



PERÚ

Ministerio de Economía y Finanzas  
(Ministry of Economy and Finance)

Agencia de Promoción de la  
Inversión Privada  
(Private Investment Promotion  
Agency)

Projects Portfolio  
Directorate

**"Decade of Equal Opportunities for Women and Men"**  
**"Year of Dialogue and National Reconciliation"**

## Republic of Peru

# TERMS AND CONDITIONS

**Integral Project Tender for the Concession of:**

**"500 kV La Niña – Piura Link and Associated Substations,  
Lines and Expansions"**

**"220 kV Pariñas – Nueva Tumbes Link and Associated  
Substations, Lines and Expansions"**

**"220 kV Tingo María – Aguaytía Link and Associated  
Substations, Lines and Expansions"**

**January 31, 2019**

**Important: 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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Directorate****“Decade of Equal Opportunities for Women and Men”  
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## **TERMS AND CONDITIONS**

### **1. TENDER OBJECTIVE**

The Government of the Republic of Peru, through the Private Investment Promotion Agency - PROINVERSIÓN, has called for an Integral Project Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects (hereinafter referred to as Projects). The objective is to select a legal entity, national or foreign, or a Consortium, which shall be deemed the Concessionaire and shall sign the Concession Contracts and shall be in charge of designing, financing, building, operating and maintaining the Projects for the next thirty (30) years after their Commercial Operation start-up.

To this end, the Terms and conditions regulate the tender proceedings of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects with the following general objectives:

- a. To achieve transparent, simple, objective and fair procedures.
- b. To achieve the participation of the largest number of Bidders with the required experience.
- c. To define the basic rules on which the Bidder can formulate its Bid.
- d. To choose the Bid most convenient for the Government.

The Tender referred to in the Terms and Conditions shall be conducted in accordance with the provisions contained herein, and all matters not provided for herein shall abide by the Applicable Laws and Provisions.

Without admitting evidence to the contrary, it is assumed that any Interested Party or Bidder participating in the Tender knows the contents of the Terms and Conditions and the Applicable Laws and Provisions.

The Projects belong to the Guaranteed Transmission System (SGT) and have been incorporated into the "Transmission Plan 2017-2026, approved by Ministerial Resolution N° 562-2016-MEM / DM published on January 1, 2017.

### **2. OVERVIEW**

- 2.1. The Terms and Conditions and the documents they comprise shall be governed and interpreted according to the Applicable Laws and Provisions.
- 2.2. Any national or foreign legal person or Consortium may participate in the Tender.
- 2.3. A legal entity, either individually or as a Consortium, shall not participate with more than one Bid.
- 2.4. Those who are under the scope of Section 29 of Legislative Decree N° 1362, which regulates Private Investment Promotion through Public Private Partnerships and

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Projects in Assets, referred to in Section 1366 of the Civil Code, people with impediments established in Law N° 30225, Law on State Contracting, or a replacing rule, people with impediments established by rules with the force of law, and those in Public Private Partnership contracts that have ceased to be so due to contractual breach shall not directly or indirectly be Bidders..

This last impediment is valid for two (2) years and also covers the qualified Operator and / or those who have exercised the Control of the investor at the time of contract termination and/or expiration.

- 2.5. The Interested Parties and Bidders shall base their decision of participating in the Tender on their own research, studies, examinations, inspections, economic estimates, financial estimates, visits, interviews and others as part of their own due diligence.

In the same manner, they shall cover all direct or indirect costs or expenses related to the preparation and presentation of their qualification application or their Bid. The Peruvian Government or any department, body or official thereof, the Ministry of Energy and Mining, PROINVERSIÓN, the Committee, the Commission, the Committee advisors, shall not be liable in any case for such costs or expenses, regardless of the manner in which the Tender takes place or of its result.

- 2.6. The Government or any of its departments, including PROINVERSIÓN, its consultants and / or advisers shall not be held responsible for, or guarantee, either expressly or implicitly, the totality, integrity, reliability or veracity of the information. Consequently, none of the people participating in the Tender may attribute any liability to any of the aforementioned parties or their representatives, agents or dependents for the possible use of such information or for any inaccuracy, insufficiency, defect, lack of updated information or for any other reason not expressly considered in this Paragraph.

- 2.7. The aforementioned limitation of liability covers, as widely as possible, any information relating to the Tender that is actually known, unknown information, and information that should have been known at any time, including possible errors or omissions by the Peruvian government or any department, body or official thereof or by the Ministry of Energy and Mining, PROINVERSIÓN, its consultants and / or advisers, the Committee, the Committee advisors and the Commission. Likewise, such limitation of liability covers any information, whether or not supplied or prepared, directly or indirectly, by any of the aforementioned parties.

The limitation of liability also covers all information available on PROINVERSIÓN's Website ([www.proinversion.gob.pe](http://www.proinversion.gob.pe)), as well as that provided through Circular Letters or any other communication received during the visits to the Tender-related facilities and that mentioned in these Terms and Conditions.

- 2.8. Any Interested Party who decides not to participate in the Tender, may transfer or assign its Right to Participate. For this purpose, the new Interested Party's qualification Envelope shall include a communication that supports such transfer, pursuant to Form 11.

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- 2.9 The mere submission of the qualification application or the Bid shall be deemed as -without further action- the full knowledge and acceptance of and unconditional submission to, by the Interested Party and the Bidder, as applicable, all provisions set forth by the Terms and Conditions, as well as their irrevocable and unconditional waiver, in the broadest manner permitted by the applicable Laws and Provisions, to bring any action, counterclaim, exception, claim or compensation claim against the Peruvian Government or any department, body or official thereof, the Ministry of Energy and Mining, PROINVERSIÓN, the Committee, the Committee advisors and the Commission.
- 2.10 The Project Director reserves the right to verify the veracity of the documentation submitted by the Interested Party or Bidder during the different stages of the Tender and even after its conclusion, without implying, in any way, a limitation of the responsibility of the Interested Party or Bidder due to possible insufficiency or lack of truthfulness of the submitted data or information.
- 2.11 The lack of truthfulness or insufficiency in the data or in the information submitted by the Interested Party or Bidder in this Tender shall result in its disqualification by the Project Director, at any of its stages, without prejudice to any liability that may arise therefrom, except for those cases expressly provided for as being subject to rectification.
- 2.12 For reasons of public interest, the Committee may reject all proposals submitted and consequently cancel the Tender, without incurring in liability for or obligation of any payment or compensation; this decision cannot be challenged.
- 2.13 Contract signing does not affect the obligation by the Successful Bidder or the Concessionaire or its Related Companies, to comply, if applicable, with the conditions to which the concentration operation authorizations are subject to, in accordance with Law N° 26876, Law Against Monopoly and Oligopoly in the Electrical Sector, or conditions of similar nature subsequently imposed by the Governmental Authority.
- 2.14 In accordance with the provisions in paragraph 33.3 of Section 33 of the Regulations of Legislative Decree N° 1362, the following are reported to provide consulting or advisory services to PROINVERSIÓN in this private investment promotion process: LPC-COSANAC Consortium made up of Latin Pacific Capital S.A. and COSANAC S.A.C., Santiváñez Abogados S.A. and Mr. Javier Chávez Córdova, engineer.

### **3. DEFINITIONS**

Any reference made in this document to "Paragraph", "Form" and "Annex", shall be understood to be Paragraphs, Forms and Annexes of these Terms and Conditions respectively, unless otherwise expressly indicated.

All time references shall be understood in local time in Peru.

The terms in the singular will include the same terms in the plural and vice versa. The terms that are capitalized in these Terms and Conditions and are not expressly defined therein, correspond to Applicable Laws and Provisions or to the meaning given to them during the activities pertaining to the Project development, or failing that, to terms that are usually used in capital letters.

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In these Terms and Conditions terms shall have the meanings described in Annex 2.

**4. TENDER LEGAL FRAMEWORK**

- 4.1. Political Constitution of Peru.
- 4.2. Legislative Decree N° 295, Civil Code.
- 4.3. Law N° 26887, General Corporation Law.
- 4.4. Supreme Decree N° 027-2002-PCM, Merge of several entities related to private investment promotion and their incorporation into FOPRI's Executive Management, which shall be called Investment Promotion Agency.
- 4.5. Law N° 28660, which determines the legal nature of the Private Investment Promotion Agency -PROINVERSIÓN.
- 4.6. Supreme Decree N° 185-2017-EF, which approves the Regulations on PROINVERSIÓN's Organization and Duties,.
- 4.7. Legislative Decree N° 1362, Legislative Decree that regulates the Private Investment Promotion through Private Public Partnerships and Projects in Assets.
- 4.8. Supreme Decree N° 240-2018-EF, which approves the Regulation of Legislative Decree N° 1362.

**5. POWERS OF PROINVERSIÓN**

- 5.1 The Project Director conducts the Tender and has powers to:
  - a. Exercise all its duties and rights pursuant to the applicable Laws and Provisions.
  - b. Resolve what is not provided for in the Terms and Conditions, or in the applicable Laws and Provisions.
- 5.2 The mere submission by any Interested Party of information expected and / or requested by the Project Director for Qualification purposes does not oblige the Project Director to declare them as a Bidder, nor does the submission of a Bid oblige the Committee to accept it.
- 5.3 Decisions of the Project Director, Executive Director, Committee or the Advisory Board, as applicable and in relation to this Tender, are definitive, shall not give rise to compensation of any kind, and shall not be subject to challenge by administrative or legal appeal, except for the provisions in paragraph 13. Consequently, those participating in the Tender, subject to these Terms and Conditions, waive their right to file any appeal against such decisions.

**6. CONCESSION DRAFT CONTRACTS**

- 6.1 The Draft Contracts shall be published on PROINVERSIÓN's official Website and notified by Circular Letter to the interested parties or Bidders, as appropriate. They may submit their comments and / or suggestions within the Schedule deadlines. The Project Director shall evaluate if it is convenient to include the suggestions made by the Interested Parties or Bidders or not.

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- 6.2 None of the terms and / or criteria contained in the Draft Contracts shall in any way bind PROINVERSIÓN or the Grantor.
- 6.3 The final version of the Contracts approved by the PRO MINING AND ENERGY Committee and ratified by the Executive Director shall be published on PROINVERSIÓN's official Website and notified to Bidders by Circular Letter according to the Schedule.

**7. TENDER SCHEDULE**

- 7.1. Tender activity dates are detailed in Annex 1 - Tender Schedule.
- 7.2. The Schedule may be modified at any time, which shall be informed to the Interested Parties or Bidders by Circular Letter.
- 7.3. Unless expressly stated otherwise, documents shall be submitted at PROINVERSIÓN's Reception Desk no later than on the last day set forth in the Schedule at 17:00 hours of Lima, Peru.

