SOKOTO STATE PUBLIC-PRIVATE PARTNERSHIPS DISCLOSURE FRAMEWORK

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1. Introduction

1.1 Background

1.1.1. The Sokoto State Government developed its policy on public private partnerships (PPP). The policy creates a framework for the involvement of the private sector in provision of public infrastructure and services.

1.1.2. Sokoto Investment Company Limited Law 2023, provides a legal and institutional framework for PPPs in the State. The law, as well as guidelines/manuals flowing from the law, sets out the procedure for the implementation of PPP projects across all steps of the project cycle from inception to the end date of the PPP agreement. The *Guidelines* presented in this document are firmly grounded in the policy and legal framework that has been put in place by the Government for the implementation of PPP projects.

1.2 This document

1.2.1. This document presents the disclosure framework. It consists of three sections (in addition to the present introductory section).

(a) Section 2 presents overall guidelines for the disclosure of information about PPP projects.

(b) Section 3 contains templates for the disclosure of information.

(c) Section 4 contains sample contractual clauses to be inserted in the PPP agreement in order to ensure the cooperation of the Private Party in making available disclosure information, while also protecting the Private Party's interests in the confidentiality of some information.

2. Disclosure Guidelines

2.1 Introduction

2.1.1. Sections 5 (k) and 13 (6) of the Sokoto State Investment Promotion Amendment Law 2023 provides the legal framework for its development by stating that the Company shall publish and periodically revise data and information on the investment status of the State to assist prospective investors, the Sokoto Investment Company Limited (SICL) seeks to publicly make available accurate and timely information on all PPP projects to the public and other interested parties. This policy reflects the government's initiative to promote an efficient, effective, transparent, and accountable government, and to empower its citizens and other stakeholders to scrutinise effectively and participate in government decisions that affect them. This document sets out guidelines for the disclosure of information in public-private partnerships (PPPs).

2.1.2. Section 39 (1) of the Constitution of Nigeria (1999, as amended) establishes the right to freedom of expression, including the freedom to receive and impart information. By extension, the Freedom of Information Act (FOI) 2011 was enacted to ensure that citizens have the right to access information in the possession of any public institution. Section 1 (1) of the FOI Act grants every citizen of Nigeria the right to access or request information from any public institution, subject to certain exemptions, such as sensitive national security information. Section 2 (1) of the FOI Act also mandates public institutions to ensure that the information and records in their possession are accurate, up-to-date, and available, as far as practicable, to the public.

2.1.3. Global best practices suggest that PPP projects are to be governed by the principles of transparency, accountability, equal access to information and the creation of a level playing field for all bidders. Sokoto State has adopted these practices and Sokoto Investment Company Limited (SICL) is charged with the responsibility for developing open, transparent, efficient, and equitable processes for managing the identification, development, procurement, and implementation of PPPs in the state. Accordingly, all PPP agreements shall be made publicly accessible and published on relevant state government platforms or websites.

2.1.4. SICL is confident that transparency and accountability are fundamental to fulfilling its PPP mandate. It also believes that transparency is essential for increasing public awareness about PPPs, and increasing the public dialogue on PPPs, and is critical for enhancing good governance, accountability, and promoting engagement with stakeholders. This will in turn enable interested members of the public to understand better and engage in informed discussions about PPPs and overall strengthen development outcomes.

2.1.5. SICL is, therefore, determined to enhance its PPP frameworks through building systems of transparency and accountability, including processes conducive to disclosure, and embedding disclosure in routine PPP practice.

2.1.6. Given that PPP is at its infancy in the State, these Guidelines will be revisited and revised every three years, if and as required.

2.2 Application

2.2.1. These Guidelines will apply to all PPP procurements procured by any ministry, department or agency or any public entity authorized to do so under SICL law.

2.3 Specific Disclosures

2.3.1. SICL will publish signed concession agreement(s) in the public domain within 30 days of Financial Close, with the exception of confidential information, which shall be redacted before publication, as provided for in clause 2.4 below.

2.3.2. **Basic project information**. Basic project information along with estimated dates for key milestones will be provided within 60 days following SICL's registration of the project. Basic project information will include the project name, location, sector, name of sponsoring agency, estimated project value (with breakdown of costs), project need, technical description of assets and services to be provided, rationale for selecting the project for development as a PPP (including cost-benefit analysis), projected policy outcomes of the project (including links to the Preliminary Economic Cost-Benefit Analysis report), and name and contact information of the Project Officer in charge of the project.

