

Concept Non-Disclosure Agreement

between

Invest International Public
Programmes B.V.

and

<name Contractor>

concerning

Consultancy for Infrastructure Project Preparation

THIS AGREEMENT is made on <date>

BETWEEN:

1. **INVEST INTERNATIONAL PUBLIC PROGRAMMES B.V.**, a private company with limited liability (besloten vennootschap) incorporated under Dutch law, registered with the Dutch Chamber of Commerce under No. 83526617, having its registered office at Bezuidenhoutseweg 12, 2594 AV, 's-Gravenhage, The Netherlands;

and

2. **<NAME COMPANY>**, a company incorporated under the laws of **<COUNTRY>** registered with the **<PLACE/COUNTRY>** Chamber of Commerce in **<place>** under No. **<number>**, having its registered office at **<address>**, **<COUNTRY>**; and

The party under 1. is referred to as **"INVEST INTERNATIONAL"**, the party under 2. is referred to as the **"Company"** and each of the parties under 1. and 2. individually referred to as **"Party"** and collectively as **"Parties"**.

INTRODUCTION:

- a) Parties are discussing, solutions, ways to cooperate, exchange knowledge and information and/or identify suitable projects to develop within common focus areas regarding Consultancy for Infrastructure Project Preparation that Invest International can provide to the Company (the **"Projects"**). For discussions and negotiations in relation to these Projects, Parties have exchanged and/or will exchange information (**"Purpose"**).
- b) The Parties are respectively the owners of Confidential Information which they have agreed to disclose to each other specifically for the Purpose and on the terms and conditions set out in this Agreement.

THE PARTIES AGREE: as follows:

1. INTERPRETATION

1.1 In this Agreement:

"Confidential Information" means any information of a confidential nature relating to the Disclosing Party or a member of its Group, disclosed (whether before or after the date of this Agreement and whether in writing, verbally or by any other means and whether directly or indirectly) by the Disclosing Party or by another person on behalf of the Disclosing Party to the Receiving Party or to another person on behalf of the Receiving Party including, without limitation, any information relating to the Purpose or to the Disclosing Party's products, operations, processes, plans or intentions, product information, know how, design rights, trade secrets, market opportunities and business affairs;

"Disclosing Party" means the Party disclosing the Confidential Information.

"Group" means a Party and all of its subsidiaries and other related undertakings for the time being.

"Receiving Party" means the Party to whom the Confidential Information is disclosed.

"Recipient" means a person to whom any Confidential Information is disclosed, for the purposes of Clause 4.

1.2 In this Agreement a reference to:

- 1.2.1 a person includes a reference to a corporation, body corporate, consortium, association, or partnership.
- 1.2.2 a person includes a reference to that person's legal personal representatives, successors and permitted assigns.
- 1.2.3 a clause or schedule, unless the context otherwise requires, is a reference to a clause of or schedule to this Agreement.

1.3 The headings in this Agreement do not affect its interpretation.

2. UNDERTAKINGS CONCERNING CONFIDENTIAL INFORMATION

In consideration of each Party supplying its Confidential Information to the other Party and subject to the exceptions described in Clause 5, the Parties undertake as follows:

- 2.1 to keep the other Party's Confidential Information confidential including, without limitation, taking the measures set out in Clause 3.
- 2.2 not to use the other Party's Confidential Information except for the Purpose.
- 2.3 not to disclose the other Party's Confidential Information to another person and to use all reasonable efforts to prevent any such disclosure except as permitted under Clause 4.

3. KEEPING CONFIDENTIAL INFORMATION CONFIDENTIAL

Each Party shall in relation to the Confidential Information of the other Party exercise no lesser security measures and degree of care than those which it applies to its own confidential information and which it warrants as providing adequate protection against any unauthorized disclosure, copying or use.

4. DISCLOSURE OF THE CONFIDENTIAL INFORMATION

- 4.1 Each Party may disclose the Confidential Information of the other Party:
 - 4.1.1 with the prior written consent of the relevant Party.
 - 4.1.2 to its members, employees, professional advisors, authorized representatives, or sub-contractors to the extent that disclosure is necessary or desirable for the Purpose; or
 - 4.1.3 where disclosure is required by law, by a court of competent jurisdiction or by another appropriate regulatory body, or a professional duty resting on the Contractor or persons employed by/for or affiliated with the Contractor provided that the Receiving Party shall give to the Disclosing Party not less than five business days' notice of such disclosure (to the extent permitted by law and/or reasonably practical).
- 4.2 Prior to disclosure of the Confidential Information to a Recipient, the Receiving Party shall, except in case of disclosure under Clause 4.1.3 of this Agreement, ensure that the Recipient reads and understands this Agreement and shall ensure that the Recipient complies with the terms of this Agreement as if the Recipient were a party to this Agreement.