**8. COMPLIANCE WITH THE TERMS AND CONDITIONS AND INTERPRETATION**

- 8.1 The mere submission of the documents required in the Terms and Conditions implies full knowledge and acceptance of and unconditional submission to, by the Interested Party, Bidder or Successful Bidder, as applicable, each one of the proceedings, obligations, conditions and rules established in the Terms and Conditions, without exceptions.
- 8.2 These Terms and Conditions are legally binding on the Interested Parties, Bidders or Successful Bidder. Consequently, the Interested Parties, Bidders or Successful Bidder irrevocably and unconditionally waive to bring, before any jurisdiction or authority, any action, complaint, claim or request for any compensation against PROINVERSIÓN, its advisers, or any other entity, body or official of the Government of the Republic of Peru, for exercising their powers pursuant to the Terms and Conditions and to the Applicable Laws and Provisions.
- 8.3 Wording and expressions used in the Terms and Conditions shall be interpreted in their natural and obvious sense, unless otherwise specified in this document or its Annexes, or inferred from the context thereof, pursuant to the applicable provisions in Peru. It shall be considered, without admitting evidence to the contrary, that all participants in the Tender know the Applicable Laws and Provisions.
- 8.4 The titles of the chapters, paragraphs, forms and annexes of the Terms and Conditions are used exclusively as references and shall not affect the interpretation of their contents.

**9. AUTHORIZED AGENTS AND LEGAL REPRESENTATIVES****9.1. Authorized Agents**

- 9.1.1. Once the Interested Parties have a Right to Participate, they shall appoint -by a simple letter addressed to the Project Director and duly signed by their Legal Representative- no more than two individuals as their Authorized

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Agents, who may act individually or jointly, at the discretion of the interested parties. Along with this appointment, the following information shall be provided: common address in the cities of Lima or Callao, telephone number and email addresses, through Form 6.

9.1.2. Authorized Agents –in addition to other powers expressly set forth in the Terms and Conditions- shall be entitled:

- a) To represent the Interested Party, Bidder or Successful Bidder before PROINVERSIÓN, the Executive Director, the Committee, the Project Director and the advisers on all matters, which do not fall within the Legal Representative’s exclusive competence in accordance with Paragraph 9.2.2;
- b) To respond, on behalf of the Interested Party, the Bidder or Successful Bidder, with binding effect on the grantor of power, to all the questions made by the Project Director;
- c) To receive Circular Letters;

9.1.3. The interested Parties and Bidders may replace any Authorized Agents, with a prior written communication sent to the Project Director and meeting the same requirements. Such communication will be effective the Day after it is received by PROINVERSIÓN.

**9.2. Legal Representatives**

9.2.1 Interested Parties and Bidders may appoint up to two common Legal Representatives to represent them jointly or individually, in accordance with the provisions of this Paragraph. Along with the appointment, the following information shall be provided: name, identity document, common address in Lima or Callao, telephone number and email addresses through Form 6.

9.2.2 Powers granted to each one of the Legal Representatives shall be sufficiently broad so that any of them, jointly or individually, may sign, on behalf of the appointing person, all documents that may be required by the Terms and Conditions, including specifically the power to file the appeals provided for in the Terms and Conditions, sign the Tender and, in case of being the Successful Bidder, sign the Concession Contracts.

9.2.3 The document appointing the Legal Representatives shall contain the corresponding representation powers, and it may be a general or specific power of attorney. It shall be submitted in the Qualification Envelope.

9.2.4 Replacement of a Legal Representative shall be valid the next Day after the date on which PROINVERSIÓN receives the documents duly accrediting such appointment.

9.2.5 The power of attorney granted outside Peru, appointing a Legal Representative shall be:

- a. Duly signed or legalized at the corresponding Consulate of Peru, and countersigned by the Ministry of Foreign Affairs of Peru, attaching a simple Spanish translation, in the event that it was issued in another language; or,

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- b. Apostilled, if the Interested Party or Bidder comes from a country signatory to the "Convention Abolishing the Requirement of Legalisation for Foreign Public Documents " entered into on October 5, 1961 in The Hague, Kingdom of the Netherlands, approved by Legislative Resolution N° 29445 and ratified by Supreme Decree N° 086-2009-RE ("Apostille Convention").
- 9.2.6 Powers granted in Peru shall be recorded by public deed or notarized copy of the minutes of the corresponding corporate governing body by which they are granted.
- 9.2.7 In the case of Consortiums, the Legal Representatives shall be common to all its members. They shall be appointed by the Legal Representatives of the Consortium members with the powers to do so. Such powers shall be accredited pursuant to Paragraphs 9.2.5 and 9.2.6.
- 9.2.8 In no case shall the powers of attorney of the Legal Representative be required to be recorded in the Public Registries of Peru at the time they are submitted.

**10. QUERIES AND CIRCULAR LETTERS****10.1 Queries**

- 10.1.1 Interested Parties or Bidders, as applicable, through their Authorized Agents and / or Legal Representatives, may ask any questions strictly related to the Terms and Conditions, as well as make comments or suggestions to the Draft Contracts within the time limits established in the Schedule, through written communications in Spanish addressed to:

**ANÍBAL DEL ÁGUILA ACOSTA**

Project Director

Av. Enrique Canaval Moreyra N° 150, Piso 10, Lima 27, Peru

Telephone: (511) 200-1200 Annex 1340

E-mail: [enlaces@proinversion.gob.pe](mailto:enlaces@proinversion.gob.pe)  
[whuambachano@proinversion.gob.pe](mailto:whuambachano@proinversion.gob.pe)

- 10.1.2 The Project Director's responses to queries regarding the Terms and Conditions shall be informed in writing by a Circular Letter to all the Interested Parties or Bidders, as applicable, without indicating the name of the person who made the enquiry. Once the qualification process is completed, the answers to all queries regarding the Terms and Conditions shall be sent to Bidders. Notwithstanding the foregoing, the answers to all queries shall be available on PROINVERSIÓN's official Website.
- 10.1.3 Comments and suggestions received regarding the Draft Contracts shall be published on PROINVERSIÓN's official Website, without indicating the name of the person who made them.
- 10.1.4 The Project Director is not under any obligation to respond to queries that are not related to the Tender. Likewise, it shall not be obliged to accept or answer any Interested parties' or Bidders' suggestions for the Draft Contracts.

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PROINVERSIÓN shall evaluate whether it is convenient to include the suggestions made by the Interested Parties or Bidders or not.

- 10.1.5 It is expressly established that the Schedule dates detailed in Annex 1 are referential. Any of the dates indicated in the Schedule may be modified, in which case it shall be notified by a Circular Letter.
- 10.1.6 All Interested Parties, through their Authorized Agents and / or Legal Representatives, shall have the right to meet with the Project Portfolio Director or the Project Director no later than the Day before the deadline to request the qualification. For their part, Bidders may do so until the Day before the scheduled date for the submission of Bids. After the Contract Award, the Successful Bidder may request interviews to coordinate the activities of the Closing Date.

## **10.2 Circular Letters**

- 10.2.1 At any time, and if deemed necessary, the Project Director may clarify, specify, modify and / or complement the Terms and Conditions, issuing a Circular Letter for this purpose, which shall be sent to the Legal Representatives or Authorized Agents of the Interested Parties or Bidders, as applicable.
- 10.2.2 All Circular Letters and communications shall be sent to the e-mail addresses previously indicated in Form 6 by the Interested Party or Bidder, who accepts the communications sent by electronic mail, with receipt acknowledgment as well received, and therefore it is understood that by only submitting the Sworn Statement - Information Notice (Form 6), they give express consent to receive electronic communications from the institutional e-mail account. Likewise, the Interested Party or Bidder is responsible at all times for checking their e-mail account.
- 10.2.3 Circular Letters issued by the Project Director shall be an integral part of the Terms and Conditions, thus they are legally binding on all the Interested Parties and Bidders.
- 10.2.4 After the deadline for qualification of the Interested Parties expires, Circular Letters shall only be sent to Bidders.

Notwithstanding the above, all Circular Letters shall be published on PROINVERSIÓN's official Website.

## **11. QUALIFICATION**

Pursuant to Paragraph 11.3 of the Terms and Conditions, the Qualification Envelope shall be submitted to the PROINVERSIÓN's offices, located at Av. Enrique Canaval Moreyra N° 150, Lima 27, Peru, no later than on the date indicated in the Schedule, and through the Authorized Agent or Legal Representative. Documents sent by post, e-mail or any other means of communication shall not be accepted or received.

Unless the Terms and Conditions provide otherwise, the documents included in the Qualification Envelope shall:

- a) Be delivered in original and two perfectly readable copies, which pages shall be numbered consecutively (recto and verso, even on pages without text).

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Furthermore, a table of contents shall be included listing in detail all documents contained in the envelope. Copies shall have the same numbering as the original document.

- b) Be signed by the Legal Representative, or endorsed if signing is not applicable, only on pages with text.
- c) Be issued in Spanish or enclosed with a simple translation into Spanish. If there is a discrepancy between texts in different languages, the text in Spanish shall prevail.
- d) In the event of any discrepancy between a number stated in numbers and in letters, the amount stated in letters shall prevail.

### **11.1 Requirements**

To be declared a Bidder, the Interested Party shall comply with the financial, technical and legal requirements established in Annex 3.

### **11.2 Envelope Contents**

The Qualification Envelope shall include the following documents:

- 11.2.1 Form 1. The Interested Party shall certify that the information submitted is reliable. It shall have the character of Sworn Statement.
- 11.2.2 A simple copy of the current registration record or equivalent instrument issued by the competent authority of the Interested Party's country of origin or replacing document. In case of a Consortium, such document for each of its members shall be submitted. A simple translation into Spanish shall be enclosed if issued in another language.
- 11.2.3 For Consortiums, the Letter of Consortium Structure (Form 3) signed by the Legal Representatives of each member of the Consortium, expressing their intention to jointly participate in the Tender, and confirming its existence, validity and joint and several liability regarding the obligations assumed in the Tender. It shall be required for one of the Consortium members to be the Operator to qualify.
- 11.2.4 A simple copy of the audited financial statements for the last fiscal year of the Interested Party, the Consortium members or the corresponding Related Companies accrediting the assets included in Form 1, which figures are used to prove that the financial requirements are met (Annex 3). In the event that the financial statements submitted are stated in currencies other than the US dollar, the net equity and total assets shall be translated into that currency using the exchange rate published by the Superintendence of Banking, Insurance and Pension Fund Administrators, or by a similar agency of the country of origin on the financial statements year-end, which shall be included in the same Form 1.
- 11.2.5 A certified copy of the Legal Representative's power of attorney, or the original or certified copy of the public deed of such power of attorney. In case of a Consortium, a certified copy of the minutes proving the powers of attorney of the Legal Representatives of each one of its members, or the original or certified copy of the public deed of such powers of attorney. If the power of attorney is registered in the Public Record Office, the

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corresponding Certificate of Validity of the Power of Attorney may be submitted.

