Decree No. 027-2002-PCM, ordered the merger of various entities related to the private investment promotion joining the Executive Board of the FOPRI, which was later renamed the Investment Promotion Agency.
- 6.5 Law No. 28660, Law determining the legal nature of the Private Investment Promotion Agency - PROINVERSIÓN
- 6.6 The Supreme Decree No. 185-2017-EF, which approves the Regulations on Organization and Functions of PROINVERSIÓN.
- 6.7 Legislative Decree No. 1362, which regulates the Private Investment Promotion through Public-Private Partnerships and Projects in Assets.
- 6.8 The Supreme Decree No. 240-2018-EF, approving the Regulations of the Legislative Decree No. 1362, which regulates the Private Investment Promotion through Public-Private Partnerships and Projects in Assets.
- 6.9 Law No. 30789, which declares the provision, improvement and expansion of drinking water, sewerage and storm drainage services in the department of Madre de Dios to be of national interest and public necessity.
- 6.10 Supreme Decree No. 044-2020-PCM, declaring a National State of Emergency due to the serious circumstances affecting the country's life as a result of the COVID-19 outbreak.
- 6.11 Legislative Decree No. 1497, establishing measures to promote and facilitate regulatory conditions that contribute to reducing the impact on the Peruvian economy of the health emergency produced by the COVID- 19.

## **7 Powers of the Project Manager**

7.1 The Project Manager conducts the Tender and is entitled to:

- a. Fulfill all the duties and powers assigned to it by the Applicable Laws and Provisions.
- b. Resolve any matter not provided for in the Tender Documents or in the Applicable Laws and Provisions.

## **8 Draft Concession Contract**

- 8.1 The draft contracts will be published in the Institutional Portal of PROINVERSIÓN, and notified by Circular Letter, so that the Stakeholders, Bidders and Pre-Qualified Bidders can submit their inquiries, comments or suggestions within the deadlines set forth in the schedule. The Project Manager shall evaluate the suitability or not of including the suggestions made by the Stakeholders, Bidders or Pre-Qualified Bidders.

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- 8.2 The Project Manager will publish the suggestions received to the Draft Contract in the institutional portal of PROINVERSIÓN.
- 8.3 The terms or criteria contained in the draft contracts are subject to what is defined in the final draft Concession Contract.
- 8.4 None of the terms and/or criteria contained in the draft contracts will bind PROINVERSIÓN or the Grantor in any way.
- 8.5 The final draft Concession Contract, approved by the Committee and ratified by the Executive Director or Steering Council as appropriate, will be published in the Institutional Portal of PROINVERSIÓN, and notified to the Pre-Qualified Bidders, by means of a Circular Letter, according to the provisions of the Schedule.

## **9 Schedule to Tender**

- 9.1 The dates of the activities of the Schedule are detailed in Exhibit No. 17.
- 9.2 The Project Manager will communicate to the Stakeholders, Bidders, Pre-Qualified Bidders and Qualified Bidders by Circular Letter regarding the amendment(s) to the Schedule.

## **10 Submission to the Tender Documents and Interpretation**

- 10.1 Through the modality established, the sole submission of the documents required in these Tender Documents implies the full knowledge, acceptance and unconditional submission by the Stakeholder, Bidder, Pre-Qualified Bidder, Qualified Bidder or the Successful bidder, as the case may be, to each of the procedures, obligations, conditions and rules, without exception, established therein.
- 10.2 These Tender Documents are legally binding for the Stakeholders, Bidders, Pre-Qualified Bidders, Qualified Bidders and the Successful bidder, and the submission of the documents required in the Tender Documents implies their irrevocable and unconditional waiver to file, before any jurisdiction or authority, any action, claim, demand or request for compensation against PROINVERSIÓN, its advisors, or any other entity, agency or official of the Republic of Peru including the Successful bidder for the exercise of the powers provided in these Tender Documents and in the Applicable Laws and Provisions.
- 10.3 The terms and expressions used in these Tender Documents shall be understood in their natural and obvious sense, unless another meaning has been specifically assigned to them herein or its Exhibits, or is derived from the context thereof; and, in any case, in accordance with the Applicable Laws and Provisions. Every participant in the Tender shall be deemed to know the Applicable Laws and Provisions, with no evidence to the contrary.

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10.4 The titles of the chapters, points, forms and exhibits of these Tender Documents are used exclusively for indicative purposes and will not affect the interpretation of their contents.

## **11 Authorized Agents and Legal Representatives**

### **11.1 Authorized Agents**

11.1.1 The Stakeholders must designate, by means of a simple letter, a maximum of two (2) individuals as their Authorized Agents, with common domicile (in case there are two of them) in the cities of Lima or Callao, who may act individually or jointly, as deemed appropriate by the Stakeholders. Together with the letter of appointment the following information must be provided: address, telephone number and e-mail address, by means of the Sworn Statement of Notice of Information, according to the Format of Exhibit No. 1.

11.1.2 The Authorized Agents shall have the following powers, in addition to others expressly contained in the Tender Documents:

- a. To represent the Stakeholder, Bidder, Pre-Qualified Bidder, Qualified Bidder or Successful bidder before PROINVERSIÓN, the Executive Director, the Project Manager and the advisors, on all matters not within the exclusive jurisdiction of the Legal Representative, in accordance with Point 11.2.
- b. To answer, on behalf of the Stakeholder, Bidder, Pre-Qualified Bidder, Qualified Bidder or Successful bidder, and with binding effect for its Principal, all questions that the Project Manager or Executive Director may ask.
- c. To receive Circular Letters.
- d. To sign the Confidentiality Agreement referred to in Point 5.1.
- e. To request information from the Project Manager and use the Virtual Data Room.

11.1.3 The Stakeholders, Bidders, Pre-Qualified Bidders and Qualified Bidders, prior written communication addressed to the Project Manager , and complying with the same requirements established in point 11.1.1, may substitute any of the Authorized Agents, which shall take effect on the Day following the date on which the communication is received by the Project Manager .

11.1.4 Where applicable, communications sent by PROINVERSIÓN to one of the Authorized Agents will be considered addressed to all those who may have been designated.

### **11.2 Legal Representatives**

11.2.1 The Stakeholders, Bidders, Pre-Qualified Bidders and Qualified Bidders may only appoint up to two (2) common Legal Representatives to jointly or individually represent them, as provided in this Point. The following information must be provided with the appointment: common domicile (in case there are two of them) in the cities of Lima or Callao, the telephone number and e-mail address of the appointed representative(s).

- 11.2.2 The powers granted to each of the Legal Representatives shall be sufficiently broad so that any of them, jointly or individually, may sign, in the name and on behalf of their principal, all the documents required by these Tender Documents, to include, specifically, the power to initiate the challenge procedures provided for in the Tender Documents, to sign the Proposals and, if applicable, the Concession Contract.
- 11.2.3 The documents included in the Envelopes and, in general, all the documents submitted by a Bidder, Pre-Qualified Bidder and Qualified Bidder regarding the Tender, must be signed or endorsed by their Legal Representative, as appropriate, who must be duly authorized for such purpose, in accordance with the provisions of this Point. If the Project Manager enables the alternative use of the virtual reception desk, the signature or approval of the Legal Representative can be scanned, digital or digitized.
- 11.2.4 The power of attorney appointing the Legal Representatives shall specify the corresponding powers of representation, which may be general or special. This will be submitted in Envelope No. 1.
- 11.2.5 When the Legal Representative is replaced, the replacement will take effect on the day following the date on which the Project Manager receives the documents duly accrediting such appointment. If such accreditation is not satisfied, the documentation must be corrected, as required by PROINVERSIÓN. The substitution will take effect the day after the date the Project Manager receives the documents accrediting that the correction has been made.
- 11.2.6 The submission of requests for the substitution of the Legal Representative may be done only up to two (2) days before the date established for the submission of Envelopes No. 2 and No. 3.
- 11.2.7 The power of attorney granted outside Peru, appointing a Legal Representative, must be:
- a. Properly issued or legalized before the competent Peruvian consulate, and a simple translation into Spanish must be attached if issued in a different language.
  - b. Endorsed before the Ministry of Foreign Affairs of Peru; or
  - c. An apostille, in case the Bidder or its members come from a country signatory of the "Convention Abolishing the Requirement of Legalization for Foreign Public Documents" adopted on October 5, 1961 in the City of the Hague, Kingdom of the Netherlands, approved by Legislative Resolution No. 29445 and ratified by Supreme Decree No. 086-2009-RE ("Hague Convention").
- 11.2.8 Powers of attorney granted in Peru are required to be evidenced by a public deed, or a notarized copy of the minutes of the corresponding corporate body by which they are granted.
- 11.2.9 For Consortia, the Legal Representatives must be the same for all its members. Their appointment must be made through the legal representatives of the members of the Consortium who are empowered to do so. The powers of the Legal Representatives must be evidenced in accordance with the provisions of Points 11.2.7 or 11.2.8.

11.2.10 In no case shall the powers of the Legal Representative be required to be recorded in the Public Registry Office at the time of filing.

## 12 Reception desk

12.1 All the documents that a Stakeholder, Bidder, Pre-Qualified Bidder and Qualified Bidder submit regarding the Tender must be delivered via the physical reception desk (at the offices of PROINVERSIÓN) and will be addressed to:

**WWTP PUERTO MALDONADO**  
PROINVERSIÓN  
Av. Enrique Canaval Moreyra No. 150, Piso 9  
San Isidro  
Lima – Perú  
Attention: Mr. Juan Pablo Méndez  
Project Manager

12.2 The Project Manager may enable the optional use of the virtual reception desk of PROINVERSIÓN for the submission of the documents contained in Envelope No. 1 or those expressly indicated, all of which must be submitted exclusively by the virtual reception desk to the e-mail [mesadepartesvirtual@proinversion.gob.pe](mailto:mesadepartesvirtual@proinversion.gob.pe), with a copy to [ptarmaldonado@proinversion.gob.pe](mailto:ptarmaldonado@proinversion.gob.pe), via emails from the Authorized Agents and/or Legal Representatives of the Stakeholders, Bidders, Pre-Qualified Bidders or Qualified Bidders, as applicable. In order to enable the virtual reception desk, the Project Manager shall communicate such decision by means of a Circular Letter, specifying the storage capacity limit of each email to be sent.

12.3 In any case, and unless otherwise expressly indicated, the maximum period of the day for the submission of documents at the physical (at the offices of PROINVERSIÓN) or virtual reception desk (via [mesadepartesvirtual@proinversion.gob.pe](mailto:mesadepartesvirtual@proinversion.gob.pe)) will expire at 17:00 hours from Lima-Peru.

12.4 In the case of documents submitted through the virtual reception desk which have been received after 17:00 hours from Lima-Peru, they will be considered as submitted, for all purposes, the following day.

## 13 Inquiries and Circular Letters

### 13.1 Inquiries

13.1.1 On the dates indicated in the Schedule, the Stakeholders, Bidders and Pre-Qualified Bidders, through their Authorized Agents or Legal Representatives, may make inquiries strictly related to the Tender Documents or suggestions to the projects of the Concession Contract.

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The inquiries and suggestions will be done in writing and in Spanish language, according to the rules established in Point 12 of the Tender Documents.

- 13.1.2 All the inquiries made to the Tender Documents will be published in the Institutional site of PROINVERSIÓN, by means of a Circular Letter, not including the identity of the inquirer.
- 13.1.3 The Project Manager's answers to the inquiries about the Tender Documents will be communicated in writing by Circular Letter to all the Stakeholders, Bidders and Pre-Qualified Bidders, as the case may be, not indicating the identity of the inquirer.
- 13.1.4 The answers to the inquiries about the Tender Documents will be sent to the Stakeholders, Bidders and Pre-Qualified Bidders, at the time indicated in the Schedule. Notwithstanding the above, the answers to all the inquiries made will be available at the Institutional Site of PROINVERSIÓN.
- 13.1.5 The suggestions received to the initial draft Concession Contract and the following drafts of the Concession Contract will be published in the Institutional Portal of PROINVERSIÓN, not including the identity of those who made them.
- 13.1.6 The Project Manager undertakes not to answer inquiries to the Tender Documents that are not related to the Tender. Likewise, he/she is not required to accept or respond to the suggestions of the Stakeholders, Bidders and Pre-Qualified Bidders to the projects of the Concession Contract. PROINVERSIÓN will evaluate the appropriateness of including or not the suggestions made by the Stakeholders, Bidders and Pre-Qualified Bidders.
- 13.2 Circular Letters**
- 13.2.1 At any time, if considered necessary, the Project Manager may clarify, specify, modify and/or complement the Tender Documents, issuing a Circular Letter to the Legal Representatives or Authorized Agents. All the issued Circular Letters will be published in the Institutional Site of PROINVERSIÓN.
- 13.2.2 The Circular Letters issued by the Project Manager will be part of the Tender Documents, and therefore legally binding for all Stakeholders, Bidders, Pre-Qualified and Qualified Bidders.
- 13.2.3 The Circular Letters on possible proposals for modification of the initial draft contract and draft concession contracts, which are designed to receive suggestions for them, are not binding, but merely advisory.
- 13.2.4 The Circular Letters should be sent to the e-mails indicated in Exhibit No. 1, submitted by each Bidder in due course.
- 13.2.5 After the deadline for the prequalification of the Bidders, the Circular Letters will only be notified to the Pre-Qualified Bidders; and, after the submission of Envelopes No. 2 and No. 3, only to the Qualified Bidders.