2.3.3. **Project progress tracking**. Actual dates of achievement of key milestones will be provided within 60 days of project registration and within 21 days of each status change.

2.3.4. **Project Feasibility Study Report**. The Feasibility Study (including the preliminary environmental and social impact assessment, but with financial models and / or financial information which may have an impact on the ability of the government to negotiate with private parties redacted) will be disclosed before or at the time of publication of the Request for Prequalification (RPQ) documents. The complete Feasibility Study will be disclosed within 21 days of execution of the project agreement (commercial close).

2.3.5. **Procurement information**. Dates and summary procurement information (including the Project Information Memorandum) and key documents will be provided during the procurement process. The RFQ, list of short-listed bidders, and award will be published immediately after approval of the procuring entity. The full Request for Bids (RFB) and award document will be disclosed publicly within 21 days of execution of the PPP agreement (commercial close). Where the Contracting Authority uses the restrictive bidding or direct procurement procedures, the Contracting Authority shall also disclose the reasons for doing so.

2.3.6. **Project summary**. Summary information on the PPP contract will be provided within 60 days of execution of the PPP agreement (commercial close). The project summary will include basic information on the PPP agreement, project scope, project value, parties to the PPP agreement, project risk matrix, amounts and types of government support provided to the project, information on tariffs and pricing, termination clauses, duration of the contract, handback provisions, and key performance indicators with target levels.

2.3.7. **Project documents**. Key project documents (including the redacted PPP agreement) will be disclosed within 21 days of execution of the project agreement (commercial close).

2.3.8. **Financial information**. Information on the financing structure (equity-debt ratio, debt and equity providers, share capital, shareholders, ownership, and so forth) of the project will be provided within 21 days of financial close.

2.3.9. **Renegotiations**. Summary information relating to each renegotiation will be published within 21 days of signature of the renegotiated contract. The redacted renegotiated agreement will also be published.

2.3.10. **Performance information**. Information on the performance of the private party on key performance indicators against agreed target levels will be published within one year of financial close of the project, with annual updates. Performance information will also include, among others, information on construction milestones, key financial information of the project, and details relating to performance failures. Performance information will be updated annually, consistent with the project's contract management framework. Performance assessments, such as audit reports and/or audited financial statements, extracts from the private party reports (special purpose company self-reporting), and extracts from independent expert reports will be disclosed annually.

2.3.11. **Unsolicited proposals**. Basic information related to unsolicited proposals will be disclosed within 21 days of the Contracting Authority's decision on accepting the proposal. Information on the objective of the proposed project, services to be provided, proposed location, estimated capital cost, name of the proponent, details of the public interest test, or other rationale will be provided for the same, as well as the Project Feasibility Study Report, further procurement, and bidding process details and special conditions and advantages provided to the proponent, if any.

2.3.12. **Projects that do not reach financial close**. Where the execution of the project agreement is reached (commercial close) but the project eventually does not reach financial close, a summary explanation of the reasons thereof will be provided.

Table 1: Summary of Specific Disclosures

NO.	DOCUMENT	CONTENTS	CREATOR	APPROVER	TIME
Disclosure of information at project initiation, updated thereafter					
1.	Basic project information	Project name Location Sector Sponsoring agency/department Estimated value (with breakdown of costs) Project need Projected policy outcomes of the project Description of asset and services to be provided Rationale for selecting the project for development as a	Contracting Authority	PPP Unit	Within 60 days following the PPP Unit's approval of the project For unsolicited projects, upon the Contracting Authority's decision to accept the proposal.