In case the power is granted outside Peru, it shall comply with paragraph 9.2.5

Likewise, a Sworn Statement (Form 10) shall be attached, stating that the mentioned power (s) is (are) in force.

- 11.2.6 A simple copy of the documents sufficiently proving the fulfillment of the technical requirements established in Annex 3.
- 11.2.7 A simple copy of proof of payment for the Right to Participate fee issued in the name of the Interested Party or one of the Consortium members. Alternatively, as the case may be, a Sworn Statement (Form 11) may be submitted explaining how the right to participate was obtained, either through a Company Related to the Interested Party or one of its shareholders or partners, or through a transfer of rights.

### **11.3 Procedure to submit the Qualification Envelope**

- 11.3.1 The Interested Party shall coordinate with the Project Director the date to submit its Qualification Envelope to the Commission, within the time limits indicated in the Schedule.
- 11.3.2 The Commission shall receive the Qualification Envelope and open it in the presence of a Notary Public. A record shall be made on the submission, reception and number of pages of the documents included in the Interested Party's Qualification Envelope.
- 11.3.3 If any of the requested documents is missing in the Qualification Envelope, the Envelope shall be returned and may be submitted again within the period established in the Tender Schedule, subject to compliance with the provisions of Paragraph 11.3.1 above. Such omission shall be indicated in the record mentioned in Paragraph 11.3.2 above.
- 11.3.4 After opening the Qualification Envelope, no information shall be given to the Interested Party regarding such Qualification until the Project Director's decision is informed to the Interested Parties by a Circular Letter.

### **11.4 Simplified Qualification Procedure**

- 11.4.1 Mechanism by which the Interested parties that were qualified in any process carried out by PROINVERSIÓN in the last two (2) years counted from the date of presentation of Envelope N° 1 for such process, may request a “Certificate of Validity of Qualification Documents”, to demonstrate its credentials for the Tender.
- 11.4.2 The Interested Party that wishes to make use of the simplified qualification procedure shall submit a request to the Project Director, indicating the name of the process it participated in, as well as the documents presented for the purpose of qualification or presentation of credentials. This request shall be submitted up to twenty (20) Days before the expiration of the deadline for the presentation of the application for Qualification referred to in Paragraph 4.2 of Annex 1 (Tender Schedule).

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- 11.4.3 The Project Director shall verify the applicability of the documents to the Tender Qualification process.
- 11.4.4 If the applicability referred to in the former paragraph is verified, the Project Director shall deliver to the Interested Party the Certificate of Validity of Qualification Documents within ten (10) Days from the presentation of the request of such certificate.
- 11.4.5 To comply with the presentation of the qualification Envelope, the Interested Party that has benefited from the simplified procedure shall only submit the following documents:
  - a. The Certificate of Validity of Qualification Documents.
  - b. A Sworn Statement indicating that the documents referred to in the Certificate of Validity of Qualification Documents are valid, pursuant to the model contained in Form 12.
  - c. New or additional documents required for Qualification purposes, as indicated in Paragraph 11.2

**11.5 Procedure to assess the qualification Envelope**

- 11.5.1 If the Commission finds errors that can be remedied, the Project Director shall notify the Interested Party in writing so that it corrects them within the time limit indicated in the Schedule, with a warning of being otherwise excluded from the Tender. Responses shall be made in writing. If the Interested Party fails to be Qualified, it shall be excluded from the Tender.
- 11.4.2 In addition, in order to facilitate the examination, verification and comparison of data and requirements, the Commission, through the Project Director, may request the Interested Parties to clarify the information included in the Qualification Envelope, which shall not imply any modification of its content. The request for clarification and its response shall be in writing.
- 11.4.3 Upon receipt of the Commission's evaluation, the Project Director shall resolve and inform the results of the Qualification by a Circular Letter. Notwithstanding the foregoing, the list of Bidders shall be available on PROINVERSIÓN's official Website.
- 11.4.4 Until the date indicated in the Schedule, Bidders may form Consortiums or may modify their organization without changing the qualified Operator, according to the model of Form 3-A or Form 3-B, as applicable. In either case, they may associate with other Bidders or with third parties. Within the period provided in the Schedule, the new Consortium shall meet the Qualification requirements by submitting the documents required in the Terms and Conditions. The changes shall be submitted to the Project Director for evaluation within the indicated time limits.
- 11.4.5 If a member of a Consortium decides to withdraw from it, the Bidder shall notify the Project Director within the time limit established in the Schedule. Only if members who remain in the Bidder fail to meet the qualification requirements, the Bidder shall present another Person for the Project

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Director’s evaluation. If the Bidder fails to submit the replacement, its qualification condition shall be deemed as void for the Tender, and this shall be informed by the Project Director.

11.4.6 The Project Director's decision regarding the qualification shall be definitive and shall not be challenged.

11.4.7 Notwithstanding any civil and criminal liability that may have arisen, the lack of truthfulness of the data or information submitted in the Qualification Envelope, the Project Director may disqualify the Bidder at any stage of the Tender.

## **12. SUBMISSION AND EVALUATION OF BIDS**

The place, date and time for the submission of Envelopes N° 1 and N° 2 shall be informed by a Circular Letter.

Envelopes N° 1 and N° 2 shall be submitted to the Project Director, closed, labeled and shall clearly indicate the following on the front:

- a) Name of the Tender,
- b) Envelope Number ("Envelope N° 1" or "Envelope N° 2"); and
- c) Bidder’s Name.

Documents included in Envelopes N° 1 and N° 2, shall be delivered as originals.

If there is any discrepancy between a number stated in numbers and in letters, the amount stated in letters shall prevail. If there is any discrepancy between Form 4 and Form 4-A, Form 4 shall prevail.

Bidders shall present their Bids by submitting Envelope N° 1.

### **12.1 Contents of Envelopes N° 1 and N° 2**

- 12.1.1. All the documentation submitted in Envelope N° 1 shall be perfectly legible and signed by the Bidder’s Legal Representative (s) except for Validity, Enforceability and Bid bond.
- 12.1.2. Envelope N° 1 shall be personally presented by one of the Authorized Agents or by one of the Legal Representatives. Documents sent by post, facsimile or any other type of communication shall not be accepted or received.
- 12.1.3. The Bidder shall bear all direct or indirect costs or expenses incurred in connection with the preparation and submission of Envelopes N° 1 and 2. The Government or any of its departments, including PROINVERSIÓN, its officials, consultants and / or advisers, shall in no case be liable for such costs or expenses, regardless of the outcome of the Tender, or if it is suspended or canceled.
- 12.1.4 Envelope N° 1 shall contain the following documents:
  - a) Five (5) copies of the final version of each Concession Contract, printed on security paper, sent by PROINVERSIÓN the Project Director to the Bidders. Each page of these copies shall be duly initialed by the Bidder’s

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Legal Representative, in acceptance of the terms and conditions of the same.

- b) Form N° 7 (Validity of the Sworn Statement Information).
- c) Form N° 8 or 8-A, as applicable (Acceptance of Terms and Conditions and Contract Form - Sworn Statement).
- d) Form N° 9 (Sworn Statement of not being disqualified from contracting with the Peruvian State),
- e) Validity, Enforceability and Bid bond, according to the amount and conditions established in Form 2, and issued by one of the Financial Entities indicated in Annex 6, which shall be valid until the Closing Date, and,
- f) Envelope N° 2, closed:

12.1.5 Envelope N° 2 shall contain Forms 4, 4-A, 4-AA, 4-B, 4BB, 4-C and 4-CC, printed on security paper to be sent to Bidders by the Project Director, duly filled out and signed by the Legal Representative.

12.1.6. The financial offer shall be an integral part of each Contract and shall be binding.

For the purposes of this Tender, submission of Envelope N° 2 represents an irrevocable financial offer, and the Bidder submitting it shall be subject –with no exception - to all the terms and conditions of each Contract.

## **12.2 Submission of Envelopes N° 1 and N° 2 and Contract Award**

12.2.1 The Submission of Envelopes N° 1 and N° 2 shall be conducted in a public act, before the Project Director and the Committee, in the presence of Notary Public, on the date indicated in the Schedule, and at the place and time indicated by the Circular Letter. Up to thirty (30) minutes of tolerance may be granted to start receiving the Envelopes.

12.2.2 The Project Director shall invite Bidders one by one to present Envelopes N° 1, which shall contain Envelopes N° 2, among other documents. Envelopes N° 1 shall be delivered by each Bidder to the Notary Public, who will verify that they are closed and will open them. The Notary Public shall sign the documents contained in Envelopes N° 1 and shall deliver them to the Project Director. The Notary Public shall separate Envelopes N° 2 and place them in the corresponding box.

12.2.3 The Project Director shall review the documents submitted in Envelopes N° 1 and if all Bidders' documents are accepted, the Notary Public shall open Envelopes N° 2, endorse their contents and the Project Director will read Form 4 of each Bidder.

12.2.4 The Committee shall award the Contract to the Bidder who submits the lowest Total Service Cost, which shall be established pursuant to the method indicated in Annex 4. Subsequently, this act shall be recorded and signed by the Committee, the Notary Public, the Project Director, the Successful Bidder, and any other Bidders who want to do so.

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12.2.5 In the event that any of the documents detailed in Paragraph 12.1.4 is missing, the Committee shall deem Envelope N° 1 as not submitted. If there are minor errors in the documents of Envelope N° 1, the Project Director shall notify the corresponding Bidders about the errors found in such documents, the act will be suspended, and the Notary Public shall keep Envelopes N° 2 closed until the date indicated in the Schedule. It should be noted that the Bid Bond and Envelope N° 2 are not remediable.

A record of this shall be made and it shall be signed by the Project Director, the Committee, the Notary Public and the Bidders who wish to do so. The latter may also, if they wish, sign on Envelopes N° 2 of the other Bidders. Signing the record or not does not constitute, extinguish or modify any right of the Bidders.

12.2.6 The Bidders shall remedy the observations within the time limits indicated in the Schedule, being otherwise excluded from the Tender.

12.2.7 Once the act is resumed, proceedings pursuant to Paragraphs 12.2.3 and 12.2.4. shall take place

12.2.8 Bids shall remain in force until the Closing Date.

### **13. CHALLENGING THE CONTRACT AWARD**

#### **13.1. Proceedings**

13.1.1. Any Bidder that has submitted a valid Bid or the Bidder whose award was revoked, may lodge a legal challenge before the Committee only against the results of the Contract Award, or against the decision to award the contract to the Bidder that presented the second best Bid (after revoking the award for noncompliance of the obligations foreseen on the Closing Date). Such appeal shall be documented as an observation in the records of the opening act of Envelopes N° 1 and N° 2, and shall be duly substantiated, in writing, within no more than eight (8) Days after the Contract Award. The Committee shall resolve such appeal within no more than ten (10) days, from the next Day after the appeal was filed.