13.2.6 All communications addressed to the Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder may be made to any of the Authorized Agents through any of the following alternatives:

a. Via courier service, in which case the communication shall be deemed to have been received on the date of its delivery, understanding as well done and effective any communication made at the common address indicated by the Authorized Agents referred to in Exhibit No. 1.

b. Via e-mail to the e-mail addresses indicated in Exhibit No. 1. The Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder acknowledges receipt of the communications sent by e-mail, confirming their receipt, and therefore, by submitting Exhibit No. 1, it is understood that the Project Manager is expressly authorized to send electronic communications from the institutional e-mail account.

The Stakeholder, Bidder, Pre-Qualified Bidder or Qualified Bidder is responsible at all times for the follow-up of its email account and acknowledge receipt of emails related to the Tender.

The Circular Letters will be published in the Institutional Site of PROINVERSIÓN, in addition to the selected alternative.

## **14 Access to Information: Data Room**

### **14.1 Access to the Virtual Data Room**

14.1.1 The Stakeholders, Bidders, Pre-Qualified Bidders and Qualified Bidders will have access to the information related to the Project until the date indicated in the Schedule, which will be available for inquiry in the Virtual Data Room of PROINVERSIÓN.

14.1.2 Access to the Virtual Data Room must be arranged in accordance with the rules established for its operation, contained in the Guide to accessing and using VDR, Exhibit No. 13.

### **14.2 Content of the Virtual Data Room Information**

The information in the Virtual Data Room is as indicated in Appendix 1 of Exhibit No. 13. All other documents that are incorporated in this document will be communicated through Circular Letter.

### **14.3 Confidentiality Agreement**

In order to access the Virtual Data Room, the Authorized Agent(s) or Legal Representative(s) must sign the Confidentiality Agreement included in Exhibit No. 14.

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## 15 Request for Interviews

All Stakeholders, through their Authorized Agents or their Legal Representatives, as appropriate, will have the right to request interviews with the Project Manager, not later than the day before the deadline for submission of Envelope No. 1 and, in the case of Pre-Qualified Bidders, not later than one day before the submission of Envelopes No. 2 and No. 3. The Project Manager may decide to conduct these interviews virtually, for which he/she will make the corresponding call indicating the virtual platform that will be used for this purpose. In the case of a face-to-face interview, a minute will be signed stating the participants and the topics discussed. In the case of a virtual interview, they will be recorded.

## 16 Submission of the Envelopes

### 16.1 Overview

- 16.1.1 Only Stakeholders, bidders and Pre-Qualified bidders, as applicable, may submit envelopes in accordance with these Tender Documents.
- 16.1.2 Unless expressly stated otherwise, all documents must be submitted in Spanish or accompanied by a simple translation into Spanish. In the event of any discrepancy arising between the contents of the two languages, the Spanish text shall prevail.
- 16.1.3 All the documentation submitted in the Envelopes must be perfectly legible and must be clearly, correlatively paged and initialled on each page by the Legal Representatives. Also, an index containing the detailed list of all the documents included in each Envelope must be included, except for Envelope No. 3.
- 16.1.4 In the event of any discrepancy between an amount expressed in numbers and letters, the amount expressed in letters shall prevail.
- 16.1.5 For Envelope No. 1, documents will be submitted either physically or through the virtual reception desk. For more than one Legal Representative and if the representation is not joint, just the execution of the Sworn Statements and/or Forms, as well as the sending of the e-mail will be enough.
- 16.1.6 The Envelopes No. 2 and No. 3 may only be submitted personally by one of the Authorized Agents or by the Legal Representatives on the date, place and time indicated by Circular Letter. No documents will be accepted or received that are sent by postal, electronic or any other means or type of communication.
- 16.1.7 The envelopes must be submitted closed and labelled on the front indicating the name of the Bidder. This provision is not applicable to Envelope No. 1, if it is submitted by virtual reception desk.

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16.1.8 The Envelopes No. 1 and No. 2 shall be submitted in three (3) counterparts, one original and two single copies. The Envelope No. 1 shall contain the power of attorney of the Legal Representatives in original or legalized copy, as established in Point 17.2.3.

These provisions are not applicable for Envelope No. 1, if it is submitted by a virtual reception desk.

16.1.9 The Envelope No. 3 must be submitted only in original.

16.1.10 The Stakeholder or Bidder shall assume all costs or expenses incurred, directly or indirectly, for the preparation and submission of the Envelopes, as applicable. The State or any of its agencies, including the Grantor, PROINVERSIÓN, its consultants or advisors, shall not be responsible, in any case, for such costs or expenses, whatever the result of the Tender, or if it is declared void, suspended or cancelled.

16.1.11 In case a Pre-Qualified Bidder does not submit any of the documents required for Envelope No. 2, the referenced Bidder will be automatically disqualified from the Tender, and PROINVERSIÓN must execute the Guarantee of Validity, Effectiveness and Seriousness of the Offer. In this case, Envelope No. 3 will be returned unopened during the same act.

## 16.2 Submission of Envelope No. 1

The submission of Envelope No. 1 will take place within the deadlines indicated in the Schedule. In case the Project Manager has arranged its submission online, the documents in Envelope No. 1 must be scanned in color PDF format, be perfectly legible and clearly, correlatively paged and initialled on each page. Likewise, an index containing a detailed list of the documents must be included.

## 16.3 Submission of the Envelopes No. 2 and 3

The Pre-Qualified Bidders will submit Envelopes No. 2 and No. 3 in a public act before the Committee, in the presence of a Notary, on the date, time and place indicated by Circular Letter.

## 17 Contents of the Envelope No. 1

When submitting Envelope No. 1, the Bidder must provide the following information, considered as a Sworn Statement:

### 17.1 General Information

The Bidder shall state its commitment to provide reliable information, by means of Exhibit No. 8, considered as a sworn statement, declaring that the information and statements contained in Envelope No. 1 are reliable and remain in force.

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At the time of signing this Sworn Statement, the signature of the Legal Representative must be notarized in Peru or, if the document is drawn up outside of Peru, it will be done pursuant to the provisions of Point 11.2.7.

## 17.2 Bidder's Qualification Requirements

The Bidder must also demonstrate strict compliance with the following requirements in order to be declared a Pre-Qualified Bidder and to continue participating in the Tender:

### 17.2.1 General Requirements

The Bidder, or any of its members in case of a Consortium, shall demonstrate a share of not less than twenty-five percent (25%) in the company or consortium which has contracted at least one concession or public-private partnership project comprising the design, financing (under a Project Finance scheme), construction, operation and maintenance for the development of infrastructure and provision of public services, which shall be shown in Exhibit No. 19, attaching copies of the documents supporting their participation and being in operation (by any document that reliably demonstrates the required experience, such as certificates or records, etc.). In case of a Consortium, the member attesting to the General Requirements must have a minimum participation of twenty-five percent (25%) of the Bidder.

### 17.2.2 Technical requirements

- a. In order to comply with the technical requirements, the Bidder must demonstrate, at least, within the last twenty (20) years, experience in:
  - i) Construction of at least two (2) wastewater treatment plants, of secondary or biological treatment, with an installed capacity of at least 400 l/sec or 34,560 m<sup>3</sup>/day of average design flow each, which have a certificate of acceptance of work or equivalent document from the country where the project was executed, and are in an operational stage.
  - ii) Operation of two (2) wastewater treatment plants, of secondary or biological treatment at least, with an installed capacity of at least 400 l/sec or 34,560 m<sup>3</sup>/day of average design flow rate each, operating permanently for at least two (2) consecutive years.

The operating experience may be verified through the Bidder, or by one of its members in case of a Consortium; directly, or through a Related Company. The Bidder or member of the Bidder that has experience in operation must become a Strategic Partner, in accordance with the conditions established in the Concession Contract.

The construction experience may be verified through the Bidder, or by one or more of its members in case of a Consortium, by a Related Company or by one or more Builders that will be hired by the Concessionaire.

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If the Bidder decides to hire a third party, a commitment to hire the constructor must be submitted in accordance with the model in Exhibit No. 20.

The Constructor that is hired by the Concessionaire will be jointly liable with the Concessionaire, in accordance with the terms set forth in the Concession Contract.

To demonstrate compliance with the operation and construction requirements, the participation in previous projects may be mentioned, where a minimum of twenty-five percent (25%) of the company or consortium constituted to execute the project shall have participated.

Furthermore, the experience of the companies linked to the Operator or Builder to be confirmed will be considered, subject to the same conditions mentioned in the preceding paragraph.

- b. The Bidders, or the members of a Consortium, may participate in the Tender with only one Bidder. Such impediment includes their Related Companies.
- c. The requirements set forth in this Point must be submitted in Exhibit No. 19, attaching the following documents:
  - i) Construction: Statement, certification or certificate of reception or liquidation of work and documents attesting that it is in an operational stage; or statement, certification or certificate and any other document that reliably demonstrates the required experience and a document attesting that it is in an operational stage. These documents shall be issued by the client and the main characteristics of the work shall be described.
  - ii) Operation: Statement or certificate issued by the client which reliably demonstrates the required experience.

### 17.2.3 Legal requirements

- a. A simple copy of the current Bylaws, or equivalent instrument, issued by the competent authority in the Bidder's country of origin, or in the case of a Consortium, by each of its members.
- b. Sworn statement supporting the existence and validity of the legal entity, according to Appendix 1 of Exhibit No. 5.
- c. For a Consortium, the Bidder shall submit a sworn statement confirming its existence, validity and solidarity with the obligations assumed in the Tender, in accordance with Appendix 2 of Exhibit No. 5, while complying with the requirements mentioned in this Point.
- d. Sworn statement, signed by the Bidder's Legal Representative, indicating the

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participation percentage corresponding to each of its shareholders or partners, according to Appendix 4 of Exhibit No. 5. For Consortia, such information will also be required for each of their members, according to Appendix 5 of Exhibit No. 5.

- e. A simple copy of the receipt of payment of the Participation Fee issued in the name of the Stakeholder or of each one of the members of the Consortium. Alternatively, a Sworn Statement shall be submitted, if applicable, explaining the form of acquisition of the Participation Fee, either through a Company linked to the Stakeholder, or to one of its shareholders or partners, or through an assignment of rights, in which case, in addition, a communication stating the transfer in its favor must be attached. Upon payment of this fee, the Stakeholder shall submit Appendix 13 of Exhibit No. 5.
- f. Legalized copy of the minutes where the power of attorney of the legal representative is stated or original or legalized copy of the public deed certifying such powers of attorney. In the case of a Consortium, a legalized copy of the minutes must be submitted, showing the powers of attorney of the legal representatives of the Consortium and those of each of its members, or the original or legalized copy of the public deed certifying such powers of attorney.

If the power of attorney is registered in the Public Registry Office, the corresponding power of attorney may be submitted, with a date of issue not exceeding 30 calendar days from the date of its submission to PROINVERSIÓN.

In both cases, a Sworn Statement must be attached declaring that the above mentioned powers of attorney are in force according to Appendix 1 of Exhibit No. 8, which must have the legalized signatures of the Legal Representative.

- g. Sworn Statement of not being disqualified to contract, according to Appendix 6 of Exhibit No. 5.
- h. Sworn Statement expressing that the Bidder waives to raise or exercise any privilege or diplomatic or other immunity, or claim through diplomatic channels and any claim that may be raised by or against the State, or any of its offices, including PROINVERSIÓN, its consultants or advisors, under Peruvian law, or under any other legislation, with respect to its obligations derived from these Tender Documents, the Economic Offer or the Technical Proposal.

Such Sworn Statement shall be submitted pursuant to Appendix 7 or 8 of Exhibit No. 5 in accordance with the following:

- i) Appendix 7 of Exhibit No. 5 for that Bidder with no shares listed on the stock exchange. For a Consortium, only those members of the Consortium that do not have listed their shares on the stock exchange shall provide it.
- ii) Appendix 8 of Exhibit No. 5 for the Bidder with its shares listed on the stock exchange. For a Consortium, only those members of the Consortium that have

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listed their shares on the stock exchange shall provide it.

For a Consortium made up of listed and non-listed companies, both forms must be submitted, as established above.

- i. Sworn Statement, in accordance with Appendix 9 of Exhibit No. 5, duly signed by the Bidder's Legal Representative, whereby it is stated that the Bidder's advisors have not failed to comply with the provisions of Points 33.2 and 33.3 of Article 33 of the Regulations approved by Supreme Decree No. 240-2018-EF and its amendments.
- j. Sworn statement whereby the Bidder declares not to have direct or indirect participation in any other Bidder, according to Appendix 10 or 11 of Exhibit No. 5, in accordance with the following:
  - i) Appendix 10 of Exhibit No. 5, to be submitted by a Bidder with no shares listed on the stock exchange. If a Consortium, only those members of the Consortium without their shares being listed on the stock exchange may present it.
  - ii) Appendix 11 of Exhibit No. 5, to be submitted by the Bidder with its shares listed on the stock exchange. If a Consortium, only those members of the Consortium with their shares listed on the stock exchange shall present it.