5. EXCEPTIONS

This Agreement does not apply to Confidential Information:

- 5.1 to the extent that the Confidential Information is or comes into the public domain other than by breach of this Agreement.
- 5.2 which the Receiving Party can show by its written or other records was in its possession prior to receipt from the Disclosing Party and which had not previously been obtained from the Disclosing Party or another person under an obligation of confidentiality.
- 5.3 which the Receiving Party obtains or has available from a source other than the Disclosing Party without breaching any obligation of confidentiality.
- 5.4 which has been disclosed by the Disclosing Party to another person without an obligation of confidentiality.

6. FURTHER UNDERTAKINGS

No right or license is granted to either party in relation to the other party's Confidential Information except as expressly set out in this Agreement.

7. TERM AND TERMINATION

- 7.1 This Agreement shall come into effect on the date of this Agreement, for a period of 4 (four) years after the date of this Agreement.
- 7.2 Each Party undertakes, within 14 (fourteen) days of receipt of a written request of the other Party:
- 7.2.1 subject to Clause 7.3, to return to the other Party all documents and other material in its possession, custody or control that contain any part of the other Party's Confidential Information of which the disclosure is permitted pursuant to the Agreement; or
 - 7.2.2 subject to Clause 7.3, to destroy by shredding or incineration all documents and other material in its possession, custody or control which reflect or have been generated from any part of the other Party's Confidential Information (to the extent reasonably practical and/or possible) of which the disclosure is permitted pursuant to this Agreement.
 - 7.2.3 Notwithstanding the foregoing, the Receiving Party and its Representatives shall be entitled to retain (but not use) copies of the Confidential Information required to comply with their legal or regulatory obligations and/or as part of any automatic data back-up system if deletion from such systems is not reasonably technically feasible, provided that any Confidential Information so retained shall be kept in strict accordance with this Agreement. The return or destruction of Confidential Information shall not in any way relieve the Receiving Party and its Representatives from the obligations contained in this Agreement.
 - 7.2.4 Deletion of Confidential Information is not required if such information is to be kept / stored based on applicable regulation.
- 7.3 Without prejudice to the generality of Clause 7.2, each Party may retain:
- 7.3.1 any minutes of meetings of their Board which reflect or have been generated from any part of the other Party's Confidential Information; and
 - 7.3.2 a document to the extent a Party is required to do so by law or a competent judicial governmental, supervisory or regulatory body; and
 - 7.3.3 a copy of any document to the extent that this is required for the purpose of the relevant Party's own internal records,
- but the obligations in Clauses 3 and 4 of this Agreement shall continue to apply.

8. Announcements

- 8.1 Neither Party shall disclose or announce the Purpose to another person without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed) except to the extent that such disclosure or announcement is required as specified in Clause 8.2.
- 8.2 To the extent that a disclosure or announcement of the type referred to in Clause 8.1 is required by law, by a rule of a stock exchange on which the Party's shares are listed or traded or by a governmental authority or other authority with relevant powers, the disclosure or announcement shall so far as is practicable be made after consultation with the other relevant Party.
- 8.3 If Clause 8.2 applies and the Party making the disclosure or announcement is unable to consult the other before the disclosure or announcement is made, that Party shall to the extent permitted by law inform the other Party of the circumstances, timing, content, and manner of making or dispatch of the disclosure or announcement as soon as reasonably practical after such disclosure or announcement is made.

9. General

9.1 The rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.

9.2 This Agreement may be executed in counterpart, each of which together shall constitute one and the same instrument and the parties may execute this Agreement by signing in counterpart. A facsimile or pdf signature of any Party shall be deemed to be an original.

10. Notices

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by email or letter.

11. Governing law and jurisdiction

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of The Netherlands and the competent court in The Hague, The Netherlands shall have exclusive jurisdiction to settle any dispute which may arise from or in connection with it.

EXECUTED by the parties on the date first above written.

On behalf of each of the following parties:

The Contracting Authority
Invest International Public Programmes B.V.

Contractor
<Name Contractor>

On behalf of this,

Mrs. L. Muller
Director Public Sector
The Hague, <date>

<Name and Surname subscriber>
<Function subscriber>
<Place>, <date>



Let's get in touch. Together we build the sustainable markets of tomorrow.

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