13.1.2. The affected Bidder may file an appeal against the Committee's resolution before PROINVERSIÓN's Board of Directors within the next three (3) Days after having received notice of such decision. the appeal was submitted. An appeal may also be filed against the implied decision of denial of appeal, if after the expiration of the ten (10) Day term provided for the Committee to decide on such appeal, it has failed to issue the corresponding decision. In the latter case, the deadline for filing the appeal shall be calculated from the day following the ten (10) Day period expiration.

13.1.3. The appeal filed against the Committee's explicit or implied resolution shall be resolved by PROINVERSIÓN's Board of Directors within the next thirty (30) days after it is filed. The resolution in the second and final instance shall be final and shall not be challenged.

13.1.4. Any expenses arising from the appeal process against the Contract Award shall be borne by the Bidder challenging it.

**“Decade of Equal Opportunities for Women and Men”  
“Year of Dialogue and National Reconciliation”****13.2. Guarantees**

- 13.2.1. No appeal shall be considered validly filed, and it shall have no effect unless the Bidder filing such appeal provides the Project Director with an letter of guarantee, within the next three (3) Days after the date of the Contract Award. Such guarantee shall be joint and several, irrevocable, unconditional, without the benefit of excussion or division and automatically enforceable, pursuant to Form 5 of the Terms and Conditions, in favor of PROINVERSIÓN. The appeal bond referred to in this Paragraph shall enter into effect from the date it is submitted and remain valid for the next sixty (60) days after that date.
- 13.2.2. Such appeal bond shall be executed by PROINVERSIÓN, in case the the appeal is not upheld or is declared inadmissible, and the Bidder does not file the corresponding appeal. Likewise, the appeal bond shall be executed if the second appeal is not upheld or is declared inadmissible, by which the Contract Award granted by the Committee shall be considered final.
- 13.2.3. In case any of the appeals are upheld, the appeal bond shall be returned to the corresponding Bidder, without generating any interest in its favor.

**14. DESERTED TENDER**

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

- a. If there are no Bidders, in the act of delivery and reception of Envelopes N° 1 and N° 2; or
- b. If there are no valid Bids left after reviewing both Envelopes.
- c. When at least two valid Bids have not been received.

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

**15. TENDER CLOSING DATE**

- 15.1. The Closing Date shall take place before the Committee or its representative in the presence of a Notary Public, as indicated in the Schedule. The place and time shall be informed by a Circular Letter.
- 15.2. In order for the Closing Date to be valid, the Successful Bidder, the Concessionaire, the Grantor and PROINVERSIÓN shall comply with the proceedings established in Annex 5.
- 15.3. If the information submitted by the Successful Bidder at any stage of the Tender is found to be false, the Committee shall revoke the Contract Award, and the Bid Bond shall be executed.
- 15.4. If the Successful Bidder fails to fulfill his/her obligations to meet the Closing Date, the Committee shall revoke the Contract Award and the Bid Bond shall be executed without prior notice to the Successful Bidder and may accept the proposal of the Bidder with the second best Bid in the Tender. In such case, the Committee shall notify the Bidder of its decision to declare it the new Successful Bidder, informing him/her of the Closing Date proceedings. Likewise, such decision shall be informed to all Bidders by a Circular Letter.

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The deadlines to comply with the Closing Date proceedings shall be calculated from the notification referred to in the previous paragraph, and shall not be less than those that the first Bidder had, pursuant to the Schedule in force at the time of notification.

- 15.5. After the Closing Date, and from the following Day Bid Bonds shall be returned to Bidders other than the Successful Bidder.

## **16. EXECUTING THE VALIDITY, ENFORCEABILITY AND BID BOND**

- 16.1. If the Successful Bidder fails to fulfill his/her obligations to meet the Closing Date, PROINVERSIÓN shall execute the Validity, Enforceability and Bid bond without prior notice to the Successful Bidder.

It shall also be executed if the PROINVERSIÓN finds out that such Bidder submitted false information at any stage of the Tender, except in the case of errors or omissions which, in PROINVERSIÓN 's opinion, have no relevance in the decisions made by the PROINVERSIÓN or in the Tender results.

- 16.2. The Committee shall have the right, but not the obligation to accept the second best valid Bid, in which case it shall notify such Bidder of its decision to announce him/her as the new Successful Bidder and, if necessary, request an extension of its Validity, Enforceability and Bid bond, for a specific term. If such Bidder fails to comply with this request, PROINVERSIÓN shall execute the bond and cancel the Tender. Bidders shall be notified by Circular Letters.

## **17. TENDER SUSPENSION AND CANCELLATION**

The Committee may suspend or cancel the Tender for reasons of public interest. This decision shall not be challenged.

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(Private Investment Promotion  
Agency)**Projects Portfolio  
Directorate****“Decade of Equal Opportunities for Women and Men”  
“Year of Dialogue and National Reconciliation”****FORM 1****Qualification Application**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

In order to obtain the Bidder's qualification, \_\_\_\_\_ submits the following information:

**1.- Financial Requirements**

Net equity:	US\$	[     ]
Total assets:	US\$	[     ]

(If the original figures are stated in currencies other than US Dollar, indicate here the exchange rate used, in accordance with Paragraph 11.2.4).

(If figures of Related Companies have been used, explain such relationship on an additional sheet of paper endorsed by the Legal Representative).

**2.- Technical Requirements**

Substation capacity	(.....MVA)
---------------------	------------

(If figures of Related Companies have been used, explain such relationship on an additional sheet of paper endorsed by the Legal Representative).

**3.- Legal Requirements:**

- We declare that we have no direct or indirect participation in any other Interested Party applying for qualification in this Tender, according to the following:
  - a) Companies not listed on the stock exchange: ( )
  - b) Companies listed on the stock exchange: ( )
- In the case of a Consortium made up of listed and non-listed companies, specify in an additional sheet of paper whether each member is listed on the stock exchange or not.
- We declare that we meet the legal requirements outlined in Annex 3.

Sincerely,

Signature of the Legal Representative of the Interested Party or Consortium:  
.....

Name: .....

ID N°: .....

Note: No signature is required from the representatives of the Related Companies whose figures are mentioned.



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“Year of Dialogue and National Reconciliation”

## **FORM 2**

### **Validity, Enforceability and Bid Bond**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

Ref.: Guarantee Letter N° .....

Maturity: .....

Dear Sir/Madam:

We hereby –at the request of our clients- ..... (Bidder or Member) establish this joint and several, irrevocable, unconditional and automatically enforceable guarantee, without the benefit of excussion or division, up to the sum of four million Dollars of the United States of America (US \$ 4'000,000) in favor of PROINVERSIÓN, to ensure the Validity, Effectiveness and Seriousness of the Bid submitted by our client (or Consortium) \_\_\_\_\_ formed by \_\_\_\_\_ according to the terms and conditions established in the Tender Terms and Conditions.

We also certify that this guarantee shall be paid if our client is declared Successful Bidder by PROINVERSIÓN and fails to comply with his/her obligations on the date of signing of the corresponding Tender Contracts.

In order to honor the guarantee herein in your favor, a notarized request from PROINVERSIÓN's Executive Director, or the person acting as such, to our office located at ..... will suffice. Any delay on our part to honor the bond referred to above, shall accrue an interest equivalent to one-year LIBOR plus a spread of 3%.

The LIBOR rate shall be established by the daily Reuter Cable that is received in Lima at 11:00 a.m. Interest shall accrue from the date on which it is required to be fulfilled and until the effective date of payment.

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

This bond will be valid from the date on which the Bid was presented, until.... .... 201 .

The terms used in this Bond shall have the same meaning as the terms defined in the Tender Terms and Conditions.

Sincerely,

SIGNATURE AND SEAL .....

Name of the bank issuing the bond: .....

Bank address:.....



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“Year of Dialogue and National Reconciliation”

### **FORM 3**

## **Structure of Interested Party’s Consortium**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions" , "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

We hereby submit the information on the Consortium \_\_\_\_\_’s organization, which shall be as follows:

\_\_\_\_\_ Operator (.....%)  
\_\_\_\_\_ Consortium’s Member 1 (.....%)  
\_\_\_\_\_ Consortium’s Member 2 (.....%)

We, the Consortium members, hereby declare under oath that we meet the technical, legal and financial requirements pursuant to the Terms and Conditions and confirm the existence, validity and the joint and several liability regarding the obligations assumed in the Tender. Without prejudice to PROINVERSIÓN's power to request further information on this matter, the Annex attached hereto explains why our Consortium meets the financial requirements.

Sincerely,

Signature of Operator’s Legal Representative:

Name:

ID N°:

Signature of Member 1’s Legal Representative:

Name:

ID N°:

Signature of Member 2’s Legal Representative:

Name:

ID N°:



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## FORM 3-A

### Structure of Bidder's Consortium

Lima, [ ] [ ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY**  
**PROINVERSIONPROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

We, Bidder \_\_\_\_\_, hereby submit the information on Consortium \_\_\_\_\_'s organization, which shall be as follows:

\_\_\_\_\_ Qualified Operator (.....%)  
\_\_\_\_\_ Consortium's Member 1 (.....%)  
\_\_\_\_\_ Consortium's Member 2 (.....%)

We declare under oath that this consortium meets the technical, legal and financial requirements pursuant to the Terms and Conditions. Without prejudice to PROINVERSIÓN's power to request further information on this matter, the Annex attached hereto explains why our Consortium meets the financial requirements.

Sincerely,

Signature of the Qualified Operator's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_

Signature of Member 1's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_

Signature of Member 2's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_



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## **FORM 3-B**

### **Consortium Modification**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Projects Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

We hereby submit the modification of Consortium \_\_\_\_\_, which shall be organized as follows:

\_\_\_\_\_ Qualified Operator (.....%)  
\_\_\_\_\_ Consortium's Member 1 (.....%)  
\_\_\_\_\_ Consortium's Member 2 (.....%)

We declare under oath that the modified Consortium meets the technical, legal and financial requirements pursuant to the Terms and Conditions. Without prejudice to PROINVERSIÓN's power to request further information on this matter,, the Annex attached hereto explains why the modified Consortium meets the financial requirements.

Sincerely,

Signature of qualified Operator's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_

Signature of Member 1's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_

Signature of Member 2's Legal Representative: \_\_\_\_\_

Name: \_\_\_\_\_

ID N°: \_\_\_\_\_

**Note:** The document shall be signed by the representatives of the members of the modified Consortium, as well as the representatives of excluded members.