NO.	DOCUMENT	CONTENTS	CREATOR	APPROVER	TIME
		PPP (including cost-benefit analysis) Estimated demand to be served annually Links to preliminary cost-benefit analysis For unsolicited proposals, the name of proponent, details of the public interest test, or other rationale will be provided for the same, and special conditions and advantages provided to the proponent, if any.			
2.	Project progress tracking	A section on the web-based platform that will reflect actual dates of achievement of key milestones	PPP Unit from registration of PPP project until execution of project agreement (commercial close); Contracting Authority after commencement of operations until end of contract	PPP Unit/ Contracting Authority	Within 21 days from project registration; and within 21 days of each status change. For unsolicited projects, upon the Contracting Authority's decision to accept the proposal.
		Disclosure of information during procurement			
3.	Feasibility Study Report (partially redacted)	Salient information about the project, including the environmental and social impact assessments; financial models redacted	Contracting Authority	PPP Unit	Before or with the publication of the RPQ
4.	RFQ		Contracting Authority	PPP Unit	Following approval for publication of the RFQ
5.	List of short-listed bidders		Contracting Authority	PPP Unit	As soon as short-listed bidders are notified
6.	Full RFB		Contracting Authority	PPP Unit	Within 21 days of execution of the project agreement (commercial close)
7.	Bid award		Contracting Authority	PPP Unit	Following approval for publication
		Disclosure of information following execution of project agreement (commercial close)			
8.	Project summary	Project scope Parties to the PPP agreement Project risk matrix Government support	Contracting Authority	PPP Unit	Within 21 days of execution of the project agreement (commercial close)

NO.	DOCUMENT	CONTENTS	CREATOR	APPROVER	TIME
		Project value, tariffs, and pricing Termination clauses Handback provisions Key performance indicators with agreed target levels Duration of project Implementation structure (SPC and any subcontractors)			This will apply to unsolicited projects as well.
9.	Complete Feasibility Study Report	Salient information about the project	Contracting Authority	PPP Unit	Within 21 days of execution of project agreement the (commercial close)
10.	Financial structure of the project	Equity-debt ratio of the project Debt and equity providers Share capital Shareholders with proportion held and voting rights	Contracting Authority	PPP Unit	Within 21 days of financial close This will apply to unsolicited projects as well.
11.	Project documents	Including the following: Redacted PPP agreement VfM report for the project	Contracting Authority	PPP Unit	Within 21 days of execution of the project agreement (commercial close) This will apply to unsolicited projects as well.
12.	Renegotiations and renegotiated agreements and associated documents	Summary information on each renegotiation Redacted renegotiated clause(s) in the PPP agreement	Contracting Authority	PPP Unit	Within 21 days of signature of the renegotiated contract This will apply to unsolicited projects as well.
13.	Where execution of project agreement (commercial close) takes place but the project does not reach financial close	Summary explanation of why financial close did not take place	Contracting Authority	PPP Unit	Within 21 days of the decision
Performance disclosure throughout contract period					
14.	Performance information	Performance of the private party on key performance indicators against agreed targets (including information on construction milestones, key financial information, and	Contracting Authority	PPP Unit	Within one year of financial close, updated annually

NO.	DOCUMENT	CONTENTS	CREATOR	APPROVER	TIME
		information on performance failures, if any) Audit reports Audited financial statements Private party reports Extracts from independent expert reports	Audit report provided by the PPP Unit		This will apply to unsolicited projects as well.

Note: CA = Contracting Authority; ESIA = Environmental and Social Impact Assessment; PPP = Public-Private Partnership; PPPU = PPP Unit; RFB = Request for Bids; RFQ = Request for Qualifications; SPC = special purpose company; VfM = value for money.

2.4 Confidential Information

2.4.1. Specifically, this framework defines confidential information to include trade secrets, as well as commercial or financial information obtained from a person or business, which is proprietary or privileged. The disclosure of such information would, or is likely to, prejudice the commercial interests of any person, including trade secrets, commercially sensitive intellectual property rights, and knowhow of either a third party or the contracting entity.

2.4.2. For the purposes of this Framework, the following elements will be considered as confidential. However, these elements will be reviewed and updated every three years.

(a) Bids or proposals submitted by bidders

(b) Trade secrets and any other proprietary information protected by law

(c) Technology relating to the security of the state.

2.5 Method of Disclosure

2.5.1. All information and documents will be published on a web-based platform managed and administered by SICL, as well as any other media platforms identified in the state's PPP framework. To ensure broader public engagement, the PPP Unit will make efforts to disseminate summarized and simplified project information in local languages using offline methods, such as posters and community outreach.

2.6 Responsibilities for Disclosure

2.6.1. The onus for information collection, generation, and data entry onto the web-based platform will be on the Contracting Authority and SICL. The responsibility for approving and publishing information lies with the PPP Unit, in line with Table 1.