If a consortium is made up of listed and unlisted companies, both forms must be submitted, as established above.

- k. In case of a Consortium, the Sworn Statement in accordance with Appendix 12 of Exhibit No. 5, including the commitment to incorporate a legal entity in Peru for purposes of the execution of the Concession Contract. The legal entity to be incorporated may adopt any of the corporate modalities regulated by the General Corporate Law.

The Strategic Partner must have the minimum participation in the legal entity that is constituted for the purpose of signing the Concession Contract without detriment to this.

- l. Sworn Statement in accordance with Appendix 14 of Exhibit No. 5, stating that neither the Bidder, nor its shareholders, partners or Related Companies, nor any of their respective directors, officers, employees, nor any of their advisors, representatives or agents, have paid, offered, or attempted to pay or offer, nor will they attempt to pay or offer in the future any illegal payment or commission to any authority, institution or individual holding a public position related to the concession award of the tender.
- m. Sworn Statement in accordance with Appendix 15 of Exhibit No. 5 whereby the Bidder, in case of being awarded the contract and having presented the documentation of Envelope No. 1 by the virtual reception desk, agrees to physically present the documents comprising Envelope No. 1, in the term and form established in the concession award notice.

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#### 17.2.4 Financial Requirements

- a. The Bidder shall demonstrate a minimum net worth of S/ 90'000,000.00 (Ninety million and 00/100 Soles), corresponding to the closing of the last annual period immediately prior to the date on which Envelope No. 1 is submitted.
- b. This requirement shall be supported by:
  - i) Directly by the Bidder, in the case of a legal entity; or
  - ii) Adding the net amount of each of the members, in case the Bidder is a Consortium; or
  - iii) Through a Related Company, the Bidder or any of its members in case of a Consortium. In no case may the same net amount be supported more than once.
- c. The accreditation required in the preceding points shall be presented according to the Form in Exhibit No. 6.
- d. Additionally, the Bidder must submit a simple copy of the audited financial statements of the last two (2) years available, or any similar public documents, or by submitting a document issued by an external auditing company duly registered in the registry of classified companies for the appointment and contracting of the General Comptroller of the Republic, whereby the review of the financial statements of the Bidder, or of its members in case of a Consortium, or of the respective Related Companies of the Bidder or member, is declared and the amount of the assets and liabilities stated in the Form of Exhibit No. 6 is ratified.

With respect to foreign audit firms, they shall be entitled to perform such function in accordance with the legislation of the Bidder's (or its Related Company's) country of origin, if the equity is evidenced by any of these.

- e. Be understood as a document analogous to the Income Tax Sworn Statement submitted to the National Superintendence of Customs and Tax Administration (SUNAT). In case the Bidder, the member of the Consortium, or its Related Company, performs its operations abroad, similar documents issued in the countries of origin will be required.
- f. The financial information referred to in this Point may be presented in Spanish or English, but no translation is required for the latter. In case the financial information is presented in a language other than these, it must be accompanied by an unofficial translation into Spanish.

### **18 Simplified Prequalification Procedure (Submission of Envelope No. 1)**

- 18.1 This is the mechanism through which the Bidders that have pre-qualified in any process carried out by PROINVERSIÓN in the last two (2) years counted from the date of presentation of

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Envelope No. 1 for such process, may request, prior to the presentation of Envelope No. 1, a "Good Standing Certificate of Prequalification Documents", to verify their credentials in the Contest, as long as it is applicable.

- 18.2 The Stakeholder wishing to make use of the simplified prequalification procedure must submit an application to the Project Manager, indicating the name of the process in which it participated, as well as any documentation submitted for the purposes of prequalification or submission of credentials. The application must be submitted up to twenty (20) days before the deadline for the submission of Envelope No. 1, through the virtual or physical reception desk, as appropriate.
- 18.3 The Project Manager, or the Evaluation Committee of Envelope No. 1, will verify the applicability of the documents to the prequalification process of the Tender.
- 18.4 If the applicability referred to in the preceding paragraph is verified, the Project Manager will issue the Good Standing Certificate for Pre-qualification Documents to the Stakeholder within a period of no more than ten (10) days after the application is submitted.
- 18.5 For the purpose of complying with the submission of Envelope No. 1, the Stakeholder that requested the simplified procedure shall submit only the following documentation:
- a. The Good Standing Certificate for Pre-qualification Documents.
  - b. Sworn Statement stating that the documentation referred to in the Good Standing Certificate for Pre-qualification Documents remains in force, according to the model contained in Exhibit No. 4.
  - c. The new or additional documentation required for the purposes of Prequalification indicated in Points 17.2.1, 17.2.2, 17.2.3 and 17.2.4.

## **19 Submission and Evaluation of Envelope No. 1 and Prequalification**

### **19.1 Submission**

- 19.1.1 The Stakeholders shall submit their Envelope No. 1 on the date(s) indicated in the Schedule.
- 19.1.2 The submission of Envelope No. 1 shall be made in accordance with the provisions of Point 12.
- 19.1.3 The Project Manager will communicate by e-mail to the Bidder the date and time at which the act of opening Envelope No. 1 will be carried out, physically or remotely. In case the act has been arranged to be carried out remotely, the Project Manager may use the digital means it considers appropriate. After the opening of Envelope No. 1, the Project Manager shall issue a report of the receipt of the documents contained in Envelope No. 1 and the number of pages. The opening ceremony of the documents that make up Envelope No. 1 will be recorded.
- 19.1.4 Should any of the documents requested in Envelope No. 1 be missing, it shall be understood as not having been submitted and may be submitted again following the same procedure

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established in Points 19.1.1 to 19.1.3, stating this in the minutes referred to in the preceding paragraph.

- 19.1.5 After the act of opening Envelope No. 1, no information regarding the prequalification work will be provided to the Bidder until the Project Manager's decision has been informed to the Bidder.

## 19.2 Evaluation

- 19.2.1 If a correctable defect or error is found, the Project Manager will request the Bidder to correct it in writing or, where applicable, at the proposal of the Evaluation Committee of Envelope No. 1, and the Bidder will be granted a period of time to do so, according to the Schedule, under the condition of being excluded from the prequalification.

The corresponding responses will be made in writing, in accordance with the provisions of the previous paragraph and must be submitted by a physical or virtual reception desk, as established in point 12.

- 19.2.2 Furthermore, in order to simplify the examination, verification and comparison of data and requirements, the Project Manager directly or, if applicable, at the proposal of the Evaluation Committee of Envelope No. 1, may request any Bidder to explain the information contained in Envelope No. 1, not involving any modification of its content. The request for clarification and the corresponding answer will be made in writing and must be submitted via a physical or virtual reception desk, as established in Point 12.

## 19.3 Pre-qualification

- 19.3.1 The Project Manager will directly make a decision within the maximum period indicated in the Schedule, or, if applicable, at the proposal of the Evaluation Committee of Envelope No. 1, determining the Pre-Qualified Bidders to participate in the following stages of the Tender, which will be communicated to each Bidder in writing.

- 19.3.2 Any Pre-Qualified Bidder may form a Consortium until the date set forth in the Schedule. Likewise, during this period, the Pre-Qualified Bidders as a Consortium may make changes in its composition. In any case, they may join other Pre-Qualified Bidders or third parties. The new Consortium must comply with the prequalification requirements within the term established in the Schedule by submitting the documents required by these Tender Documents. The changes must be proposed to the Project Manager within the indicated period of time, who will directly make a statement on the origin of the modification, or if applicable, at the proposal of the Evaluation Committee of Envelope No. 1. The result of this evaluation shall be communicated within the period of time established in the Schedule.

- 19.3.3 If any member of a Pre-Qualified Bidder as a Consortium decides not to participate in the Consortium, the Pre-Qualified Bidder must notify the Project Manager within the deadline for communicating the formation of the Consortium or changes in its composition established in

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the Schedule.

Only in the event that the members that remain in the Pre-Qualified Bidder do not comply with the prequalification requirements, the Pre-Qualified Bidder must present another legal entity for the corresponding evaluation within the term established in the Schedule to become a Consortium. The Project Manager will directly make the decision or, if applicable, at the proposal of the Evaluation Committee of Envelope No. 1, within a maximum period of ten (10) days.

If the Pre-Qualified Bidder does not present the new member, the prequalification will be void for the Tender and the Project Manager will inform the Bidder.

- 19.3.4 The Project Manager's decision regarding the prequalification will be final and cannot be challenged.

## **20 Contents of Envelope No. 2**

Envelope No. 2, with the Technical Proposal, must contain the following:

### **20.1 Sworn Statement of Information Validity**

In accordance with the model shown in Exhibit No. 16, a sworn statement declaring under oath that the information, statements, certification and, in general, all documents submitted by the Pre-Qualified Bidder remain in effect as of the opening date of Envelope No. 2, and will remain so until the Closing Date.

### **20.2 Acceptance of the Tender Documents and the final draft Concession Contract**

The Pre-Qualified Bidder must submit a Sworn Statement wherein it declares that it knows and accepts each and every one of the terms, conditions and obligations contained in the Tender Documents and in the final draft Concession Contract, and undertakes that, in the event that it is declared the Successful bidder, the Concession Contract will be signed by the Legal Representative of the Concessionaire, so it must submit a Sworn Statement that must have legalized signatures, according to the model included as Exhibit No. 9 or No. 10, as appropriate.

### **20.3 Guarantee of Validity, Effectiveness and Seriousness of the Offer**

The Guarantee of Validity, Effectiveness and Seriousness of the Offer must be in effect for a period of not less than one hundred and twenty (120) Calendar Days counted from the date of submission of Envelopes No. 2 and No. 3. The Project Manager may provide for the mandatory extension of the Guarantee of Validity, Effectiveness and Seriousness of the Offer, and the Qualified Bidder shall renew it within the terms provided for such purpose.

The Guarantee of Validity, Effectiveness and Seriousness of the Offer submitted by a Pre-Qualified Bidder, or by the members of the Pre-Qualified Bidder, who is not the Successful bidder, will be returned within fifteen (15) days after the Closing Date.

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**20.4 Technical proposal**

The Pre-Qualified Bidders shall submit their Technical Proposal through a Sworn Statement, according to the model indicated in Exhibit No. 11, which describes the proposed technical solution and states that it:

- a) Complies with the Minimum Project Requirements.
- b) Complies with the levels of service.
- c) Shall not require larger areas of land than those provided by the Grantor, or, in the absence thereof, such additional areas shall be acquired at its own account, cost and risk; in which case, the maximum term established for the execution of the investments shall not be affected.

On the assumption that the Bidder considers that its technical solution requires additional land to that provided by the Grantor for the development of the Project, it must attach plans that identify the terrain polygons determined by means of UTM WGS84 coordinates, also indicating their boundaries and perimeter measurements. At the same time, in case of being the Concessionaire, it shall have the same term as the Grantor to acquire and totally clean up such land in the name of the Grantor, not being reversible in any case to the Concessionaire.

The Committee will consider the Envelope No. 2 as not submitted, and the referenced Bidder will be automatically disqualified from the Tender, if any of the documents detailed above are omitted, and PROINVERSIÓN must enforce the Guarantee of Validity, Effectiveness and Seriousness of the Offer. Only the remediation of correctable defects or errors will proceed.

The Technical Proposal will be an integral part of the Contract with a binding effect for the aspects referred to (i) material of the pipelines of the (primary and secondary) collectors; (ii) waste water, residues, mud and gas treatment processes; and (iii) placement for the implementation of the treatment systems.

**21 Contents of Envelope No. 3**

- 21.1 The Economic Offer, printed on security paper (which will be timely sent by PROINVERSIÓN to each Pre-Qualified Bidder), will be submitted in writing, in accordance with Appendix No. 1 of Exhibit No. 15, as applicable. The security paper delivered by PROINVERSIÓN shall be to indicate the amount corresponding to the PPD offered by each Pre-Qualified Bidder.
- 21.2 The Economic Offer must be in force for at least one hundred and twenty (120) Calendar Days after the date of presentation of Envelope No. 2 and 3 and the Economic Offers with a lesser validity than the one required will not be accepted.
- 21.3 The Project Manager may require the mandatory extension of the validity of the Economic Offers.
- 21.4 The Economic Offer shall be an integral part of the Concession Contract, with a binding effect.

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- 21.5 For this Tender, Envelope No. 3 contains an irrevocable Economic Offer, submitting the Pre-Qualified Bidder, to the conditions set forth in the Tender Documents; as well as to all the terms and conditions of the Final Draft Concession Contract.