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Directorate****“Decade of Equal Opportunities for Women and Men”  
“Year of Dialogue and National Reconciliation”****FORM 4****Bid Submission**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions" , "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

Bidder .....

We hereby submit our Bid under the following terms:

**“500 KV LA NIÑA – PIURA LINK AND ASSOCIATED SUBSTATIONS, LINES AND EXPANSIONS”**

	In numbers (With two decimals)	In letters
1) Investment Cost (US\$)		
2) Annual O & M Cost (US\$)		

**“220 KV PARIÑAS – NUEVA TUMBES LINK AND ASSOCIATED SUBSTATIONS, LINES AND EXPANSIONS”**

	In numbers (With two decimals)	In letters
1) Investment Cost (US\$)		
2) Annual O & M Cost (US\$)		

**“220 KV TINGO MARIA – AGUAYTIA LINK AND ASSOCIATED SUBSTATIONS, LINES AND EXPANSIONS”**

	In numbers (With two decimals)	In letters
1) Investment Cost (US\$)		
2) Annual O & M Cost (US\$)		

**Notes:**

- a) Values indicated in 1) and 2) are as of the date the Bid is submitted.
- b) Our Bid shall be valid until the Closing Date.
- c) The meanings of Investment Cost and O & M Cost are indicated in Annex 4 of the Terms and Conditions.
- d) Itemized costs of each Project are stated in Forms 4-A, 4-AA, 4-B, 4-BB, 4-C and 4-CC.

Sincerely,

Signature of Legal Representative: .....

Name of Legal Representative: .....

ID N°: .....

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“Year of Dialogue and National Reconciliation”****FORM 4-A****Bid Breakdown****“500 kV La Niña – Piura Link and Associated Substations, Lines and  
Expansions” Project****Transmission Lines**

Description	500 kV La Niña-Piura Nueva Transmission Line (in US\$)	220 kV Felam-Piura Oeste Variant 1 (in US\$)	220 Kv La Niña-Piura Oeste Variant 2 (in US\$)	220 kV Switch Point-Piura Oeste Transmission Line (L-2162/2241) Upgrading (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>					
Supplies					
Transport and Insurance					
Construction and Assembly					
Indirect Costs					
Project Management					
Engineering					
Supervision					
Financial Expenses					
<b>Total Investment Costs</b>					<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>					
<b>Total Annual Operation and Maintenance Costs</b>					<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-AA shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4

(\*\*) The sum of this amount and its equivalent in Form 4-AA shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the date the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....

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Directorate****“Decade of Equal Opportunities for Women and Men”  
“Year of Dialogue and National Reconciliation”****Form 4-AA****Bid Breakdown****“500 kV La Niña – Piura Link and Associated Substations, Lines and  
Expansions” Project  
Substations and Telecommunications**

Description	500/220 kV Piura Nueva Substation (in US\$)	500 kV La Niña Substation (Expansion) (in US\$)	220/60 kV Piura Oeste Substation (Expansion) (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>				
Supplies				
Transport and Insurance				
Construction and Assembly				
Indirect Costs				
Project Management				
Engineering				
Supervision				
Financial Expenses				
<b>Total Investment Costs</b>				<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>				
<b>Total Annual Operation and Maintenance Costs</b>				<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-A shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4.

(\*\*) The sum of this amount and its equivalent in Form 4-A shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the date the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....

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“Year of Dialogue and National Reconciliation”**Form 4-B****Bid Breakdown****“220 kV Pariñas – Nueva Tumbes Link and Associated Substations,  
Lines and Expansions” Project  
Transmission Lines**

Description	220 kV Pariñas - Nueva Tumbes Transmission Line (in US\$)	220 kV Zorritos – Machala Transmission Line Variant (L-2280) (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>			
Supplies			
Transport and Insurance			
Construction and Assembly			
Indirect Costs			
Project Management			
Engineering			
Supervision			
Financial Expenses			
<b>Total Investment Costs</b>			<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>			
<b>Total Annual Operation and Maintenance Costs</b>			<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-BB shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4

(\*\*) The sum of this amount and its equivalent in Form 4-BB shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the date the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....

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Directorate**“Decade of Equal Opportunities for Women and Men”  
“Year of Dialogue and National Reconciliation”**Form 4-BB****Bid Breakdown****“220 kV Pariñas – Nueva Tumbes Link and Associated Substations,  
Lines and Expansions” Project  
Substations and Telecommunications**

Description	220 kV Nueva Tumbes Substation (in US\$)	220 kV Pariñas Substation (Expansion) (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>			
Supplies			
Transport and Insurance			
Construction and Assembly			
Indirect Costs			
Project Management			
Engineering			
Supervision			
Financial Expenses			
<b>Total Investment Costs</b>			<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>			
<b>Total Annual Operation and Maintenance Costs</b>			<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-B shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4

(\*\*) The sum of this amount and its equivalent in Form 4-B shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....

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“Year of Dialogue and National Reconciliation”**FORM 4-C****Bid Breakdown****“220 kV Tingo María – Aguaytía Link and Associated Substations,  
Lines and Expansions” Project****Transmission Lines**

Description	220 kV Nueva Tingo María- Aguaytía Transmission Line (in US\$)	220 kV Chaglla- Tingo María Transmission Line Variant (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>			
Supplies			
Transport and Insurance			
Construction and Assembly			
Indirect Costs			
Project Management			
Engineering			
Supervision			
Financial Expenses			
<b>Total Investment Costs</b>		<b>(*)</b>	<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>			
<b>Total Annual Operation and Maintenance Costs</b>		<b>(**)</b>	<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-CC shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4

(\*\*) The sum of this amount and its equivalent in Form 4-CC shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....

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“Year of Dialogue and National Reconciliation”**FORM 4-CC****Bid Breakdown****“220 kV Tingo María – Aguaytía Link and Associated Substations,  
Lines and Expansions” Project****Substations and Telecommunications**

Description	220 kV Nueva Tingo María- Aguaytía Substation (in US\$)	220 kV Aguaytía Substation (Expansion) (in US\$)	TOTAL (in US\$)
<b>INVESTMENT COSTS</b>			
Supplies			
Transport and Insurance			
Construction and Assembly			
Indirect Costs			
Project Management			
Engineering			
Supervision			
Financial Expenses			
<b>Total Investment Costs</b>		<u>(*)</u>	<b>(*)</b>
<b>OPERATION AND MAINTENANCE COSTS</b>			
<b>Total Annual Operation and Maintenance Costs</b>		<u>(**)</u>	<b>(**)</b>

(\*) The sum of this amount and its equivalent in Form 4-C shall be equal to the Project Investment Cost, indicated on the date the Bid was submitted, recorded in Form 4

(\*\*) The sum of this amount and its equivalent in Form 4-C shall be equal to the Project's Annual Operation and Maintenance Cost, indicated on the Bid was submitted, recorded in Form 4.

Signature of Legal Representative: .....

Name of Legal Representative: .....

Bidder: .....



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## **FORM 5**

### **Contract Award Appeal Bond**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

Ref.: Guarantee Letter N° .....  
Maturity: .....

Dear Sirs:

We hereby -at the request of our clients- Messrs. ...., establish this joint and several, irrevocable, unconditional and automatically enforceable guarantee, without the benefit of excussion or division, for up to the sum of one million seven hundred and two thousand five hundred and sixty-six Dollars of the United States of America (US\$ 1'702,566) in favor of the PROINVERSIÓN to ensure our clients' payment in any of the assumptions indicated in paragraph 4 of this Guarantee Letter.

This Guarantee Letter shall be valid from the date it is submitted and for the next sixty (60) calendar days after the date of submission and shall be paid in the event that the corresponding resolution decides not to uphold the appeal or to declare it inadmissible. Likewise, if the Bidder does not file the corresponding appeal against such resolution, within the time limit established in the Tender Terms and Conditions.

We expressly understand that this Guarantee Letter may be executed by PROINVERSIÓN pursuant to the provisions of Section 1898 of the Peruvian Civil Code.

It is expressly agreed that in order to honor the guarantee herein, PROINVERSIÓN a simple notarized request to our offices located in the address below will suffice. It shall indicate that the appeal filed in relation to the Tender has not been upheld or has been declared inadmissible by PROINVERSIÓN's Board of Directors; or that having obtained such resolution by the Special Committee of Hydrocarbon, Electricity and Mining Projects - PRO MINERIA Y ENERGIA, it was not appealed within the time limits established in the Terms and Conditions.

We undertake to pay you the total amount of the bond no later than 24 hours, after the reception of the notarized request.

Any delay on our part to honor the bond referred to above, will accrue an interest equivalent to one-year LIBOR plus a spread of 3%.

The LIBOR rate shall be established by the daily Reuter Cable that is received in Lima at 11:00 a.m. Interest shall accrue from the date on which it is required to be fulfilled.

Sincerely,

SIGNATURE AND SEAL

Name of the Bank issuing the Bond:

Bank address:



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## **FORM 6**

### **Information Notice SWORN STATEMENT**

Lima, [     ] [     ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects..

Interested Party: .....

Under oath, we hereby declare the following:

That, pursuant to Section 20.4 of Supreme Decree N° 006-2017-JUS, Single Revised Text of Law 27444, General Administrative Proceedings Act, we expressly accept that any notification or communication (including Circular Letters) conducted within the framework of the private investment promotion process that regulates these Terms and Conditions, shall be notified through the following emails:

1. ....

2. ....

That we undertake to keep the two e-mail accounts active during the private investment promotion process, otherwise it shall be understood that PROINVERSIÓN and the Committee shall not be held liable.

Signature of the Interested Party's Legal Representative or Authorized Agent:  
.....

Name:

ID N°:

In the case of a Consortium, indicate the name of the company or companies, as appropriate, that are part of the Consortium, as well as the name, signature and ID Number of the Consortium's Legal Representative.



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## **FORM 7**

### **Information Validity**

### **SWORN STATEMENT**

**Messrs.**

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects

Bidder: .....

We hereby declare under oath that the information, statements, certification and, in general, all documents submitted in the Qualification Envelope remain in force and shall remain so until the date of Contract subscription.

Place and date: ....., 201 ...

Signature of the Bidder’s Legal Representative: .....

Name of the Bidder’s Legal Representative: .....

ID N°: .....

Signature of the Legal Representative (Member 1):

Name of the Legal Representative (Member 1) : .....

ID N°: .....

Signature of the Legal Representative (Member 2):

Name of the Legal Representative (Member 2): .....

ID N°: .....



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## FORM 8

### Acceptance of Terms and Conditions and Contracts

#### SWORN STATEMENT

(Applicable to Bidders and to Consortium members whose shares are not listed on the stock exchange)

Lima, [ ] [ ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects

Bidder: .....