2.6.2. The Contracting Authority will carry out data entry of all information and documents on the web- based platform so as to leave at least seven days within the given timelines for the SICL to validate,

2.7 Approval of Information for Publication

2.7.1. All information shall be approved by the Director General of SICL or any official designated by him/her for publication.

2.8 Standard Contractual Clauses

2.8.1. A section/chapter entitled "Transparency and Information Disclosure" will be included in all draft contractual documentation included in the RFB and in all PPP agreements to be signed by the contracting authorities.

2.8.2. The section/chapter mentioned in 2.8.1. above will contain clauses pertaining to the proactive disclosures to be carried out by the public entity, including disclosure of summary project and contract information, project documents, procurement information including procurement documents, and ongoing performance information disclosure.

2.8.3. The section/chapter mentioned in 2.8.1. above will also contain the obligation of the private entity to provide documents and information as and when required and in the format required by the public entity as part of its sanctionable service obligations should there be a failure to provide information on the part of the private party.

2.8.4. The section/chapter mentioned in 2.8.1 will include a subsection dealing with confidential information, and will list the items of confidential information in a schedule along with the date up to which the information will be considered confidential, where applicable.

2.8.5. The contract will be structured in a way such that confidential information can be easily removed before publication of the project agreement.

2.8.6. Sample disclosure clauses for use in all draft project documents included in the RFB and in all project agreements are provided in Section 4 and its schedules.

3. Template for Disclosure

3.1 Disclosure during the project identification, development, and procurement stages

BASIC PROJECT INFORMATION

(disclosed at the project inception phase within 60 days following the PPP Unit's approval of the project)

- Project name
- Location
- Sector
- Sponsoring agency/department
- Estimated project value (with breakdown of costs)
- Project need
- Projected policy outcomes of the project
- Description of asset and services to be provided
- Rationale for selection the project for development as a PPP (including cost benefit analysis)
- In case of unsolicited projects, the rationale for the same

ACTUAL PROJECT MILESTONES

(within 21 days from project registration; and within 21 days of each status change; and for unsolicited projects, upon Contracting Authority's decision to accept proposal)

- Project proposal registered
- Project proposal screened
- Project proposal approved
- Project Feasibility Study under development
- Project Feasibility Study approved
- Request for Qualifications (RFQ)
- Request for Bids (RFB)
- Award
- Execution of project agreement (commercial close)
- Financial close
- Commencement of construction or development
- Completion of construction or development
- Commissioning
- Contract expiry

PROCUREMENT DOCUMENTS

- Feasibility Study Report *(with redacted financial models – before or with the publication of the RPQ; complete – within 21 days of execution of the project agreement (commercial close))*
- RFQ *(following approval and publication)*
- Short-listed bidders *(as soon as short-listed bidders are notified)*
- RFB *(within 21 days of execution of the project agreement (commercial close))*
- Award *(following approval for publication)*

3.2 Disclosure following signature of contract

PROJECT SUMMARY

(within 21 days of execution of project agreement (commercial close))

- Project scope
- Parties to the PPP agreement: name of authority, name of representative, address, telephone, fax, e-mail, private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry)
- Links to project documents

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees

Grants

Availability/annuity payment schedule

Land leases, asset transfers

Other support
Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	
Handback terms and conditions	

RENEGOTIATIONS

RENEGOTIATION 1	RENEGOTIATION 2	RENEGOTIATION 3	RENEGOTIATION 4

PERFORMANCE INFORMATION

(within one year of financial close; updated annually)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

YEAR	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments Links to audit reports and / or audited financial statements, extracts of special purpose company reports, extracts of independent expert reports

Schedule []

Format for submission of summary project information for disclosure

PPP AGREEMENT INFORMATION

(submitted within 21 days of execution of the project agreement (commercial close) and updated at financial close and in case of any change)

- Public authority: name of authority, name of representative, address, telephone, fax, e-mail
- Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry) (to be provided within 21 days of financial close) ● Copies of project documents

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees
Grants
Availability/annuity payment schedule
Land leases, asset transfers
Other support
Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	

Handback terms and conditions

RENEGOTIATIONS RENEGOTIATION 1	**RENEGOTIATION 2**	**RENEGOTIATION 3**	**RENEGOTIATION 4**

Schedule []