## **22 Reception of Envelopes No. 2 and 3**

- 22.1 Envelopes No. 2 and No. 3 of the Pre-Qualified Bidders will be presented in a public act, before the Committee in the presence of a Notary, at the place, day and hour established in the Schedule. Notwithstanding the above, the Committee may grant thirty (30) minutes of tolerance for their presentation.
- 22.2 Upon completion of the aforementioned period, the Committee will invite one by one the Pre-Qualified Bidders to present their Envelopes No. 2 and No. 3.
- 22.3 Envelopes No. 2 and No. 3 will be delivered by each Pre-Qualified Bidder to the Notary, who will verify that the envelopes are closed and that the copies required in the Tender Documents, have been delivered.
- 22.4 Then the Notary will open Envelopes No. 2 of each Pre-Qualified Bidder. Envelope No. 3, unopened, will remain in the custody of the Notary until the date of its opening, which is foreseen in the Schedule.
- 22.5 Once Envelope No. 2 is opened, the Notary will sign and seal all the pages of the documents contained in the original of the Technical Proposal, and will deliver them to the Committee, or to the Evaluation Committee of Envelope No. 2, for its subsequent evaluation.
- 22.6 The act will end upon the reading of the minutes that the Notary will draw up, wherein the receipt of Envelopes No. 2 and No. 3 is recorded, as well as the opening of Envelopes No. 2 and the custody of Envelopes No. 3, which will be signed by the Notary, the Evaluation Committee or Commission of Envelope No. 2, and the Pre-Qualified Bidders that so wish.
- 22.7 The public act of reception of Envelopes No. 2 and No. 3 may be transmitted live via the institutional means of PROINVERSIÓN.
- 22.8 For reasons of public health and safety, the seat capacity limitations for this public event will be communicated in advance, and publicity for the event will be ensured through digital transmission, as indicated in the preceding paragraph.

## **23 Opening and Evaluation of Envelope No. 2**

- 23.1 The documents in Envelope No. 2 will be analyzed by the Committee, or by the Evaluation Committee of Envelope No. 2, in order to verify that the Pre-Qualified Bidder complies with the provisions of point 20.
- 23.2 If the Evaluation Committee or Commission of Envelope No. 2 determines that there is a

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correctable defect or error or requires any clarification regarding any of the documents, a circular letter will be sent to the Pre-Qualified Bidder so that its rectification can be made within the period of time granted.

- 23.3 The failure to present any of the documents that must be contained in Envelope No. 2 will not be considered correctable under any circumstances. Similarly, any document in Envelope No. 2 that is presented conditionally will be considered invalid.
- 23.4 The results of the evaluation of the Technical Proposals will be recorded in an evaluation record that will be signed by the Evaluation Committee of Envelope No. 2 and submitted to the Committee so that the Technical Proposals may be declared valid or not, according to the Schedule.
- 23.5 The decision of the Committee on the results of the qualification of the Technical Proposals is final and no claim or challenge will be made by the Pre-Qualified Bidders.
- 23.6 Only the Pre-Qualified Bidders which Technical Proposals have been declared valid by the Committee will be considered as Qualified Bidders and will proceed to the next stage of the Tender, with the opening of Envelope No. 3.
- 23.7 Those Pre-Qualified Bidders which Technical Proposals have not been declared valid by the Committee will be automatically disqualified from the Tender and their Economic Offer will be considered invalid, and the Guarantee of Validity, Effectiveness and Seriousness of the Offer will be executed.

## **24 Opening of Envelope No. 3 and Concession Award**

### **24.1 Opening of Envelope No. 3**

- 24.1.1 The Committee will begin the public act of opening Envelope No. 3 and the Concession Award before a Notary Public, at the place, date and time indicated by Circular Letter, informing the attendees of the results of the evaluation of Envelopes No. 2, reading the list of the Qualified Bidders.
- 24.1.2 The Notary shall open Envelopes No. 3 (kept in custody) after verification of their status by the Legal Representatives of the Qualified Bidders who wish to do so.
- 24.1.3 In the case of Pre-Qualified Bidders whose Envelopes No. 2 have not been declared valid, the Committee will return their Envelopes No. 3, without opening them.
- 24.1.4 The Notary will then open Envelopes No. 3 of the Qualified Bidders, and the Committee will then read their contents. The Notary Public and the Committee will then review the content of each of the Envelopes No. 3, verifying that it complies with the provisions of the Tender Documents.

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- 24.1.5 If any of the Economic Offers contained in Envelope No. 3 does not comply with the requirements established by the Tender Documents, such Economic Offer will not be considered by the Committee as a valid Economic Offer, and this fact will be recorded in the corresponding minutes, and the Qualified Bidder will be automatically disqualified, without prejudice to the execution of the Guarantee of Validity, Effectiveness and Seriousness of the Offer.
- 24.1.6 The Economic Offer presented under conditions will be considered invalid. Those Economic Offers declared as such by the Committee shall be considered valid.
- 24.1.7 The Committee shall then communicate those Economic Offers that are valid.

## **24.2 Evaluation of Envelope No. 3**

- 24.2.1 The criterion used to select the successful bidder is the lowest value of the Maximum PPD offered of the Competition Factor, in accordance with the provisions of Exhibit No. 21.
- 24.2.2 The Committee will evaluate the Economic Offers of the Qualified Bidders according to the following guidelines and criteria:
- a. The order of priority of the valid Economic Offers shall be prepared, being the first one the winner, which shall be immediately communicated by the Committee, or whoever it designates.
  - b. In case of a tie in the first place, a maximum period of one (1) hour will be granted for the Qualified Bidders that tied, to submit a new Economic Offer, in accordance with Appendix 2 of Exhibit No. 15, which must be better than the one initially submitted, otherwise it will be considered an invalid proposal. In case of a new tie, the same procedure will be applied again under the same conditions.
  - c. If the tie persists, the decision shall be made by a drawing conducted by the Notary Public within the same act, using for this purpose a draw box with balls numbered from 1 to 10. The winner of the drawing, and the person who will be awarded the concession, shall be the Qualified Bidder that draws the ball of the highest number.
  - d. In case the Pre-Qualified Bidder or Bidders do not submit a new Economic Offer, or this one is not valid, the previously submitted Economic Offer will be considered as valid.

## **25 Concession Award**

- 25.1 The Committee will award the concession to the Qualified Bidder that has submitted the best Economic Offer in accordance with the criteria established in Point 24.2.1 and then a document will be signed by the Committee, the Notary, the Successful bidder and the other Qualified Bidders that wish to do so.

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- 25.2 The public act of awarding the concession may be broadcasted live through Institutional means of PROINVERSIÓN.
- 25.3 The limited number of people that may attend this public event shall respond to reasons of public health and safety and shall be communicated in advance, ensuring the publicity of the event through digital transmission, as indicated in the preceding paragraph.

## **26 Procedure to Challenge the Award**

### **26.1 Procedure**

- 26.1.1 Any Qualified Bidder that has submitted a valid Economic Offer may file a reconsideration request before the Committee only against the results of the Concession Award. Such challenge must be mandatorily recorded as an observation in the minutes of the opening of Envelope No. 3 and the Concession Award and shall be duly supported, in writing, within a maximum term of eight (8) days following the Concession Award. The Committee shall decide on this reconsideration request within a maximum period of ten (10) days, counted from the day following the presentation of the written support of the challenge.
- 26.1.2 If the Committee resolves to reconsider, the involved Qualified Bidder may file an appeal with the Committee within three (3) days from the date of receipt of the agreement. The Committee will submit the appeal to the Steering Council of PROINVERSIÓN, within three (3) days after receiving it.
- 26.1.3 The appeal may also be lodged against the alleged agreement to reject the challenge in the event that, upon expiry of the ten (10) day period for the Committee to resolve the reconsideration submitted, such agreement has not been issued. In the latter case, the term to file the appeal shall be computed as of the day following the expiration of the aforementioned ten (10) day term.
- 26.1.4 The appeal filed against the Committee's express or implied agreement shall be resolved by the PROINVERSIÓN Steering Council within thirty (30) days from its filing. The second and last resort agreement will be final and unappealable.
- 26.1.5 Any expenses that may arise from the process of contesting the concession award will be borne by the challenged Qualified Bidder.

### **26.2 Challenge guarantee**

- 26.2.1 No challenge shall be considered validly filed and shall be without effect unless, within three (3) days following the date of the Concession Award, the challenged Qualified Bidder delivers to the Project Manager a joint and several, irrevocable, unconditional, non-exclusive, non-divisive, and automatically enforceable letter of guarantee in accordance with the model in Exhibit No. 12, in favor of PROINVERSIÓN. The validity of the challenge guarantee referred to

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in this Point will be from the day that guarantee is presented until sixty (60) days after said date.

26.2.2 Said challenge guarantee will be implemented by PROINVERSIÓN, if applicable:

- a) The reconsideration request filed by the Qualified Bidder is declared unfounded or inadmissible and said agreement of the Committee, whether it is express or implied, is not appealed by the challenger, and the Concession Award granted by the Committee is consented to and consequently signed; or
- b) The Steering Council confirms the agreement, express or implied, of the Committee; or
- c) The Qualified Bidder decides not to reconsider or appeal.

26.2.3 If the challenge or appeal is declared founded, the challenge guarantee shall be returned to the Challenging Qualified Bidder, without generating interest in its favor.

## **27 Void Tender**

The Committee will declare the Tender void in any of the following cases:

- a. If in the event of delivery and reception of Envelopes No.2 and No.3 there are no Pre-Qualified Bidders; or
- b. If at least two (2) Technical Proposals have not been declared valid; or
- c. If at least two (2) valid Economic Offers have not been received.

In the referred cases, PROINVERSIÓN may call for a new Tender on a new date.

## **28 Closing Date**

The Successful bidder of the concession will be responsible for all costs and expenses, including notary, registration, taxes, duties, fees and liens, among others, derived from the signing of the Concession Contract.

The Closing Date will be carried out in the place indicated in the corresponding Circular Letter, according to the Schedule, before the Executive Director and the Committee or its representative(s), in the presence of a Notary Public, and the Successful bidder must have the following documentation:

- a. Sworn Statement evidencing that, as of the Closing Date, all information provided in Envelopes No. 1, No. 2 and No. 3 remains current and accurate, in accordance with Exhibit No. 16.
- b. The documentation supporting the registration of the Statute of the legal entity that will sign the Concession Contract in the corresponding Registry Office, which shall have been constituted in Peru, with the same shareholders, or Members in case of a Consortium,

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and respecting the Minimum Participation of the Strategic Partner, referred to in the Tender Documents. The minimum subscribed share capital, the way it is integrated and the opportunity will be carried out according to the terms and conditions set forth in the Concession Contract.

- c. In the event that the successful bidder is a single legal entity, for the purpose of maintaining the plurality of partners, it may assign a maximum of one share or participation to a third party.
- d. Legalized copy of the entries in the share registry book or equivalent document, where the conformation, at the Closing Date, of the shareholding or the participation of the Concessionaire is stated.
- e. Registration in the corresponding Registry Office of the powers of the Legal Representative of the legal entity that will sign the Concession Contract.
- f. Guarantee of Performance of the Concession Contract, in accordance with the model considered in the Contract and if applicable, taking into account the provisions of Point 32 of these Tender Documents.
- g. Documentary evidence of having made the payments for reimbursement of process expenses, in accordance with the provisions of the corresponding Circulars Letters.
- h. Economic and financial model of the Project in accordance with Exhibit No. 18.
- i. Having complied with the physical presentation of the documents that make up Envelope No. 1 in the term and form established in the concession award certificate.
- j. Likewise, any statements and findings must be made, as well as all documents related to the Closing Date established in the Concession Contract must be delivered.

The award of the concession will be revoked if it is determined that the information provided is false or if any of the sworn statements presented in the Tender are false or if the Successful bidder fails to present any of the documents established for the closing date within the established period, and therefore the guarantee of validity, effectiveness and seriousness of the offer will be executed.

- 28.1 In such case, the Committee may accept the proposal of the Qualified Bidder that submitted the second best Economic Offer in accordance with the order of priority.
- 28.2 In the event that the Committee chooses to accept the second best Economic Offer, it will notify its decision to the Qualified Bidder, holder of such proposal, to declare it the new Successful bidder and, if applicable, request it to extend the term of its Guarantee of Validity, Effectiveness and Seriousness of the Offer together with its Economic Offer for the term notified by it. Otherwise, the Committee shall arrange for the execution of such guarantee

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and shall then proceed to cancel the Tender.

- 28.3 The option chosen by the Committee shall be communicated to the Qualified Bidders by Circular Letters.

### **29 Execution of the Guarantee of Validity, Effectiveness and Seriousness of the Offer**

- 29.1 This Guarantee of Validity, Effectiveness and Seriousness of the Offer will be executed, not requiring prior notice, of the Pre-Qualified Bidder, Qualified Bidder, or even of the Successful bidder, in case the Bidder is subject to the cases established in Article 29 of Legislative Decree No. 1362 or provides or declares false information in the Tender.
- 29.2 Likewise, the execution of the Guarantee of Validity, Effectiveness and Seriousness of the Offer will proceed, not requiring prior notice, of that Pre-Qualified Bidder that had not submitted a valid Technical Proposal or of that Qualified Bidder that had not submitted a valid Economic Offer.
- 29.3 Likewise, the Guarantee of Validity, Effectiveness and Seriousness of the Offer of the Successful bidder will be executed, not requiring advance notice, prior revocation of the Concession Award in case the Successful bidder does not comply with its obligations by the Closing Date

### **30 Suspension and Cancellation of the Tender**

- 30.1 The Committee may suspend or cancel the Tender at any time without incurring any liability or obligation to pay compensation. This decision is not subject to appeal.