***If the Bidder is a legal entity, the declaration shall start with the following text.***

We, \_\_\_\_\_ (Bidder's Name), as well as its shareholders (or partners, as applicable), hereby declare the following under oath:

***If the Bidder participates as a Consortium, he/she shall start the Sworn Statement with the following text:***

We, \_\_\_\_\_ (Bidder's Name), its members: \_\_\_\_\_ and \_\_\_\_\_ (Name of each Consortium member), and the shareholders (or partners, as applicable) of the aforementioned members, hereby declare the following under oath:

1. We abide by all the provisions of the Tender and Contract Award; provisions set forth in Legislative Decree N° 1362. Legislative Decree regulating the Private Investment Promotion through Public Private Partnerships and Projects in Assets, its Regulations, approved through Supreme Decree N° 240-2018-EF; the Terms and Conditions and their Circular Letters.
2. We have examined and agree with these Terms and Conditions, Contracts and other related records and documents, expressly accepting the obligations imposed by the enforcement of Legislative Decree N° 1362. Legislative Decree regulating the Private Investment Promotion through Public Private Partnerships and Projects in Assets, its Regulations, approved through Supreme Decree N° 240-2018-EF, these Terms and Conditions, the Concession Contracts and other Applicable Laws and Provisions, and have no objection or remark. Consequently, we release PROINVERSIÓN, its officers, advisers and consultants from any liability for any possible errors or omissions in the aforementioned records and documents.
3. That, in the event we are the Successful Bidders, we will ensure that the Concession Contracts are signed by the Concessionaire.

Signature of the Bidder's Legal Representative:

.....

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

ID N°: .....



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## Form 8-A

### Acceptance of Terms and Conditions and Contracts

#### SWORN STATEMENT

(Applicable to Bidders and to the Consortium members whose shares are listed on the stock exchange)

Lima, [ ] [ ], 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

Bidder: .....

***If the Bidder is a legal entity, the declaration shall start with the following text.***

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

***If the Bidder participates as a Consortium, he/she shall start the Sworn Statement with the following text:***

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

1. We abide by all the provisions of the Tender and Contract Award; provisions set forth in Legislative Decree N° 1362. Legislative Decree regulating the Framework for Private Investment Promotion through Public Private Partnerships and Projects in Assets, its Regulations, approved through Supreme Decree N° 240-2018-EF; the Terms and Conditions and their Circular Letters.
2. We have examined and accept these Terms and Conditions, Contracts and other related records and documents, expressly accepting the obligations imposed by the enforcement of Legislative Decree N° 1362. Legislative Decree regulating the Private Investment Promotion through Public Private Partnerships and Projects in Assets, its Regulations, approved through Supreme Decree N° 240-2018-EF, these Terms and Conditions, the Concession Contracts and other Applicable Laws and Provisions, and have no objection or remark. Consequently, we release PROINVERSIÓN, its officers, advisers and consultants from any liability for any possible errors or omissions in the aforementioned records and documents.
3. That, in case we are the Successful Bidders, we will ensure that the Concession Contracts are signed by the Concessionaire.

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

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

ID N°: .....



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## **FORM 9**

### **Statement of not being disqualified from contracting with the Peruvian State**

#### **SWORN STATEMENT**

Lima, ....., 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

Bidder: .....

We, [..... (Bidder's Name) .....], hereby declare under oath that we are not under the scope of Section 29 of Legislative Decree N° 1362, which regulates Private Investment Promotion through Public Private Partnerships and Projects in Assets.

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

Name: .....

ID N°: .....

**Signature of the members in case of a Consortium:**

Signature of the Legal Representative of (Member 1): .....

Name: .....

ID N°: .....

Company: .....

Signature of the Legal Representative of (Member 2): .....

Name: .....

ID N°: .....

Company: .....PROINVERSIÓN



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## **FORM 10**

### **Validity of the Legal Representatives’ Powers of Attorney**

#### **SWORN STATEMENT**

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

Interested Party: .....

We hereby declare under oath that the Legal Representatives’ Powers of Attorney submitted in the qualification Envelope remain in force and shall remain so until the Tender Closing Date.

Place and date: ....., 201 ...

Signature of the Interested Party’s Legal Representative: .....

Name of the Interested Party’s Legal Representative: .....

ID N°: .....

Company: .....

Signature of Member 1’s Legal Representative: .....

Name of Member 1’s Legal Representative: .....

ID N°: .....

Company: .....

Signature of Member 2’s Legal Representative: .....

Name of Member 2’s Legal Representative: .....

ID N°: .....

Company: .....



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## **FORM 11**

### **Transfer of Rights to Participate (\*)**

#### **SWORN STATEMENT**

Lima,....., 201....

Messrs.

**PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the “500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions”, “220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions” and “220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions” Projects.

We hereby declare the following under oath:

That \_\_\_\_\_ (Name of the person submitting the qualification Envelope), acquired the Right to Participate through \_\_\_\_\_ (Name of the person who paid for the Right) \_\_\_\_\_, the same one that is \_\_\_\_\_ (choose, as applicable: i) One of our shareholders or partners, or a Company Related to us or to one of our shareholders or partners, or ii) Who transferred its Right to Participate, by assignment of rights).

Interested Party: ... ..

Signature of the Interested Party's Legal Representative: .....

Name of the Interested Party's Legal Representative: .....

ID N°: .....

In case of transfer of rights, the transferor must also sign this Sworn Statement:

Transferor: .....

Signature of the Transferor's Legal Representative: .....

Name of the Transferor's Legal Representative: .....

ID N°: .....

(\*) If the legal entity that acquired the Right to Participate is the same one submitting Envelope N° 1, this Form shall not be required.



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## **FORM 12**

### **Validity of the Documentation Referred to in the “Certificate of Validity of qualification Documents”**

**(Reference: Simplified Procedure)**

### **SWORN STATEMENT**

Lima,....., 201....

**Messrs.  
PRIVATE INVESTMENT PROMOTION AGENCY  
PROINVERSIÓN**

Av. Enrique Canaval Moreyra N° 150  
Lima 27, Peru

Reference: Integral Project Tender for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

Interested Party: .....

We hereby declare under oath that the documents submitted in the Selection Process (indicate the name of the process where qualification documents were timely submitted) for the purposes of obtaining the qualification condition as a Bidder, or as a member of a Consortium, remain valid on the date this document is signed, and have not been modified.

The documents referred to in the paragraph above is the following:

- 1.
- 2.
- 3.

Place and date: ....., 201....

Signature of the Interested Party's Legal Representative: .....

Name of the Interested Party's Legal Representative: .....

ID N°: .....

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“Year of Dialogue and National Reconciliation”****ANNEX 1****Tender Schedule**

ACTIVITY	DATES
<b>1. Call and publication of Terms and Conditions</b>	Until Thu. 28/02/19
<b>2. Terms and Conditions</b>	
2.1. Queries on the Terms and Conditions	Until Fri. 12/07/19
2.2. Response to queries on Terms and Conditions	Until Wed. 31/07/19
2.3. Publication of Consolidated Terms and Conditions	Until Tue. 27/08/19
<b>3. Contracts</b>	
3.1. First version of the Contracts	Until Thu. 28/02/19
3.2. Suggestions to the First Version of the Contracts	Until Wed. 27/03/19
3.3. Second version of the Contracts	Tue. 30/04/19
3.4. Suggestions to the second version of the Contracts	Until Wed. 22/05/19
3.5. Delivery of the final version of the Contracts	Tue. 27/08/19
<b>4. Qualification</b>	
4.1. Payment of the Right to Participate fee	Up to 3 Days before 4.2.
4.2. Presentation of the Qualification Application	Until Thu. 01/08/19
4.3. Correction of Observations	Until Wed. 14/08/19
4.4. Qualification Announcement	Tue. 27/08/19
4.5. Consortium Organization or Modification	Until Wed. 11/09/19
<b>5. Submission of Bids and Contract Award</b>	
5.1. Submission of Envelopes N° 1 and N° 2 and Award (*)	Within 30 calendar days after delivery of the final version of Contracts (**)
5.2. Correction of Observations on Envelope N° 1	3 Days after Bid submission
5.3. Opening of Envelope N° 2 and Award	3 Days after Bid submission
<b>6. Tender Closing Date</b>	Within 90 calendar days of contract Award

(\*) If any document in Envelope 1 needs to be corrected, 5.2 and 5.3 shall apply.

(\*\*) If it is a holiday, it shall be done on the next business day

## **ANNEX 2**

### **Definitions**

**1.- Contract Award:**

It is the Committee's statement once it has decided which Bidder has submitted the best Bid, under the terms and conditions established herein, and who is therefore the Successful Bidder of this Tender.

**2.- Successful Bidder:**

It is the Bidder who wins the Contract Award.

**3.- Private Investment Promotion Agency - PROINVERSIÓN:**

It is the specialized technical agency affiliated to the Ministry of Economy and Finance, with corporate status, technical, functional, administrative, economic and financial autonomy, in charge of designing, conducting and completing the private investment promotion process by the modality of Public Private Associations and Projects in Assets under the scope of its competence, consolidating decision making within the process, as provided for in Legislative Decree N° and its Regulations.

**4.- Authorized Agents:**

Individuals appointed by the Interested Party or Bidder to perform the Tender acts on their behalf and representation.

**5.- Governmental Authority:**

It is an entity or agency of the Government of the Republic of Peru that exercises executive, legislative or judicial powers, pursuant to the Applicable Laws and Provisions.

**6.- Terms and Conditions:**

This document, including its Annexes, Forms and Circular Letters issued by the Project Director, setting the terms under which the Tender shall take place.

**7.- Qualification:**

It is the proceedings within the Tender, which aims to select those who have demonstrated to meet the requirements and are therefore eligible to submit Bids.

**8.- Circular Letter:**

The communication issued in writing by the Project Director with specific or general effects in order to complete, clarify, interpret, specify or modify the contents of the Terms and Conditions, another Circular Letter or answer queries made by those authorized to do so. Circular Letters shall form an integral part of the Terms and Conditions and may also be issued to convey information related to the process to interested Parties or Bidders, as appropriate, upon approval of the Executive Director or Board of Directors, as applicable.

**9.- Qualification Envelope Reception and Evaluation Commission or Commission:**

It is the group of professionals with powers delegated by the Project Director to receive and evaluate the Interested Parties' qualification Envelopes.

**10.- Committee:**

It is the Special Committee of Investment on Hydrocarbon, Electricity and Mining Projects - PRO MINERIA Y ENERGIA, whose denomination was modified by Board of Directors' Contract N° 65-1-2018-CD.

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**11.- Grantor:**

It is the Government of the Republic of Peru, represented by the Ministry of Energy and Mining.