Format for submission of performance information for public disclosure

PERFORMANCE INFORMATION

(key performance indicators and target summary to be submitted within 21 days of financial close and achievement and performance failure information to be updated annually)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

YEAR	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments Extracts of special purpose company reports

Schedule []

Payment deductions for noncompliance with the obligation to provide information

Period of delay in compliance	Payment deduction

Schedule []

Confidential information

Clauses/schedules	Period for which information will remain confidential

4. Sample Contractual Clauses

Section [*insert number*]: **DISCLOSURE REQUIREMENTS**

Obligations Regarding Specific Disclosures

1. Freedom of Information

1.1 The [Private Party] acknowledges that the [Contracting Authority] is subject to the requirements of the Freedom of Information Act 2011 and the state's PPP framework, and may be entitled to disclose certain project-specific information without consulting or obtaining the consent of the [Private Party].

1.2 The [Private Party] agrees to facilitate the [Contracting Authority's] compliance with its disclosure requirements under the Freedom of Information Act 2011 and relevant provisions of SICL law..

1.3 Where the [Contracting Authority] receives a request for information under the Freedom of Information Act 2011 or the state's PPP framework in relation to information that the [Private Party] is holding and which the [Contracting Authority] does not possess itself, the [Contracting Authority] shall refer such a request to the [Private Party] as soon as practicable, and in any event, within [five] business days of receiving the request. The [Private Party] shall

(a) Provide the [Contracting Authority] with a copy of all such information in the form the [Contracting Authority] requires as soon as practicable and in any event within [ten] business days (or such other period as the [Contracting Authority] acting reasonably may specify) of the [Contracting Authority's] request; and

(b) Provide all necessary assistance as reasonably requested by the [Contracting Authority] in connection with any such information to enable the [Contracting Authority] to respond to a request for information within the time for compliance set out in the Access to Information Act 2005.

1.4 The [Private Party] shall ensure that all information held on behalf of the [Contracting Authority] is retained during the term of this PPP agreement for at least [ ] years after the expiry or termination of the PPP agreement and shall permit the [Contracting Authority] to inspect such information as requested from time to time.

1.5 Where the [Contracting Authority] receives a request for information under the Freedom of Information Act 2011 or the Public Procurement Act 2007, the [Contracting Authority] shall be responsible for determining, at its sole discretion, whether information is exempt from disclosure under the Freedom of Information Act 2011 or the Public Procurement Act 2007 and for deciding what information will be disclosed.

2. Public Relations and Publicity

2.1 The [Private Party] shall not by itself, its employees or agents communicate with representatives of the press, television, radio, or other communications media on any matter concerning this PPP agreement without the prior written approval of the [Contracting Authority].

2.2 The [Private Party] shall procure that its subcontractors shall not, communicate with representatives of the press, television, radio or other communications media on any matter concerning this [ ] Agreement without the prior written approval of the [Contracting Authority].

2.3 The [Private Party] may not represent the views of the [Contracting Authority] on any matter, or use the name of the [Contracting Authority] in any written material provided to third parties, without the prior written consent of the [Contracting Authority].

3. Publication of PPP Project Information

3.1 The parties agree that the [Contracting Authority], subject to Section 4 (Confidentiality) below, is entitled to disclose as detailed in Schedule [ ] the following information:

(a) Procurement documents and information;

(b) All project documents, including this PPP agreement and other associated documents (such as the Value for Money report);

(c) Summary project information as set out in Schedule [ ] of this PPP agreement; (d) Performance information related to this PPP agreement.

3.2 The [Private Party] acknowledges that the [Contracting Authority] will publish the information mentioned in Subsection 3.1 above, subject to Section 4 (Confidentiality), on a web-based platform owned and administered by the PPP Unit, and any other media platforms as identified in the PPP Act 2015.

4. Confidentiality

Confidential Information

4.1 For the purpose of this PPP agreement, confidential information means,

(a) The subset of confidential information included in column 1 of Schedule [ ] of this PPP agreement; in each case for the period specified in column 2 of Schedule [ ].

(b) Any other information (regardless of how it is communicated or on whatever medium it is stored) that may fall under the definition of "confidentiality" under the Public Procurement Act 2007, particularly where the information includes proprietary information, scientific or technical data, or information provided in confidence by a bidder, as specified in Section 16(1)(e) of the Public Procurement Act 2007.