### **31 Early Termination of the Concession Contract derived from this Tender**

If the Concession Contract is terminated early, during the first year from the Closing Date, or before the Financial Closing, whichever occurs first, the Grantor may grant the concession to the Bidder that obtained the second best valid Economic Offer, or subsequent valid Economic Offers, according to the selection criteria

The Grantor will send a communication to the corresponding Qualified Bidder so that in a maximum period of thirty (30) Business Days after receiving the communication, it declares its agreement or rejection. If the Bidder agrees, it shall attach the Guarantee of Validity, Effectiveness and Seriousness of the Offer set forth in Exhibit No. 7, which will be in effect until the new Closing Date.

### **32 Mechanisms for mitigating reckless bids**

Those bids that are within the following cases will be considered reckless:

1. When only two (2) Qualified Bidders are submitted, and the withdrawn bid ( $BO_{PPDi}$ ) for the Qualified Bidder's PPD is greater than or equal to 15%.

$$BO_{PPDi} \geq 15\%$$

The successful Qualified Bidder, in case its bid is considered reckless, shall submit a Guarantee of Performance of the Design and Construction Period amounting to twice the amount established in clause 9.3 of the Concession Contract.

2. When three (3) or more Qualified Bidders are submitted, and the withdrawn bid ( $BO_{PPDi}$ ) for the Qualified Bidder's PPD is greater than or equal to the average of the withdrawn bids by all the Qualified Bidders ( $\bar{x}$ ) plus 15%.

$$BO_{PPDi} \geq \bar{x} + 15\%$$

Wherein:

$\bar{x}$  : For the purposes of Item 2, it is the average of the withdrawn bids by all Qualified Bidders, calculated according to the following formula:

$$\bar{x} = \frac{\sum_{i=1}^n BO_{PPDi}}{n}$$

For the purposes of Points 1 and 2, the withdrawn bids of the Qualified Bidder (i) from the PPD ( $BO_{PPDi}$ ) will be calculated according to the following formula:

$$BO_{PPDi} = \left(1 - \frac{PPD_{ofi}}{PPD_{m\acute{a}x}}\right) \times 100\%$$

Wherein:

$BO_{PPDi}$  : This is the withdrawn bids regarding the available payment of the Qualified Bidder "i",

$PPD_{ofi}$  : This is the Available Payment offered by the Qualified Bidder "i".

$PPD_{m\acute{a}x}$  : This is the maximum available payment established in the Tender Documents.

The successful Qualified Bidder, in case its bid is considered reckless, shall submit a Guarantee of Performance for the Design and Construction Period amounting of twice the amount established in clause 9.3 of the Concession Contract.

In the event the Successful bidder does not submit the Guarantee of Performance of the Design and Construction Period, according to the terms regulated in this Point, the Guarantee of Validity, Effectiveness and Seriousness of the Offer shall be executed. In this case, the Offer will be considered rejected and a new calculation of the recklessness will be carried out with the remaining qualified bidders, performing the same process described above.

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In the event that there were only two qualified bidders, and the Successful bidder does not submit the Guarantee of Performance of the Design and Construction Period, the bid will be awarded to the other qualified bidder, which must comply with the applicable requirements if its bid is qualified as reckless.

**Exhibit No. 1 – Information Notice**
**SWORN STATEMENT**
**Stakeholder:** .....

We hereby declare under oath that:

We hereby expressly accept any notification or communication (through the Circular Letters) made within the framework of the private investment promotion process regulated by these Tender Documents, in accordance with Point 20.4 of Article 20 of the Unique Ordered Text of Law No. 27444, Law on General Administrative Procedure, approved by Supreme Decree No. 004-2019-JUS, to be notified through the following e-mails:

No.	Email account	Account holder	Relationship between the holder and the Stakeholder
1			
2			

During the private investment promotion process of the project "Improvement of the Sewerage and Wastewater Treatment System in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, and Department of Madre de Dios", we commit to keep both e-mail accounts active and acknowledge receipt of emails related to the Tender, otherwise PROINVERSIÓN will not be held responsible.

Likewise, the following is declared as the common domicile in the city of Lima

 .....  
 .....  
 .....  
 .....

Place and date: ....., 202...

Name, representative and signature of the company or companies that will make up the Consortium, as appropriate.

 Name .....  
 Legal Representative of the Stakeholder

 Signature .....  
 Legal Representative of the Stakeholder

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**Exhibit No. 2 - Financial Entities Authorized to Issue the Guarantees provided for in the Tender Documents****Appendix 1: Authorized Local Banking companies****BANKING COMPANIES**

The national banks authorized to issue letters of guarantee will be those that have the minimum qualification of CP-1, category 1, CLA-1 or EQL-1 for short term obligations; category A for financial strength; and, category AA for long term obligations.

These ratings must be in effect at the time of submitting the letters of guarantee and shall be granted by at least two recognized and accredited credit rating agencies in Peru.

**INSURANCE COMPANIES**

National insurance companies authorized to issue letters of guarantee will be those that are authorized by the Superintendency of Banking, Insurance and Private Pension Fund Administrators, and that have a minimum credit rating of A for financial strength at the time the letters of guarantee are issued.

These ratings must be granted by at least two (2) recognized and accredited credit risk rating agencies in Peru.

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**Exhibit 2 - Financial Entities Authorized to Issue the Guarantees provided for in the Tender Documents****Appendix 2: List of Authorized International Financial Institutions****International First Class Banks:**

The international first class banks included in the list approved by the Central Reserve Bank by means of Circular Letter No. 023-2020-BCRP, or the rule that modifies or replaces it, will be taken into account. Likewise, the branches or affiliates of the above-mentioned international banks will be allowed to be taken into account.

**International Financial Institutions:**

- Any international financial entity, with investment grade category, assessed by an internationally recognized entity, empowered for granting international credit ratings.
- Any multilateral credit institution where the Republic of Peru is a member.

It should be noted that stand-by letters of credit from international first class banks and international financial institutions must be validated by one of the national banking companies listed in this exhibit.

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**Exhibit No. 3 - List of individuals or legal entities from the private sector that provide consulting or advisory services to PROINVERSIÓN, regarding the private investment promotion process of the Project**

1. Eng. Francisco Velásquez Llatas.
2. Eng. Elar Farfán Ortiz de Orue.
3. Eco. Manuel Carrillo Barnuevo.
4. Soc. María del Rosario Pareja Flores.
5. Servicios Analíticos Generales SAC (SAG).
6. Inter-American Development Bank (IDB).
7. CDM Smith.
8. Castalia Strategic Advisors.
9. Hernández & Cía Abogados.
10. Eng. Hernán Quispe
11. Silvy Araoz Núñez del Prado

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**Exhibit No. 4 - Validity of the Documentation Referred to in the "Good Standing Certificate for Pre-qualification Documents/ Credentials"**

(Reference: Simplified Procedure)

**SWORN STATEMENT**

Bidder: .....

We hereby declare under oath that the documentation submitted during the Tender [.....] (*indicate the name of the process where the documentation was submitted in due time to pre-qualified or submitted credentials*) for the purpose of obtaining the Pre-qualification or for which we submitted our credentials, in our capacity as bidder, or as member of a Consortium, remains in force as of the date of subscription of this document, and no changes have been made to such documentation.

The documentation we refer to is as follows:

- 1.
- 2.
- 3.

Place and date: .....,.....202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 - Credentials for Pre-qualification**  
**Appendix 1 - For incorporated companies**

**SWORN STATEMENT**

**Bidder:** .....

We hereby declare under oath that..... (Name of Bidder) is a legal entity duly constituted under the laws of....., and which remains in force, in accordance with the applicable legal principles of the country of origin.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 - Credentials for Pre-qualification****Appendix 2 - For Consortia****SWORN STATEMENT****Bidder:** .....

We hereby declare under oath that:

..... (Name of each of the members of the Consortium) have joined together through a Consortium to participate in the Comprehensive Project Tender for the project "Improvement of the Sewerage and Wastewater Treatment System in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios.

..... (Name of each of the members of the Consortium) are companies incorporated under the laws of....., respectively, and continue to exist e.

..... (name of each of the members of the Consortium) are jointly and severally liable to the Republic of Peru, PROINVERSIÓN with respect to each and every one of the obligations assumed and sworn statements submitted by the Bidder regarding the Project's Comprehensive Project Tender.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal RepresentativeSignature .....  
Bidder's Legal Representative

Company .....

Name .....  
Legal Representative (Member 1)Signature .....  
Legal Representative (Member 1)

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Company .....

Name .....  
Legal Representative (Member 2)

Signature .....  
Legal Representative (Member 2)

Company .....

Name .....  
Legal Representative (Member 3)

Company .....  
Legal Representative (Member 3)

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**Exhibit No. 5 - Credentials for Pre-qualification**  
**Appendix 3 - For branches**

**SWORN STATEMENT**

**Bidder:** .....

We hereby declare under oath that..... (Name of Bidder) is a branch of the legal entity duly constituted under the laws of....., and which remains in force, in accordance with the applicable legal principles of the country of origin.

Place and date: ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

**Exhibit No. 5 - Credentials for Pre-qualification**
**Appendix 4 - Share percentage for legal entities**
**SWORN STATEMENT**

**Bidder:** .....

We hereby declare under oath that the share percentage for each of our shareholders or partners is as follows:

Shareholders or partners	Share Percentage in the Bidder (only those over 5%)
1.	
2.	
3.	
4.	
5.	
6.	
...	
...	
<b>TOTAL</b>	

Place and date: .....,..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

**Exhibit No. 5 – Credentials for Pre-qualification**  
**Appendix 5 –Share Percentage for Consortia**

**SWORN STATEMENT**

**Bidder:** .....

We hereby declare under oath that the percentage share of each of our Members, and our shareholders or partners, is as follows:

<b>Member</b>	<b>Share Percentage in the Bidder</b>
1.	
2.	
3.	
...	
<b>TOTAL</b>	

<b>Shareholders or partners</b>	<b>Share Percentage in Member 1 (only those over 5%)</b>
1.	
2.	
...	
<b>TOTAL</b>	

(\*)This table must be submitted for each Consortium member.

Place and date: .....,.....202...

Name .....  
 Bidder's Legal Representative

Signature .....  
 Bidder's Legal Representative

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 6 - Statement of not being disqualified to be a bidder and, therefore, to contract with the Peruvian State****SWORN STATEMENT**

Bidder: .....

We hereby declare under oath that, [..... (Name of Bidder)],  
[..... (Members of the Consortium)], are not subject to the provisions of Article 29 of  
Legislative Decree No. 1362, or any rule that may modify or replace it.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal RepresentativeSignature .....  
Bidder's Legal RepresentativeName .....  
Legal Representative [Member of the Consortium]Signature .....  
Legal Representative [Member of the Consortium]Name .....  
Legal Representative [Member of the Consortium]Signature .....  
Legal Representative [Member of the Consortium]Name .....  
Legal Representative [Member of the Consortium]Signature .....  
Legal Representative [Member of the Consortium]

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 7 - Waiver of privileges and claims applicable to non-listed corporations****SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that..... (name of Bidder), as well as its shareholders, partners or members and the shareholders and partners of the latter, if applicable, waive to the following:

1. To invoke or exercise any privilege or diplomatic immunity or of any other kind.
2. To file any claim through diplomatic channels and any right of compensation or other right in relation to any claim that may be initiated by or against the State or any of its agencies, including PROINVERSIÓN, its consultants or advisors, under Peruvian law or under any other legislation with respect to our obligations with respect to the Tender Documents, the Economic Offer, the Technical Proposal and the Concession Contract.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 8 - Waiver of privileges and claims (applicable to companies listed on stock exchanges)****SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that..... (name of Bidder), as well as its shareholders, partners or members, if applicable, waive to the following:

1. To invoke or exercise any privilege or diplomatic immunity or of any other kind.
2. To file any claim through diplomatic channels and any right of compensation or other right in relation to any claim that may be initiated by or against the State or any of its agencies, including PROINVERSIÓN, its consultants or advisors, under Peruvian law or under any other legislation with respect to our obligations with respect to the Tender Documents, the Economic Offer, the Technical Proposal and the Concession Contract.

This sworn statement excludes shareholders, partners or members of the Bidder that meet the following conditions:

- a) who qualify as Institutional Investors; or,
- b) have a participation in the Bidder that represents [indicate percentage] or less of the capital stock of the Bidder;

and, in any of the aforementioned cases (a) and (b), where they do not exercise the control of the administration of the Bidder or any of its members in case of Consortium according to the provisions set forth in the Regulation of Indirect Property, Linkage and Economic Groups, approved by Resolution SMV Nº 00019-2015-SMV/01 and the regulations that modify or replace them.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 9 – Declaration of not having incompatibility****SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that our advisors have not directly rendered any services in favor of PROINVERSIÓN during the development of this private investment promotion process, whether full time, part time or of an eventual type, in relation to the aforementioned process of promoting private investment, during the last year.