**12.- Concession:**

It is the legal relationship of Public Law established between the Grantor and the Concessionaire as of the Closing Date, whereby the Grantor grants the Concessionaire the right to economic exploitation of the public service, during its term of validity, pursuant to the Contract terms and the Applicable Laws and Provisions

**13.- Concessionaire:**

It is the existing legal entity or the new legal entity constituted by the Successful Bidder under the Applicable Laws and Provisions, whose social purpose is to develop electrical transmission activities, and where the qualified Operator holds the Minimum Shareholding. The Concessionaire shall sign the Contracts with the Grantor.

**14.- Integral Project Tender or Tender:**

It is the selection process regulated by these Terms and Conditions for the concession of the "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects.

**15.- Board of Directors:**

It is PROINVERSIÓN's highest authority. It is in charge of, among others supervising the management and appropriate development of the private investment promotion processes.

**16.- Consortium:**

It is the grouping of two or more Persons that has been set up -or with a formal promise to be set up- in order to participate in this Tender as a Bidder. One of these members shall be an operator.

**17.- Concession Contracts or Contracts:**

Documents, including the Annexes, and any other document integrated thereto, signed between the Concession Grantor and the Concessionaire, through which the obligations and rights between said parties are governed during the Concession term, to develop each Project.

**18.- Control:**

It is the situation whereby an individual or legal entity holds of is subject to the control of another legal entity, or subject to its common control, in any of the following cases:

- a. He/she has over fifty percent (50%) of the voting power at the shareholders' or partners' general meeting, by directly ownership of representative capital certificates or indirectly through usufruct, pledge, trust, syndication and similar or any other legal act.
- b. He/she directly or indirectly has the power to appoint or remove most members of the board or equivalent body to be able to control or exercise most votes in the board or equivalent body or to govern the operational or financial policies under a regulation or Contract regardless of the modality.
- c. By any other mechanism or circumstance (contractual or otherwise), he/she effectively has the power to decide in the other company.

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**19.- Total Cost of Service:**

It is the sum of the annual operation and maintenance cost plus the investment cost annuity calculated with the 12% rate and for a 30-year period for each Project.

**20.- Schedule:**

It is the chronological sequence of activities that shall be developed during the Tender and that is indicated in Annex 1

**21. Sworn Statement**

Document submitted by an Interested Party or Bidder, in the format provided for in the Terms and Conditions, used to state under oath the veracity of a fact, characteristic or condition, assuming it is true, unless proven otherwise, with the consequences set forth by the Applicable Laws and Provisions..

**22.- Right to participate:**

It is the right that allows a Person or a Consortium to participate in the Tender. It is acquired by paying the fee of four thousand and 00/100 Dollars (US \$ 4,000.00), including the General Sales Tax (IGV), (net of commission and transfer expenses). The payment of the Participation fee is non-refundable and is evidenced with the relevant proof of payment.

**23.- Days:**

Working days, i.e. days except Saturdays, Sundays or holidays, including non-working days for the Public Administration in the national scope.

All time references shall be understood to be Peruvian time in the twenty-four (24) hour system.

**24. Project Director**

Person in charge of conducting and completing the private investment promotion process under the technical supervision of the Special Project Director, in compliance with the functions and powers set forth by the Applicable Laws and Provisions and these Terms and Conditions.

**25. Executive Director**

Maximum executive authority, legal representative, head of PROINVERSIÓN and of budgeting, in compliance with the functions and powers set forth by the Applicable Laws and Provisions and these Terms and Conditions.

**26.- Dollar of the United States of America or Dollar or US\$:**

It is the legal currency in the United States of North America.

**27.- Affiliated Company:**

A company shall be considered another company's affiliate when the Control of these companies is exercised by the same Parent Company.

**28.- Parent company:**

It is that company that owns the Control of another company. This definition also includes a company that has the Control of a Parent Company, as defined above and so on.

**29.- Subsidiary Company:**

It is a company whose Control is in the hands of a Parent Company. This definition also includes a company whose Control is in the hands of a Subsidiary Company, as defined above, and so on.

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**30.- Related Company:**

It is any Affiliated Company, Parent Company or Subsidiary Company and the existence of a connection is presumed in any of the following cases:

- a. When they are part of the same economic group.
- b. When the same bond supports the obligations of both or when over 50% of one company's obligations are guaranteed by the other company, and this other is not a company of the financial system.
- c. When over 50% of the obligations of one legal entity are debts of the other company, and this other one is not a company of the financial system.
- d. When a legal entity has, directly or indirectly, a stake in the share capital of another company that allows it to participate in its board of directors.
- e. When one third or more of the board members or the managers of one of them are directors, managers or workers of the other company.

**31.- Financial Entity:**

Banking and insurance companies referred to in Annex 6, which are authorized to issue the bonds required in the Tender.

**32.- Closing Date:**

It is the day and time on which the acts established in Annex 5 of the Terms and Conditions shall be conducted and the Contracts shall be signed.

**33.- FONCEPRI**

It is the Fund for Private Investment Promotion whose resources are used to finance the activities inherent to the promotion processes of the projects developed under the modalities regulated in Legislative Decree N° 1362.

**34.- Validity, Enforceability and Bid Bond :**

It is the joint and several, unconditional, irrevocable, without the benefit of excussion or division and automatically enforceable guarantee letter to be submitted by the Bidder in favor of PROINVERSIÓN, to guarantee the validity, effectiveness and seriousness of its Bid and compliance with the obligations provided for the Closing Date, according to the model included as Form 2.

The Project Director may request the mandatory extension of this Guarantee, and the Bidder shall renew it for the periods established for that purpose.

**35.- Interested Party:**

It is the legal entity (national or foreign) or Consortium member acquiring the Right to Participate.

**36. General Sales Tax – IGV**

General Sales Tax referred to in Supreme Decree N° 055-99-EF, Single Revised Text of the Law on General Sales Tax and Excise Tax, or rules replacing or amending it, as well as the Municipal Promotion Tax referred to in Supreme Decree N° 156-2004-EF, Single Revised Text of the Municipal Tax Law or rules replacing or amending it.

**37.- Applicable Laws and Provisions:**

It is the set of legal provisions directly or indirectly regulating and/or affecting the Terms and Conditions and each Concession Contract. They include the Political Constitution of Peru, laws, rules with force of law, supreme decrees, regulations, directives and resolutions, as well as any other that pursuant to the legal order of the Republic of Peru is applicable, which shall be mandatory for the Terms and Conditions and each Contract.

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**38.- Bid:**

It is the economic proposal submitted by Bidder through Form N° 4 of the Terms and Conditions and shall be in force until the Closing Date. The Project Director may request the obligatory extension of the Bid.

**39.- Qualified Operator:**

It is the Interested Party or its Related Company or in case of a Consortium, the Member that accredited the fulfillment of the technical requirements indicated in the Terms and Conditions. In the Concessionaire shareholder organization, the qualified Operator shall own and hold Minimum shareholding.

**40.- Minimum Shareholding:**

It is twenty-five percent (25%) of the Concessionaire's subscribed and paid-in capital that corresponds to the -qualified Operator, as stipulated in each Contract. The qualified Operator may not assign to third parties the political and patrimonial rights derived from his/her Minimum shareholding nor limit their exercise. This percentage shall be maintained in the case of capital increases.

**41.- Person:**

It is any legal entity, national or foreign, that can perform legal acts and assume obligations in Peru.

**42.- Bidder:**

It is the Interested Party whose documentation duly submitted through the qualification Envelope, has met the requirements established in the Terms and Conditions, and is thus accepted and expressly declared by the Project Director. The Bidder can submit Envelopes N° 1 and N° 2.

**43.- Projects:**

These are "500 kV La Niña – Piura Link and Associated Substations, Lines and Expansions", "220 kV Pariñas – Nueva Tumbes Link and Associated Substations, Lines and Expansions" and "220 kV Tingo María – Aguaytía Link and Associated Substations, Lines and Expansions" Projects, whose electrical infrastructure is described in Annex N° 1 of each Contract.

**44.- Commercial Start-up or POC:**

It is the date on which the Concessionaire begins to provide the Service and is authorized to charge the Tariff Base.

**45.- Legal Representative**

Individual(s) appointed as such by the Interested Party or Bidder, with sufficient capacity to bind its represented party, in accordance with the Terms and Conditions.

**46.- Service:**

It is the public electricity transmission service to be provided by the Concessionaire through the Projects under the terms of each Contract and the Applicable Laws and Provisions.

## **ANNEX 3**

### **Qualification Requirements**

#### **1.- Financial Requirements:**

The Interested Party or its Related Companies or the Consortium Member whose figures or experience are stated to qualify, shall have the following, individually or jointly in the last completed financial year:

- 1.1 A minimum Net Worth of seventy million Dollars of the United States of America (US\$ 70'000,000) and,
- 1.2 Total Assets of no less than two hundred and ten million Dollars of the United States of America (US\$ 210'000,000).

#### **2.- Technical Requirements:**

- 2.1 The Interested Party or Consortium, directly or indirectly through any of its Related Companies, or by virtue of a contract with a third party, shall demonstrate that he/she operates or has operated, within the period starting on January 1, 2017, electric power transmission systems that meet the following conditions:
  - A. Transmission Line Length: Not less than five hundred kilometers (500 km) at voltages equal to or over 220 kV; and,
  - B. Transformation Capacity: Not less than 500 MVA at Substations, in voltages equal to or over 220 kV.
- 2.2 The technical requirements may be accredited by more than one Company Related to the Interested Party that has operated or is operating electric transmission systems.
- 2.3 For the accreditation of technical requirements, the following shall be submitted: i) Operating Permit (concession or other) authorizing to perform the electric transmission activity, or ii) Certificate issued by the owner of a Transmission Line, stating that the Interested Party or his/her Related Companies carry out or has performed, in the last two years, the operation and the relevant maintenance, or iii) A Transmission Line operation and maintenance Contract, or iv) Document issued by the competent authority accrediting the operation and maintenance.
- 2.4 Whoever proves to have the financial and/or technical experience may participate in the Tender with one Bidder only. This impediment also applies to their Related Companies.

#### **3.- Legal Requirements:**

The Interested Party, its Related Companies whose figures are mentioned to qualify, or the third party that proves the required technical experience state the following:

- 3.1 During the development of this Tender, they have not directly or indirectly hired the individuals or legal entities referred to in Paragraph 2.14.
- 3.2 They have no impediments to participate in the Tender, as established in section 29 of Legislative Decree N° 1362. In other words, they are not under the scope of section 1366 of the Civil Code; have no impediments set forth in Law N° 30225,, State Contracting Law or the replacing provision; have no impediments set forth by rules with

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the force of law; having been successful bidders in contracts of Public Private Associations, did not cease to be so due to their contractual breach. This last impediment is valid for two (2) years and also covers the qualified Operator and / or those who have exercised the Control of the investor at the time of contract termination and/or expiration.