4.2 Without prejudice to Sections 4.3, the parties shall keep confidential all confidential information received by one party from the other party relating to this PPP agreement and any other project agreements or the PPP project and shall use all reasonable endeavours to prevent their employees and agents from making any disclosure to any person of any such confidential information.

Permitted Disclosure

4.3 Confidential information may be disclosed if:

(a) Disclosure of such confidential information is reasonably required by any person engaged in the performance of its obligations under the PPP agreement for the performance of those obligations;

(b) A party can demonstrate that such confidential information is already, or becomes, generally available in the public domain legitimately otherwise than as a result of a breach of this clause;

(c) Such disclosure is necessary to enable a determination to be made under clause [insert reference to Dispute Resolution clause] or in connection with a dispute between the [Private Party] and any of its subcontractors;

(d) Such disclosure is required pursuant to (i) any statutory or legal obligation, (ii) any order of a court of competent jurisdiction, (iii) a parliamentary obligation placed upon the party making the disclosure, (iv) the rules of any regulated stock exchange, or (v) any order from a governmental or regulatory authority concerned;

(e) The confidential information is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

(f) The confidential information is provided to:

(i) Each party's own professional advisers or insurance advisers; and/or

(ii) The lenders or the lenders' professional advisers or insurance advisers or, where it is proposed that a person should or may provide funds (whether directly or indirectly and whether by loan, equity participation, or otherwise) to the [Private Party] to enable it to carry out its obligations under the PPP agreement, or may wish to acquire shares in the [Private Party] in accordance with the provisions of this PPP agreement to that person or their respective professional advisers, but only to the extent reasonably necessary to enable a decision to be taken on the proposal; and/or

(iii) International or bilateral financial institutions involved in the PPP project as lenders, political risk insurers, or guarantors;

(g) The disclosure of such confidential information by the [Contracting Authority] relates to the design, construction, operation, and maintenance of the PPP project and any disclosure of other confidential information as may be reasonably required for the purpose of conducting a due diligence exercise, to any proposed new private partner, its advisers, and lenders, should the [Contracting Authority] decide to retender the PPP agreement or undertake any market testing;

(h) Such disclosure is required for any registration, filing, or recording of the required permits and property registration in connection with the PPP project;

(i) The disclosure of confidential information by the [Contracting Authority] to any other relevant authority or their respective advisers or to any person engaged in providing services to the [Contracting Authority] is necessary for any purpose related to or ancillary to the PPP agreement

(j) Such disclosure is necessary for the purpose of:

(i) The financial audit of the [Contracting Authority's] or the [Private Party's] accounts by statutory bodies such as the Office of the Auditor General;

(ii) Any examination pursuant to [insert reference to any auditing obligations for public contracts] of the performance audit with which the [Contracting Authority] has used its resources;

(iii) Complying with a proper request from either party's insurance adviser or insurer on placing or renewing any insurance policies or in relation to any insurance claim made; or

(iv) (Without prejudice to the generality of clause 4.3 (d), compliance with [insert reference to any laws requiring disclosure (for example, environmental laws)].

4.4 When disclosure is permitted under clauses 4.3 (a), (c), (f), (g), and (i) above, the party providing the information shall ensure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this PPP agreement. The [Private Party] shall expressly inform any person to whom it discloses any information under this clause of the confidentiality restrictions set out in this clause and shall procure its compliance with the terms of this clause as if it were party to this PPP agreement and the [Private Party] shall be responsible for any breach by any such person of the provisions of this clause.

4.5 The provisions of Section 4.3 are not applicable to [insert relevant exceptions for specific project] (for example information related to defence, security and international relations as specified in Section 32 of the Access to Information Act 2005).

Confidential Information Related to End Users

4.6 Where the [Private Party], in carrying out its obligations under the PPP agreement, is provided with personal information relating to [end users (for example, road users, patients)], the [Private Party] shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the [Private Party] has obtained the prior written consent of that [end user] and has obtained the prior written consent of the [Contracting Authority].

4.7 No later than [ ] days following termination or expiry of this agreement, the [Private Party] shall ensure that all documents and/or computer records in its possession, custody, or control, which contain personal information relating to [end users], including any documents in the possession, custody, or control of a subcontractor, are delivered to the [Contracting Authority].