We also declare under oath that the individuals or legal entities that have prepared the research required by PROINVERSIÓN for the evaluation of the project, have not directly or indirectly provided us with consulting services related to the same project.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 10 - Independence among Bidders (applicable to corporations not listed on stock exchanges)****SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that..... (Name of Bidder), its shareholders, partners or Members, partners or shareholders of the latter, if any, have no direct or indirect participation in any other Bidder.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 - Credentials for Pre-qualification****Appendix 11 - Independence among Bidders (applicable to corporations listed on stock exchanges)****SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that..... (Name of the Bidder), its shareholders, partners or Members, if applicable, have no direct or indirect participation in any other Bidder where they exercise control of the administration or of any of its Members in case of a Consortium, according to the provisions set forth in the Regulation of Indirect Ownership, Linkage and Economic Groups, approved by Resolution SMV No. 0019-2015-SMV/01, and the regulations that modify or replace them.

This sworn statement excludes shareholders, partners or members of the Bidder that meet the following conditions:

- a) who qualify as Institutional Investors; or,
- b) have a participation in the Bidder that represents [indicate percentage] or less of the capital stock of the Bidder;

and, in any of the aforementioned cases (a) and (b), where they do not exercise the control of the administration of the Bidder or any of its members in case of Consortium according to the provisions set forth in the Regulation of Indirect Property, Linkage and Economic Groups, approved by Resolution SMV Nº 00019-2015-SMV/01 and the regulations that modify or replace them.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 5 – Credentials for Pre-qualification**  
**Appendix 12 – Commitment of Incorporation**

**SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that:

*(In case of Consortium)*

That, ..... (Name of each of the Members of the Consortium) have joined together through a Consortium to participate in this Comprehensive Project Tender.

That, ..... (those indicated in the previous section ) have signed a Commitment to incorporate a legal entity with domicile in the Republic of Peru and a capital stock according to the provisions set forth in the Concession Contract.

*(If you are an individual company)*

..... (indicate name or corporate name of the Bidder) commit ourselves to incorporate a legal entity with domicile in the Republic of Peru and a capital stock according to the provisions set forth in the Concession Contract.

*(Next paragraphs for both cases)*

The legal entity to be incorporated shall enter into the Concession Contract [.]

That, if we become the Successful bidder, we are committed to deliver the corresponding Public Deed of incorporation of the legal entity with the corresponding evidence of its registration in the Registry Office, on the Closing Date indicated in the Schedule of the tender.

In that sense, we know and accept that the breach of this commitment may be taken into account in order to leave without effect the granting of the award given in our favor.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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Signatures of the Members in case of being a consortium:

Company .....

Name .....  
Legal Representative (Member 1)

Signature .....  
Legal Representative (Member 1)

Company .....

Name .....  
Legal Representative (Member 2)

Signature .....  
Legal Representative (Member 2)

Company .....

Name .....  
Legal Representative (Member 3)

Signature .....  
Legal Representative (Member 3)

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 13 - Link with the person who paid the Participation Fee****SWORN STATEMENT**

We hereby declare under oath the following:

That \_\_\_\_\_ (Name of the person who submits Envelope No. 1 - Bidder), acquired the Participate Fee, through the \_\_\_\_\_ (Name of the person who paid such right - Stakeholder), which is \_\_\_\_\_ (as applicable, include: one of our shareholders or partners or members, or a Related Company to us or to one of our shareholders or partners or members, or who has transferred its Participation Fee, through assignment of rights).

Place and date: ....., ..... 202...

Company .....  
Stakeholder

Name .....  
Legal Representative of the Stakeholder

Signature .....  
Legal Representative of the Stakeholder

In the event of assignment of rights, this statement must also be signed by the transferor:

Assigning Entity.....

Name .....  
Assignor's Legal Representative

Signature .....  
Grantor's Legal Representative

***(\* Note: in case the legal entity that acquired the Participation fee is the same that submits Envelope No. 1, the submission of this Form will not be required.***

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**Exhibit No. 5 – Credentials for Pre-qualification****Appendix 14 - Declaration of not having paid or offered illegal payment or commission****SWORN STATEMENT**

Bidder: .....

We hereby declare under oath that, [..... (Name of Bidder)], [..... (The members of the Consortium)], neither we, nor our shareholders, partners or Related Companies, nor any of our respective directors, officers, employees, nor any of our advisors, representatives or agents, have paid, offered, or attempted to pay or offer, nor will they attempt to pay or offer in the future any illegal payment or commission to any authority, institution or individual holding a public position related to the Concession Award in the Tender.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal RepresentativeSignature .....  
Bidder's Legal RepresentativeName .....  
Legal Representative [Member of the Consortium]Signature .....  
Legal Representative [Member of the Consortium]Name .....  
Legal Representative [Member of the Consortium]Signature .....  
Legal Representative [Member of the Consortium]

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**Exhibit No. 5 –Credentials for Pre-qualification****Appendix 15 - Commitment to submit documents that make up Envelope No. 1****SWORN STATEMENT**

Bidder: .....

We hereby declare under oath that, in the event that we are required to submit Envelope No. 1 online, all material documents comprising it will be signed by us only, [indicate name of Legal Representative 1], identified with Identity Document No. [indicate document number] and/or, [indicate name of Legal Representative 2], identified with Identity Document No. [indicate document number], Legal Representative(s) of the Bidder.

Likewise, we declare under oath that the information contained in Envelope No. 1 submitted online for the Comprehensive Project Tender to grant in concession the project "Improvement of the sewerage and wastewater treatment system in the city of Puerto Maldonado, district of Tambopata, province of Tambopata, department of Madre de Dios" is true, reliable, and corresponds to the original documents or legalized copies that we hold and we assume the administrative and criminal responsibility in case of finding false or inaccurate documents submitted online.

Also, if we are awarded the referred tender, we will submit the original documents or legalized copies, as appropriate; that were scanned in order to prepare the Envelope No. 1, through the virtual reception desk, in the physical form and in the time and manner established in the Concession Award Notice by the Project Manager.

Finally, we declare under oath that acting as the Legal Representative(s) of the Bidder, we have sufficient powers to sign this sworn statement, for which purpose we will notarize our signature or obtain the corresponding Apostille.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal RepresentativeSignature .....  
Bidder's Legal Representative

**Exhibit No. 6 – Model of submission of Financial Requirements information**

(Reference: Point 17.2.4 of the Tender Documents)

**SWORN STATEMENT OF PRE-QUALIFICATION FINANCIAL REQUIREMENT**

Lima, ..... 202...

**Private Investment Promotion Agency – PROINVERSIÓN**

Bidder : .....

Ref. : Comprehensive Project Tender of the Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios

In accordance with the provisions set forth in Point 17.2.4 of the Tender Documents above referenced, we hereby comply to submit the cover letter with the financial information.

**A.1 Net Equity of the Bidder in case of a legal entity (See Notes 1, 2 and 3)**

<b>NET EQUITY</b> US\$ [   ] Equivalent to S/ [   ]
--

**A.2 Net Equity of the Bidder in case of Consortium (See Note 2)**

Member of the Bidder	Net Equity	Share Percentage
[Member 1]		
[Member 2]		
...		
[Member n]		
Net Equity:	US\$ [   ]	

**B. If applicable, conversion of amounts expressed in a currency other than the United States Dollar (See Note 3)**

Member of the Bidder	Amount (Original Currency)	Exchange Rate	Amount (US\$)
[Member 1]			
[Member 2]			
...			
[Member n]			

**C. Explanation of the relationship between the Bidder, Bidder's Member, Related Company or**

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**Related Company of any of the Bidder's Members**

<b>Related Company</b>	<b>Relationship between the Bidder or Bidder's Member</b>

Note 1: The amount entered by the Bidder to be credited through a Related Company must be the same as the total in Table B.

Note 2: Table B will be used for conversion in case of assets registered in currencies other than US\$.

Note 3: The exchange rate to be used will correspond to the accounting exchange rate published by the Superintendency of Banking, Insurance and Private Pension Fund Administrators at the closing date of the respective financial statements.

Sincerely,

Signature .....  
 Name .....  
 Bidder's Legal Representative  
 Entity .....  
 Bidder

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**Exhibit No. 7 – Model form of Guarantee of Validity, Effectiveness and Seriousness of the Offer**

(To be submitted as part of Envelope No. 2)

Lima, 202...

**PRIVATE INVESTMENT PROMOTION AGENCY – PROINVERSIÓN**

Reference: Project "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios

Dear Sirs:

We hereby constitute this joint and several, irrevocable, unconditional and automatically enforceable bond, without benefit of exemption or division, up to the amount of S/. 1'500,000.00 (One million five hundred thousand and 00/100 Soles), at the request of our clients, Sirs. \_\_\_\_\_ and in favor of PROINVERSIÓN, as a Guarantee of Validity, Effectiveness and Seriousness of the Offer submitted by our client or Consortium \_\_\_\_\_ composed of \_\_\_\_\_ in accordance with the terms and conditions established in the Tender Documents for the concession of the project "Improvement of the Sewerage and Wastewater Treatment System in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios".

We also state that the present guarantee will be effective if, irrespective of the case, our client:

- Falls within the cases established in Article 29 of Legislative Decree No. 1362; or
- Fails to submit a valid Technical Proposal in the selection process called; or
- Fails to submit a valid Economic Offer in the selection process called; or
- Presents or declares false information in the Tender; or
- Does not comply with the physical presentation of the documents of Envelope No. 1 in the term and form established in the concession award notice in case of being the Successful bidder; or
- Fails to comply with its obligations by the Closing Date.

In order to execute this guarantee in your favor, a notarized request from the Executive Director of PROINVERSIÓN, or whoever is acting on his/her behalf in our offices located at..... will be sufficient, and any delay on our part to execute it will accrue interest equivalent to the one-year LIBOR rate, plus a margin (spread) of 3%.

The LIBOR rate will be the one established by the daily Reuters news wire received in Lima at 11:00 a.m., and the interest will be due from the date in which it has been demanded and until the effective date of payment.

Our obligations under this Guarantee shall not be affected by any dispute between you and our client.

The term of this Guarantee will be from the date of submission of the Technical Proposal until \_\_\_\_\_, 202\_\_.

Sincerely,

Signature .....

Name .....

Bank.....

---

**Exhibit No. 8 – Validity of Information**

(To be submitted as part of Envelope No. 1)

**SWORN STATEMENT***Bidder:* .....

We hereby declare under oath that the information, declarations, certification and, in general, all documents presented in Envelope No. 1 are true and remain in force as of the date.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal RepresentativeSignature .....  
Bidder's Legal Representative

Company .....

Name .....  
Legal Representative (Member 1)Signature .....  
Legal Representative (Member 1)

Company .....

Name .....  
Legal Representative (Member n)Signature .....  
Legal Representative (Member n)***[Signatures must be legalized]***

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**Exhibit No. 8 – Validity of Information**  
**Appendix 1 - Validity of Powers of Attorney**  
(To be submitted as part of Envelope No. 1)

**SWORN STATEMENT**

*Bidder:* .....

We hereby declare under oath that the powers of attorney submitted are true and remain in force as of to the date.

Place and date: .....,..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

Company .....

Name .....  
Legal Representative (Member 1)

Signature .....  
Legal Representative (Member 1)

Company .....

Name .....  
Legal Representative (Member n)

Signature .....  
Legal Representative (Member n)

***[Signatures must be legalized]***

---

**Exhibit No. 9 – Acceptance of the Tender Documents and the final draft Contract - Applicable to Bidders and members of Consortia who do not have listed their shares on stock exchanges**

(To be submitted as part of Envelope No. 2)

**SWORN STATEMENT**

Bidder: .....

**(In case the Bidder is a legal entity, the declaration shall start with the following text)**

We hereby, \_\_\_\_\_ (Name of Bidder), as well as its shareholders (or partners, as the case may be), declare under oath the following:

**(In case the Bidder appears as a Consortium, the declaration shall start with the following text)**

We hereby \_\_\_\_\_ (Name of Bidder); its members: \_\_\_\_\_ and \_\_\_\_\_ (Names of each one of the members of the Consortium); and, the shareholders (or partners, as the case may be) of the aforementioned members, declare under oath the following:

1. That we comply with all the provisions inherent to the Tender and Concession Award; provisions established in Legislative Decree No. 1362, Legislative Decree of the Framework for the Private Investment Promotion through Public-Private Partnerships and Projects in Assets, its Regulations, approved by Supreme Decree No. 240-2018-EF, and its amendments or rules that replace them; the Tender Documents and its Circular Letters.
2. That we have examined, are aware of and are in agreement with the Tender Documents and the final draft Concession Contract, expressly accepting each and every one of its respective terms, conditions, obligations and other background and documents thereof, as well as the obligations imposed by the compliance with Legislative Decree No. 1362, Legislative Decree of the Framework for the Private Investment Promotion through Public-Private Associations and Projects in Assets, its Regulations, approved by Supreme Decree No. 240-2018-EF, and its amendments or rules that replace them, the Tender Documents and other regulations applicable to the Concession Contract, with no objections to be made. Consequently, we hold PROINVERSIÓN, its officers, advisors and consultants harmless from any liability for possible errors or omissions in the above-mentioned background and documents.
3. That, in case of being the Successful bidder of the concession, we undertake that the Concession Contract will be signed by the Concessionaire, in accordance with the provisions of point 28 of the Tender Documents.