- 3.3 They do not have direct or indirect participation in any other Interested Party applying for qualification in this Tender, pursuant to the following:

a) Unlisted companies:

Neither the Bidder, nor its shareholders, partners or members, nor the partners or shareholders of the latter, as the case may be, are Related Companies of any other company applying for qualification in the Tender.

b) Companies listed on the stock exchange:

Neither the Bidder nor its shareholders, partners or members, nor the partners or shareholders of the latter, hold a direct or indirect stake in any other company applying for qualification where they exercise administration control, in accordance with the provisions of the Regulation on Indirect Ownership, Association and Economic Group, approved by Resolution SMV N° 019-2015-SMV / 01, and amendments thereof or rules replacing it. This restriction shall not apply to the Bidder's shareholders, partners or members, or to their partners or shareholders if they do not exercise Control of the Bidder.

- 3.4 They have no impediment and are not subject to restrictions by contractual, judicial, arbitration, administrative or other administrative means in order to assume and fulfill all their corresponding obligations, or those derived from the Terms and Conditions, the submission of Bids or the signing of Contracts.
- 3.5 They waive their right to claim or exercise any privilege or diplomatic immunity, or of any other kind, as well as to their right to submit any claim through the diplomatic channel or to any compensation right or other in relation to any claim that could be filed by or against the Peruvian Government, PROINVERSIÓN, the Grantor, its officials and advisors, the Committee, and its members, under Peruvian law or under any other legislation, in relation to any of their actual or future obligations pursuant to the Terms and Conditions, the Tender or the Contracts.
- 3.6 They are duly incorporated and validly existing companies according to the laws of the country or place of their incorporation, and remain valid in accordance with the applicable legal principles of the country of origin. Likewise, the Legal Representatives participating in the Tender are validly assigned sufficient powers to represent them in all the acts and statements concerning the Tender.
- 3.7 They are not companies guaranteed by the Government to obtain resources from abroad that, due to the breach of obligations, have become public debt, unless the debt with the Government has been fully honored (Section 17 of Law N° 30881 or amendment thereof).

In order to prove this information, it shall be necessary for the Interested Party, and the Consortium members, if applicable, to sign Form 1, which has the nature and effects of a Sworn Statement, through their Legal Representative. The aforementioned legal requirements shall also be complied with by the Successful Bidder until the Closing Date.

## **ANNEX 4**

### **Method to determine the best Bid**

#### **1. Tender Contents**

As shown in Form 4, the Bidder shall propose the following in its Bid:

- 1.1 An amount stated in US \$, called Investment Cost (CI), which, in each Bidder's opinion, represents the investment value, without General Sales Tax (IGV), of each project stated on the date of Bid submission.
- 1.2 An amount stated in US \$, called Operation and Maintenance Cost (COyM), which represents, in each Bidder's opinion, the value of the annual operation and maintenance cost, without General Sales Tax (IGV), of each project stated on the date of Bid submission.

#### **2. Evaluation of Bids**

- 2.1 Only those Bids presenting values for the Investment Cost and the Annual Operation and Maintenance Costs (COyM) of each project, that are equal to or less than the corresponding maximum values that will be ratified by PROINVERSIÓN's Executive Director upon approval of the Committee, shall be acceptable. It shall be informed by a Circular Letter.
- 2.2 The Total Service Cost shall be estimated on the values of Form 4 using the following formula:

$$\text{Total Service Cost} = aCI + COyM$$

**Where:**

aCI = The investment cost annuity estimated with a 12% rate and a 30-year period

COyM = Annual Operation and Maintenance Cost

- 2.3 The Award shall be obtained by the Bidder offering the lowest sum of the Total Service Cost for the Projects.
- 2.4 The Committee shall award the Contract in case there are at least two (2) valid Bids after reviewing Envelopes N° 1 and N° 2.

#### **3.- Provisions in case of tie Bids**

- 3.1 If there are two or more tie Bids, the Project Director shall proceed to request those Bidders to submit a new Bid consisting of new Forms 4, 4-A and 4-B in their respective Envelope. It shall be delivered within the indicated period.
- 3.2 The new Bid shall be subject to the same terms and conditions as those set forth for the original Bid and shall not be higher than the original Bid of the corresponding Bidder, otherwise the new Bid shall have no legal effect whatsoever and the original Bid shall remain in force for all Tender purposes.
- 3.3 If a new Bid is not submitted, the original Bid shall remain valid for all Tender purposes.
- 3.4 In the event tie Bids continue after the submission of the new Bids, the Successful Bidder shall be determined by a raffle with the assistance of the Notary Public, understanding that the Bid of the Bidder that wins the raffle shall be his/her best Bid.

## **ANNEX 5**

### **Closing Date Proceedings**

- 1.- The Successful Bidder shall accredit before the Committee the legal entity that shall have the status of Concessionaire. If the Successful Bidder is a Consortium, said legal entity shall be constituted with the members that underwent the qualification Process. For this purpose, the Successful Bidder shall send a written communication no later than forty-five (45) calendar days after the Contract Award, enclosing the registration record issued by the corresponding Registry Office. The legal person's social purpose shall be the development of electrical transmission activities, and it shall prove that the qualified Operator holds at least the Minimum shareholding.  
  
Likewise, the Successful Bidder shall send a certified copy of the documents indicated in paragraphs 11.2.2, 11.2.4 and 11.2.6 submitted in their qualification Envelope with the formality established in paragraph 9.2.5, in case of documents issued abroad and paragraph 9.2.6 in case of documents issued in Peru.
- 2.- The Successful Bidder shall present the financial economic model for each project, in accordance with the provisions of paragraph 58.4 of the Regulation approved by Supreme Decree N° 240-2018/EF, Regulation on Legislative Decree N° 1362.
- 3.- The Successful Bidder shall accredit the following before the Committee:
  - 3.1 The company's subscribed and paid-in capital is no less than five million American Dollars (US \$ 5'000,000) or its equivalent in Nuevos Soles. The qualified Operator must hold at least the Minimum Shareholding. To prove this, he/she shall submit a simple copy of the respective deed with the registration record, or with proof of having submitted the relevant notary documents to the corresponding Registry Office. In the latter case, the Concessionaire shall provide the Grantor with the registration record within the next forty-five (45) days after the Closing Date.
  - 3.2 In the Articles of Incorporation or in a post-incorporation Contract, the founders in the first case, or the shareholders' general meeting or the board, in the second case, have ratified all the acts performed and documents signed by the Legal Representatives and the Authorized Agents during the Tender, especially the preparation and submission of the Bid, the signing of the Contracts and any other right or obligation relevant to said Bidder according to the Terms and Conditions and each Contract.
  - 3.3 The Concessionaire's Legal Representatives have registered and sufficient powers to sign the Contracts.
  - 3.4 The Successful Bidder and the Consortium members, if applicable, are not disqualified to enter into Contracts with the Peruvian Government pursuant to the Government Procurement Supervising Agency (OSCE). For this, it shall suffice to submit the "Information Memorandum" stating that they are not disqualified to enter into Contracts with the Government of the Republic of Peru.
- 4 The Successful Bidder shall deliver the Performance Bond issued by one of the financial entities indicated in Annex 6 of the Terms and Conditions, according to the format of Annex 4



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of each Contract. The Committee shall return to the Successful Bidder the Bid Bond that was delivered during the Tender in Envelope N° 1.

- 5 The Successful Bidder shall pay to PROINVERSIÓN on the Closing Date, for FONCEPRI resources, up to 2% of the Total Investment Cost to be informed by a Circular Letter. Besides, on that date, the Successful Bidder shall reimburse the process costs, whose amount shall also be informed by Circular Letter before the date of Submission of Envelopes N° 1 and N° 2 and the Award. For each case, a cashier's check shall be provided in favor of PROINVERSIÓN.
- 6 The Grantor shall provide the Successful Bidder with a certified copy of the Ministerial Resolution appointing the official who shall sign each Contract, unless such resolution has been published before the Closing Date.
- 7 The Grantor shall provide the Successful Bidder with a copy of the Supreme Decree granting, under contract, the securities and warranties in support of statements, securities and obligations contained in each Contract, and appoints the official who shall sign it, except if such Supreme Decree has been published before the Closing Date.
- 8 Once the foregoing provisions have been complied with, the Successful Bidder and the Concessionaire shall sign the five (5) copies of the final version of each Contract, delivered by the Successful Bidder in Envelope N° 1. The Concessionaire and the Government shall also sign the contract for securities and warranties.
- 9 Finally, the minutes of the Tender Closing Date shall be read and signed.

## **ANNEX 6**

### **Financial Entities Authorized to issue the Guarantees**

#### **1) BANKS**

National banks authorized to issue Letters of Guarantee shall be those which, at the time the letters of guarantee are issued, have the minimum rating of CP-1, category 1, CLA-1 or EQL-1 for short-term obligations; A rating for financial strength; and AA rating for long-term obligations.

In this regard, below is the list of banks that as of today have with the minimum rating (indicated in the preceding paragraph):

<b>BANKS</b>
1. BBVA Banco Continental.
2. Banco de Crédito del Peru - BCP.
3. Banco Interamericano de Finanzas – BANBIF.
4. Scotiabank Peru.
5. Citibank Peru S.A.
6. Interbank.
7. Banco Santander Peru
8. ICBC Peru Bank
9. GNB
10. Mibanco

#### **2) INSURANCE COMPANIES**

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

In this regard, below is the list of insurance companies that as of today have with the minimum rating (indicated in the preceding paragraph):

<b>INSURANCE COMPANIES</b>
▪ Chubb Seguros Peru (formerly ACE Seguros S.A.)
▪ MAPFRE Peru Compañía de Seguros y Reaseguros
▪ Rímac Seguros y Reaseguros
▪ SECREX Compañía de Seguros de Crédito y Garantías S.A.
▪ INSUR S.A. Compañía de Seguros



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**3) FIRST CATEGORY FOREIGN BANKS:**

First category foreign banks, included in the list approved by the Central Reserve Bank by Circular Letter N° 0039-2018-BCRP or the modifying or replacing standard, shall be taken into account. Likewise, the branches and / or subsidiaries of the above-mentioned foreign banks shall be taken into account.

**4) INTERNATIONAL FINANCIAL ENTITIES:**

- Any international financial institution, with investment grade evaluated by an internationally renowned entity, authorized for international rating.
- Any multilateral credit institution where the Government of the Republic of Peru is a member of.

It must be noted that standby letters of credit issued by first category foreign banks and international financial institutions shall be confirmed by one of the national banks listed in this Annex.