5. Reporting Obligations, Provision of Information, and Documents

Obligation to Disclose Information, Documents, and Records upon Request

5.1 (a) The [Private Party] shall provide to the [Contracting Authority] all information, documents, records, and similar materials in its possession, or accessible to it, as may reasonably be requested by the [Contracting Authority] for the purpose of complying with any of its statutory reporting obligations, including but not limited to its reporting obligations under relevant laws of the State.

(b) To this end, the [Private Party] shall ensure that all such information in the possession of any subcontractor or other counterparty to any project agreement shall be available to the [Contracting Authority] and the [Private Party] has included, or shall include, appropriate provisions to this effect in all project agreements.

Project Information

5.2 (a) The [Private Party] shall provide to the [Contracting Authority] summary project information as set out in Schedule [ ] of this PPP agreement within [seven] business days after signature of this PPP agreement and an updated version including information on the financial structure as described in Schedule [ ] of this PPP agreement within [seven] business days after [insert definition for financial close].

(b) In the event of any relevant change of the project information described in Subsection (a), the [Private Party] shall provide to the [Contracting Authority] the updated information and copies of the updated documents [ ] business days after the relevant change has occurred.

(c) In the event of renegotiation, the [Private Party] shall provide to the [Contracting Authority] information on the renegotiation as well as copies of the renegotiated PPP agreement within [seven] business days after signature of the renegotiated PPP agreement.

Performance Information

5.3 The parties agree that the [Private Party] shall provide to the [Contracting Authority] information relating to performance as set out in Schedule [ ] of this PPP agreement within one year of [insert definition for financial close]. This will include information on the performance of the private party on key performance indicators against agreed target levels, as well as copies of performance assessments (such as audit reports and / or audited financial statements, extracts from the private party reports (special purpose company self-reporting), and extracts from independent expert reports). This information will be updated annually each year during the term of this PPP agreement on [ ].

Calculation of Equity Internal Rate of Return

5.4 The [Private Party] shall provide to the [Contracting Authority] each year during the term of this [Concession Agreement] on [ ] and on [ ] a calculation of the actual equity internal rate of return and any other financial information submitted to any other authority including any regulators.

Audited Financial Statements

5.5 The [Private Party] shall provide to the [Contracting Authority] audited financial statements annually and no later than [180] days after the end of the fiscal year of the [Private Party].

Enforcement of Reporting and Information Obligations

5.6 The parties agree that the scope of services under this PPP agreement includes obligations of the [Private Party] to provide information as set out in [Section/Subsection [ ] of this Agreement to the [Contracting Authority] and that any breach of this obligation shall be a failure in performance of the service triggering deductions in accordance with the payment mechanism as set out in Schedule [ ] of this PPP agreement.

Schedule [ ]

Format for submission of summary project information for disclosure

PPP AGREEMENT INFORMATION *(submitted within [seven] business days of execution of the project agreement (commercial close) and updated at financial close and in case of any change)*

- Contracting Authority: name of authority, name of representative, address, telephone, fax, e-mail
- Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Project value
- Project scope
- Term
- Key performance indicators with agreed target levels
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry) (to be provided within [seven] business days of financial close)
- Copies of project documents (including the PPP agreement and the value for money report)
- Implementation structure (SPC and any subcontractors)

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees

Grants

Availability/annuity payment schedule

Land leases, asset transfers

Other support

Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	

Handback terms and conditions

RENEGOTIATIONS RENEGOTIATION 1	**RENEGOTIATION 2**	**RENEGOTIATION 3**	**RENEGOTIATION 4**

Schedule [ ]

Format for submission of performance information for public disclosure

PERFORMANCE INFORMATION *(key performance indicators and target summary to be submitted within one year of financial close and achievement and performance failure information to be updated annually)*

KEY PERFORMANCE INDICATORS	**Year 1** Target	Achievement	**Year n** Target	Achievement

Performance failures

YEAR	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments	Copies of audit reports and/or audited financial statements, extracts from the private party reports (SPC self-reporting), and extracts from independent expert reports)

Schedule [ ]

Payment deductions for noncompliance with the obligation to provide information

Period of delay in compliance	Payment deduction

Schedule [ ]

Confidential information

Clauses/schedules	Period for which information will remain confidential