Place and date: ....., ..... 202...

Name .....

Bidder's Legal Representative

Signature .....

Bidder's Legal Representative

***[Signatures must be legalized]***

---

**Exhibit No. 10 – Acceptance of the Terms and Conditions and the final version of the Contract -  
Applicable to Bidders and Members of Consortia who have listed their shares on stock exchanges**  
(To be submitted as part of Envelope No. 2)

**SWORN STATEMENT**

**Bidder:** .....

**(In case the Bidder is a legal entity that has listed its shares on stock exchanges, the declaration shall start with the following text)**

We hereby, \_\_\_\_\_ (Name of Bidder), declare under oath the following:

**(In case any of the members of the Consortium is the legal entity that has listed its shares on the stock exchange, the declaration shall start with the following text)**

We hereby \_\_\_\_\_ (Name of Bidder); its members: \_\_\_\_\_ and \_\_\_\_\_ (Names of the members of the Consortium); declare under oath the following:

1. That we comply with all the provisions inherent to the Tender and Concession Award; provisions established in Legislative Decree No. 1362, Legislative Decree of the Framework for the Private Investment Promotion through Public-Private Partnerships and Projects in Assets, its Regulations, approved by Supreme Decree No. 240-2018-EF, and its amendments or rules that replace them; the Tender Documents and its Circular Letters.
2. That we have examined, are aware of and are in agreement with the Tender Documents and the final draft Concession Contract, expressly accepting each and every one of its respective terms, conditions, obligations and other background and documents thereof, as well as the obligations imposed by the compliance with Legislative Decree No. 1362, Legislative Decree of the Framework for the Private Investment Promotion through Public-Private Associations and Projects in Assets, its Regulations, approved by Supreme Decree No. 240-2018-EF, and its amendments or rules that replace them, the Tender Documents and other regulations applicable to the Concession Contract, with no objections to be made. Consequently, we hold PROINVERSIÓN, its officers, advisors and consultants harmless from any liability for possible errors or omissions in the above-mentioned background and documents.
3. That, in case of being the Successful bidder of the concession, we undertake that the Concession Contract will be signed by the Concessionaire, in accordance with the provisions of point 28 of the Tender Documents.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

***[Signatures must be legalized]***

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**Exhibit No. 11 – Technical Proposal and compliance with the Minimum Requirements of the Project****SWORN STATEMENT**

Lima, ..... 202...

**Private Investment Promotion Agency - PROINVERSIÓN**

Bidder: .....

Ref.: Comprehensive project tender to grant the concession of the project "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, Tambopata District, Tambopata Province, Madre de Dios Department"

Dear Sirs.:

In accordance with the provisions of Point 20.4 of the above referenced Tender Documents, we hereby declare that the proposed technical solution:

- a) Complies with the Minimum Project Requirements.
- b) Complies with the Service Levels.
- c) The Project shall not require larger areas of land than those provided by the Grantor, or, in the absence thereof, such additional areas shall be acquired at its own account, cost and risk; in which case, the maximum term established for the execution of the investments shall not be affected\*.

*\* Whenever the Bidder considers additional land to that provided by the Grantor for the development of its technical solution, it must attach plans identifying the land polygons determined by means of UTM WGS84 coordinates, also indicating the boundaries and perimeter measurements of the same. At the same time, in case of being the Successful bidder, it shall have the same term as the Grantor to acquire and totally restore such land under the Grantor, not being transferable in any case to the Concessionaire.*

Description of the proposed technical solution

The proposed technical solution is briefly described below:

- For secondary collectors:  
*[Describe the main characteristics of secondary networks, such as:*
  - *Secondary networks to be restored in the Tambopata District*
  - *New collection networks and to be restored in El Triunfo Town Center.]*
- For primary collectors:  
*[Describe the main characteristics of primary networks, such as:*
  - *Collectors for the Center-North of the District of Tambopata.*

- 
- *Collectors for the West of the District of Tambopata.*
  - *Collectors for the South of the District of Tambopata*
  - *Collectors for El Triunfo Town Center,*
  - *Etc]*
  
  - For pumping chambers:  
*[Describe the main characteristics of the pumping chambers that are part of the project, such as:*
    - *Existing Pumping Chambers in the District of Tambopata and in El Triunfo Town Center: Its integration into the project, updating, functionality, new equipment, odor control, instrumentation, service areas, security, infrastructure works required, etc.,*
    - *Pumping chambers to be built in the District of Tambopata and in El Triunfo Town Center: Service areas, infrastructure, functionality, equipment, odor control, instrumentation, security, etc.]*
  
  - For drive lines:  
*[Describe the main characteristics of the drive lines, such as:*  
*Materials and type of piping, accessories, length, layout, installation.]*
  
  - For wastewater treatment:  
*[Describe the main characteristics of the treatment system, such as:*
    - *General description of the treatment system and technical support for the fulfillment of the proposed service levels.*
    - *Intake structure, which brings together all the plant's tributaries and pre-treatment inflows.*
    - *Pretreatment: coarse grids, fine grids, screening, and desanders; flow-rate meter, etc.*
    - *Primary treatment: Describe the technology that will fulfill the function of primary treatment.*
    - *Secondary treatment: Describe the technology that will fulfill the function of secondary or biological treatment.*
    - *Tertiary treatment. Describe the technology that will fulfill the function of tertiary or advanced treatment, if applicable.*
    - *Automation and control system.*
    - *Peripheral works such as, bypass for overflows, river defences, etc.*
    - *Proposal for the reuse of the treated water, in case it is proposed.*
    - *etc]*
  
  - For treatment and final disposal of sludge:  
*[Describe the main characteristics such as:*
    - *Sludge transport operations from the plants that generate it.*
    - *Production of sludge from each generating plant and its characteristics. Stabilization degree.*
    - *Dehydration and handling of dehydrated sludge.*
    - *Proposal for the reuse or final disposal of the sludge. The project may include the design, construction and operation of a mono refill for the treatment of solid waste.]*

- 
- For treatment and disposal of gases:  
*[Describe the main features such as:*
    - *Covers of the units that can generate odors, materials*
    - *Mechanisms to capture the confined gases and transport them to the treatment unit.*
    - *System for treatment and final disposal of gases (GHGs, Odours).*
    - *Measurement and transportation of the generated biogas.]*
  
  - Use of biogas:  
*[Describe the use of biogas:*
    - *Description of the biogas utilization system, the processes involved and economic, environmental and social benefits, if applicable.]*
  
  - Definition of the premises where the infrastructure will be implemented:
    - *Premises intended for wastewater pumping stations.*
    - *Premises intended for the wastewater treatment system(s).*
    - *Premises intended for the final disposal of waste and sludge, where mono refill is included.]*

The Technical Proposal will be a binding part of the Contract, in the aspects referred to (i) material of the collector pipes (primary and secondary); (ii) processes for the treatment of waste water, waste, sludge and gases; and (iii) the premises where the waste water treatment system(s) will be implemented.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

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**Exhibit No. 12 – - Model of Guarantee of Award Challenge**

Lima, ..... 202...

**Private Investment Promotion Agency - PROINVERSIÓN**

Ref. : Letter of Guarantee No. ....

Expiration: .....

Dear Sirs:

We hereby constitute an irrevocable, unconditional and automatically enforceable joint and several bond, without benefit of exemption or division, up to the amount of S/. 2'114,975.00 (Two million one hundred and fourteen thousand nine hundred and seventy-five and 00/100 Soles) at the request of our clients, \_\_\_\_\_ in favor of PROINVERSIÓN to guarantee the payment of such amount in any of the cases indicated in this guarantee.

This guarantee shall have a term of validity not less than sixty (60) days counted from the date of submission and will be effective in case that:

- The corresponding agreement (express or implied) declares the request for reconsideration presented by our client to be unfounded or inadmissible and, against said agreement, the respective request for appeal is not presented within the term established in Point 26.1, and is accepted; or
- The Steering Council of PROINVERSIÓN ratifies the agreement (express or implied) of the Committee that declared unfounded or inadmissible the appeal submitted by our client; or
- Our client decides not to file a request for reconsideration or appeal.

It is expressly understood by us that this guarantee may be executed by PROINVERSIÓN in accordance with the provisions of Article 1898 of the Peruvian Civil Code.

We expressly agree that in order for us to proceed to execute this guarantee, a simple notarized request in our offices located at the address indicated below will be sufficient, indicating that the challenge presented regarding the Tender for the Concession of the Improvement of the Sewerage and Wastewater Treatment System in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios, has been declared unfounded or inadmissible by the Steering Council of PROINVERSIÓN; or, after having obtained an agreement from the Committee to this effect, it was not appealed.

We commit ourselves to pay the total amount of the guarantee within a maximum term of 24 hours, counted from the date of reception of the corresponding notarized letter to ask for it.

In case of any delay on our part to execute it, we will pay compensatory interest in your favor, which

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will be calculated on the 1-year LIBOR rate, plus a 3.0% Spread.

The LIBOR rate will be the one established by the daily Reuters cable news received in Lima at 11:00 a.m., and the interest will be due as of the date in which the execution of this guarantee is required.

Sincerely,

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SIGNATURE AND SEAL

Name of the bank issuing the guarantee:

Bank address:

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**Exhibit No. 13 – Guide to accessing and using the Virtual Data Room****1. PURPOSE OF THE REGULATION**

Establish the procedures and conditions for the access and use of the information of the Virtual Data Room (VDR), within the framework of the Project.

**2. LOCATION**

The VDR is the online space where information related to the Project can be found, and can be accessed from the Institutional Portal of PROINVERSIÓN.

**3. CONDITIONS FOR ACCESS AND USE OF THE INFORMATION**

Stakeholders, Bidders and Pre-Qualified Bidders may make use of the VDR, provided that they have previously complied with the following conditions:

- Sign the statement to be aware that the information to be received through the Virtual Data Room (VDR) is for reference purposes only and is not binding.
- Registering as indicated in the Institutional Portal.

The initial contents of the VDR, as well as any additional documents that are incorporated into it, will be communicated through a Circular Letter.

**4. DISCLAIMER OF LIABILITY**

All the information contained in the VDR is subject to the disclaimer of liability set forth in Point 4.9.

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**Exhibit No. 13 – Guide to accessing and using the VDR****Appendix 1: Contents of the Data Room**

- 1) In the folder No. 1 2010 - 2014 PMO EMAPAT (04.10)
- 2) In the folder No. 2. Feasibility Study (03.14)
- 3) In the folder No. 3. Last SNIP record (04.17)
- 4) In the folder No. 4. 2017-2022 EMAPAT Fee Study (11.17)
- 5) In the folder No. 5. SNIP Project Plans N° 156697 (03.19)
- 6) In the folder No. 6. 2017 Technical File (07.18)
- 7) In the folder No. 7. Technical Notes on the Structuring Phase (08.20)

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**Exhibit No. 14 – Confidentiality agreement**

Lima, ..... 202....

**PROINVERSIÓN**

Bidder: .....  
..... (Name of the Bidder) duly represented  
by..... (Position of subscriber), Mr. ....  
..... (Name of subscriber), identified with....., No.  
.....domiciled at.....we hereby express our interest to Access the Virtual  
Data Room that PROINVERSIÓN makes available, in accordance with the Tender Documents of the  
Comprehensive Project Tender to grant in concession the Project "Improvement of the Sewerage  
System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata,  
Province of Tambopata, Department of Madre de Dios".

In this regard, we are committed to maintain confidentiality regarding all information obtained in the  
Virtual Data Room, not to disclose any material or information to third parties without the prior  
written authorization of the Project Manager, not to use the information for any other purpose that  
is not related to the process of the Comprehensive Project Tender, and not to use the information in  
any way that could generate conflicts with the interests of the State, its officials or agencies and  
PROINVERSIÓN.

The documentation obtained from the Virtual Data Room will only be made available to our staff,  
executives and consultants, for reasons related to the process of the Comprehensive Project Tender.  
Such personnel will be aware of this agreement and will also be obliged to maintain confidentiality  
with respect to the aforementioned information. We will take all actions that are reasonable to  
prevent the disclosure of any information to any person without the prior written consent of the  
Project Manager.

No license or right has been or will be given to our advisers in relation to the disposition of any  
information included in this agreement.

We accept that neither the State, its officers or agencies, nor PROINVERSIÓN, nor the Committee, nor  
its advisors or members, are stating or guaranteeing, expressly or implicitly, the accuracy, reliability  
or completeness of the information made available to us and that neither these parties or their  
respective directors, officers, employees or representatives shall be liable to us or to any other person  
as a result of the use of such information or materials. We agree to make our own decisions regarding  
the information made available to us and acknowledge that we will not depend on or be induced by  
such information when deciding our intent in connection with the Tender process.

We agree that no information supplied, no material, discussion, negotiation or other related matters  
constitute an offer by the Project Manager, and will not serve as a basis or will be taken into account  
in connection with any agreement, except when expressly agreed in writing with the Project Manager.

At the request of the Project Manager we accept to immediately return all copies of all documents  
that were made available to us or available to our representatives or advisors.

We also accept that the Project Manager does not undertake to provide access to additional

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information or to update the information and materials available or to correct any inaccuracies that may appear.

This agreement shall not apply to information that (i) at the date it was disclosed to us or to our advisors, it was publicly available or at any time thereafter is of public knowledge (except for that purpose of noncompliance with this agreement by us or our advisors), or (ii) to the date, is already legally in our possession and, therefore, is not subject to the commitment of confidentiality.

The rights and obligations set forth herein shall be governed by and construed in accordance with the laws of Peru and the parties agree to irrevocably submit to the jurisdiction and competence of the judges and courts of Lima, Peru.

In sign of acceptance and compliance with all the terms and conditions of this confidentiality agreement we sign and deliver a copy to the Project Manager, on.....202...

Signature .....

Name .....

(Bidder's Legal Representative)

Bidder .....

---

**Exhibit No. 15 – Sample Economic Offer****Appendix 1 - Sample Economic Offer to be submitted in Envelope No. 3**

Lima,.....

PROINVERSIÓN

Bidder: .....

Ref.: Comprehensive project tender to grant the project "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios"

In accordance with the provisions set forth in Point 21 of the referenced Tender Documents, we hereby comply with the submission of our Economic Offer.

**I. MAXIMUM ANNUAL AVAILABLE PAYMENT OFFERED (PPD Max\_Of) for:**

..... [Amount in Letters]..... and 00/100 Soles (S/... [Amount in numbers],00 )  
under the conditions set forth in the Concession Contract.

**Note:**

- (1) Only integer values (without decimals) will be considered.
- (2) The amounts do not include IGV ("Sales tax").
- (3) If there are differences between the values expressed in letters and numbers, the values expressed in letters shall prevail.
- (4) The offered PDP is broken down according to Factors A and B defined in clause 8.3 of the Concession Contract. These values are not subject to tender. The value of Factor A is 0.8145 and the value of Factor B is 0.6330.

We declare that our Economic Offer is unconditional and irrevocable and that it will remain in full force and effect until a minimum of one hundred and twenty (120) days after the date of submission of Envelope No. 2 and No. 3, and we undertake to obligatorily extend it for the term established by the Committee.

We declare that our Economic Offer will be incorporated into the Concession Contract in all its terms and conditions, and without exception, in case of becoming the Successful bidder.

Sincerely,

Signature: .....

Name: .....

Legal Representative

---

**Exhibit No. 15 – Model of Economic Offer****Appendix 2 – Model of Economic Offer to be submitted in case of a tie in the first place**

Lima,.....

PROINVERSIÓN

Bidder: .....

Ref.: Comprehensive project tender to grant the project "Improvement of the Sewerage System and Treatment of Wastewater in the City of Puerto Maldonado, District of Tambopata, Province of Tambopata, Department of Madre de Dios"

In accordance with what is indicated in point 21 and point 24.2.2 of the above referenced Tender Documents, we hereby comply with the submission of our Economic Offer.

**I. MAXIMUM ANNUAL AVAILABLE PAYMENT OFFERED (PPD max\_of) for:**

..... [Amount in Letters]..... and 00/100 Soles (S/... [Amount in numbers],00 )  
under the conditions indicated in the Concession Contract.

Note:

(1) Only integer values (without decimals) will be considered.

(2) The amounts do not include IGV ("Sales tax").

(3) If there are differences between the values expressed in letters and numbers, the values expressed in letters shall prevail.

(4) The PPD offered is broken down according to Factors A and B defined in clause 8.3 of the Concession Contract. These values are not subject to the Tender. The value of Factor A is 0.8145 and the value of Factor B is 0.6330.

We declare that our Economic Offer is unconditional and irrevocable and that it will remain in full force and effect until a minimum of one hundred and twenty (120) days after the date of opening of Envelope No. 3 and Concession Award, and we undertake to obligatorily extend it for the term established by the Committee.

We declare that our Economic Offer will be incorporated into the Concession Contract in all its terms and conditions, and without exception, in case of becoming the Successful bidder.

Sincerely,

Signature: .....

Name: .....

Legal Representative

---

**Exhibit No. 16 – Commitment of reliable and current information**

(To be submitted with the Envelope No. 2)

**SWORN STATEMENT**

Concessionaire: .....

We hereby declare under oath the following:

That, on the Date of Signing the Concession Contract, all the information, statements, certification and, in general, all the documents included in Envelopes No. 1, No. 2 and No. 3 regarding the Tender are reliable and remain in force until the Closing Date.

Place and date: ....., ..... 202...

Name .....  
Name of Bidder's Legal Representative

Signature .....  
Signature of Bidder's Legal Representative

***[Signatures must be legalized]***

**Exhibit No. 17 – Schedule**

<b>Activity</b>	<b>Term (Business days)</b>
<b>CALL AND ACCESS TO THE DATA ROOM</b>	
Call for Tender	D
Payment of Participation Fee	Until one (01) calendar day before the date of submission of Envelope No. 1
Access to the Virtual Data Room	Until one (01) calendar day before the date of submission of Envelope No. 2 and No. 3
<b>TENDER DOCUMENTS</b>	
Publication of Tender Documents	D
Inquiries regarding the Tender Documents	D + 20
Publication of answers of inquiries regarding the Tender Documents	D + 30
<b>CONCESSION CONTRACT</b>	
Publication of Initial Draft (VIC)	D
Receipt of suggestions to the VIC	D +20
Publication of suggestions to the Initial Draft Contract	D + 30
Publication of Final Draft Contract after Opinion of MVCS and SUNASS	D + 40
Publication of Final Draft Contract after MEF Opinion	D + 65
Publication of Final Draft Contract after CGR report	D + 80
<b>PRE-QUALIFICATION OF BIDDERS</b>	
Submission of Envelope No. 1	Since the publication of the call for tender until D + 50
Term for correction of errors in documents of Envelope No. 1	Until 20 calendar days after the submission of Envelope No. 1
Announcement of Pre-Qualified Bidders	D + 80
Term to communicate the organization of consortium or changes in its composition	Until 10 calendar days after the announcement of Pre-Qualified bidders
Announcement of reorganization of Pre-Qualified Bidders	Until 10 calendar days after the maximum term of the previous activity
<b>QUALIFICATION OF BIDDERS AND AWARD OF CONCESSION</b>	
Submission of Envelopes No. 2 and No. 3 and opening of the Envelope No.2	10 calendar days after the publication of the Final Draft Contract
Announcement of the result of the Evaluation of Envelope No. 2, Opening of Envelope No. 3 and Award of Concession	8 calendar Days after reception of Envelopes No. 2 and No.3
Closing Date	Communication will be through Circular Letter



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**Exhibit No. 18 – About the Economic and Financial Model**

(Reference: paragraph (i) of point 28 of the Tender Documents)

The financial economic model of the Successful bidder must be submitted in a spreadsheet, detailed and with formulas, in accordance with the provisions of Article 35 of the Regulations approved by Supreme Decree No. 240-2018-EF, and must include:

1. User's manual.
2. Detailed description of the economic and financial feasibility of the project.
3. Reporting of the costs of interference and acquisitions, relocation or resettlement is excluded, when these are not assumed by the Concessionaire.
4. Information contained in the economic-financial model (spreadsheet and user's manual), including but not limited to:
  - 4.1. Preparation of the project cash flow
    - a. Calculation of costs and investment expenses making a distinction between general expenses and the constructor's profit, as well as the margin of variability associated to the degree of development of the engineering design and other expenses associated to the investment.
    - b. Calculation of costs and expenses of operation and maintenance, making a distinction between fixed and variable costs.
    - c. Calculation of co-financing
    - d. Calculation of the Project's income and its projections.
    - e. Financial assumptions and funding structure.
  - 4.2. Preparation of the Financial Statements, including the Income Statement and the Statement of Financial Position projected for the term of the project.
  - 4.3. Preparation of the projected Cash Flow of the State including the Flow of firm and contingent commitments, costs for interferences, acquisitions, expropriations, relocations or resettlements, income to be received, among others, as long as these costs are assumed by the Concessionaire.
  - 4.4. Sensitivity analysis

**Exhibit No. 19 - Bidder's experience report**

Bidder: \_\_\_\_\_

**I) General Requirements: Participation in Concession or Public Private Partnership projects**

Characteristics of the Concession or Public Private Partnership				Client	Accrediting party share percentage **	Document submitted for accreditation ***
Project name and modality*	Brief description	Concession or PPP Period				
		Start (month / year)	End (month / year)			

\*Modality: State or Private Initiative (Self-financed or Co-financed)

\*\* Indicate the name of the accrediting party

\*\*\* The documents submitted to prove the experience must comply with point 17.2.1 of this document. Indicate the name of the document and the page numbers of the copies

**II) Technical Requirements:****II.1 Experience in Construction of WWTP****Name: (Indicate the Company or Member of the bidder that accredits the experience)**

Project / Country Name	Characteristics of the WWTP		Construction Period		WWTP Treatment Units	Client	Share (%) *	Document submitted to accredit the experience**
	Name of WWTP	Average Design Flow rate (L/s or m3/s)	From (month / year)	To (month / year)				

\*To accredit the experience, a minimum of twenty-five percent (25%) must be considered in the company or consortium constituted to execute the project. The experiences of related companies may be presented.

\*\* The documents presented that accredit the experience must comply with point 17.2.2 of this document. Indicate the name of the document and the page numbers.

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**II.2 Experience in WWTP Operation**

**Name: (Indicate the Company or Member of the bidder that accredits the experience)**

Project / Country Name	Characteristics of the WWTP		Operation Period		WWTP Treatment Units	Client	Share (%) *	Document submitted to accredit the experience **
	Name of WWTP	Average Design Flow Rate (L/s or m3/s)	From (month / year)	To (month / year)				

\* To accredit the experience, a minimum of twenty-five percent (25%) must be considered in the company or consortium constituted to execute the project. The experiences of related companies may be presented.

\*\* The documents presented to accredit the experience must comply with point 17.2.2 of this document. Indicate the name of the document and the page numbers.

SIGNATURE OF LEGAL REPRESENTATIVE

Place and date:

**Exhibit No. 20 – Commitment of hiring the Constructor**

**SWORN STATEMENT**

Bidder: .....

We hereby declare under oath that we have signed a commitment to hire.....  
(construction company that accredited its experience in construction, hereinafter the Constructor), whereby in the event of winning the concession in accordance with the provisions of the Terms Documents, we commit ourselves to enter into a construction contract, through the Concessionaire, at the time established in the Contract, pursuant to which the Constructor is jointly responsible with the Concessionaire for the implementation of the works in accordance with the provisions of the Concession Contract.

Also, in relation to the construction contract, the Concessionaire and the Constructor declare under oath that the same will contain at least the following provisions:

1. Organization and Powers

That, the Constructor is a business corporation or entity duly constituted, validly existing, duly registered in the corresponding registry, in accordance with the laws of its jurisdiction of incorporation or organization, to sign the construction contract and to comply with the obligations established therein.

2. Capability

That, the Constructor is properly trained and competent to carry out its business, daily operations, and those other operations set forth in the construction contract.

3. Authorization

That, the Constructor has sufficient qualification and representation to sign and fulfill the construction contract. The execution and compliance of the construction contract has been duly authorized in accordance with its internal regulations or corresponding corporate rules through any necessary corporate action. None of the acts required for this purpose have been modified or cancelled, and such acts are in full force and effect.

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4. Non-existence of conflicts

That, the execution, delivery and compliance of the construction contract by the Constructor and the performance of the acts contemplated therein, do not breach any clause of the Applicable Laws and Provisions, as well as any corporate agreement, trust agreement or contravene any provision of the Constructor's statute.

5. Joint and several liability

That, the Constructor is joint and severally responsible with the Concessionaire for the completion of the works in accordance with the provisions of the Concession Contract.

Therefore, we hereby state that we know and accept the consequences of the breach of this commitment and/or the lack of veracity of the above-mentioned statements.

Place and date: ....., ..... 202...

Name .....  
Bidder's Legal Representative

Signature .....  
Bidder's Legal Representative

Company .....

Name .....  
Legal Representative (Member 1)

Signature .....  
Legal Representative (Member 1)

Company .....

Name .....  
Legal Representative (Member n)

Signature .....  
Legal Representative (Member n)

Constructor .....

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Name .....  
Constructor's Legal Representative

Signature .....  
Constructor's Legal Representative

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**Exhibit No. 21 – Competition Factor**

The value of the Economic Offer will be calculated with the following formula:

$$OE = PPD \text{ Max Of}$$

Wherein:

- OE: is the Bidder's Economic Offer
- PPD Máx\_Of: Maximum Annual Available Payment Amount Offered, in Soles.

The Successful bidder will be the Qualified Bidder who submits the lowest Economic Offer (OE).