

**PFC CONSULTING LIMITED**  
(A Wholly Owned Subsidiary of Power Finance Corporation Ltd. -  
A Government of India Undertaking)

**Expression of Interest**  
  
**For**  
  
**Selecting Interested Partner(s)**  
  
**For**  
  
**Jointly Exploring Opportunities**  
  
**In**  
  
**Overseas**  
  
**Power/ Electricity Transmission**  
  
**&**  
  
**Distribution Sectors**



**Corporate Office :**  
9<sup>th</sup> Floor (A Wing) Statesman House, Connaught Place, New Delhi-110001

**October 15, 2018**

**PFC Consulting Ltd. invites “Expression of Interest (EoI) for Selecting interested Partner(s) for jointly exploring opportunities in Overseas Power/ Electricity Transmission & Distribution Sectors”**

a)	Opening date of downloading EoI Document from Telecommunications Consultants India Ltd (TCIL) portal	October 15, 2018 at 1700 hrs IST onwards
b)	EoI Conference	October 25, 2018 at 1500 hrs IST
c)	Submission of Clarification by applicant	October 25, 2018 at 1500 hrs IST
d)	Closing date of downloading EoI Document from TCIL portal	October 31, 2018 at 1100 hrs IST onwards
e)	Submission date of EoI on TCIL portal	October 31, 2018 at 1500 hrs IST onwards
f)	Submission of Pass-Phrase to decrypt the EoI	October 31, 2018 (from 1500 hrs IST to 1530 hrs IST)
g)	Opening of EoI on TCIL portal	October 31, 2018 at 1600 hrs IST onwards

Note: EoI Document is available on PFC Consulting Ltd. (PFCCL) website and can be downloaded from <https://www.pfcclindia.com> or from the e-Tendering portal <https://www.tcil-india-electronictender.com>. For EoI submission, the Applicant will have to necessarily download an official online copy of the EoI document from TCIL's e-portal. All future Information viz. corrigendum /addendum/ amendments etc. for this EoI shall be posted on the e-Tendering Portal and website of PFCCL. Printed copy of EoI document will not be sold from PFC Consulting Ltd office.

The Applicant shall bear all costs associated with the preparation, submission/participation of EoI including cost of registration with TCIL portal. PFCCL in no way will be responsible or liable for these costs regardless of the conduct or outcome of this process.

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***SECTION -1***  
***Expression of Interest***

## **Expression of Interest**

**Ref: 04-05/PFCCL/EoI/2018**

**October 15, 2018**

**Sub: Invitation for “Expression of Interest (EoI) for selecting interested Partner(s) for jointly exploring opportunities in Overseas Power/ Electricity Transmission & Distribution Sectors”**

### **1. INTRODUCTION**

- 1.1** PFC Consulting Limited (PFCCL) was incorporated on March 25, 2008 as a wholly owned subsidiary of Power Finance Corporation Limited (PFC), a Schedule-A, Nav-Ratna Public Sector Enterprise, following PFC's decision to provide its Consultancy Services Group (CSG) an identity of its own in the form of a Company with full-fledged operations. CSG was providing Consultancy Services to Power Sector since October 1999 as a part of PFC. PFC Consulting Limited has taken forward that experience of 9 years it gained as CSG and is growing both operationally as well as financially at a fast pace having achieved a CAGR of 35% over the last four financial years. We are headquartered in New Delhi and have site offices in Kolkata, Bhubaneswar, Cheyyur (Tamil Nadu), Ranchi, Banka (Bihar) and Sundargarh (Odisha).
- 1.2** PFC Consulting Limited (PFCCL) carries ahead an established track record of 13 years in consulting for a diversified portfolio of assignments from various segments of Power & associated Sectors in India. We have worked on over 70 assignments for 47 Clients spread across 22 States thus attaining a wide presence across various segments of Power Sector in India.
- 1.3** The Client base today includes the State/ Central owned Power Sector utilities (SPSUs/CPSUs) as well as private entities (IPPs) associated with the development of the power sector, State Electricity Regulatory Commissions and State Governments

### **2. INTENT AND OBJECTIVES**

- 2.1** PFCCL invites Expression of Interest (EoI) to select experienced firm(s) as its Partner(s) for jointly exploring Overseas business in the following areas:
- i) Power/ Electricity Transmission Sector
  - ii) Power/ Electricity Distribution Sector

**2.2** PFCCL and Power/ Electricity Transmission & Distribution Partner(s), jointly intend to explore and implement the business opportunities in Overseas Power/ Electricity Transmission and Distribution sectors for ensuring quality & reliable power supply and highest level of satisfaction to consumers.

**2.3** PFCCL & its Partner(s) shall jointly frame separate detailed terms of reference of the acquired business opportunity on case to case basis each.

### **3. BROAD SCOPE OF WORK**

**3.1** The selected Partner(s) would provide the following assistance to PFCCL in Overseas Power/ Electricity Transmission and Distribution sectors:

- i) Undertaking pre-activities for preparation of Detailed Project Reports (DPRs) e.g. surveys, baseline studies etc.
- ii) Preparation of DPRs
- iii) Project Management Services which shall also include turnkey execution of projects inter-alia including preparation of Tender Documents and evaluation of bids; Finalisation of contracts etc.
- iv) Design; engineering; procurement; inspection; supervision; erection; testing and commissioning; and other works incidental to as may be required
- v) Assistance in Operation and Maintenance (O&M) of various schemes in Power/ Electricity Transmission and Distribution sectors.
- vi) Assistance in Capacity Building; training and development; business process Re-Engineering
- vii) Any other related activity as may be mutually agreed upon in power/ electricity distribution & transmission sector
- viii) The selected Partner(s) may also be required to invest in the project based upon the specific requirement of the project.

### **4. ELIGIBILITY CRITERIA**

**4.1** The Applicant should be a single entity and no consortium is allowed.

- 4.2 The Applicant should not be black listed by any Govt. Companies/ Govt. organization/ Govt. Agencies etc. in India or abroad. The Applicant has to provide an undertaking regarding the same in the Covering Letter (**Form-1**).
- 4.3 The Applicant should be a company duly incorporated in India or abroad under the relevant laws.
- 4.4 The Applicant should have experience in **either or both** in Power/ Electricity Transmission Sector as well as in Power/ Electricity Distribution Sector in the following areas
- Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY 2008-09 onwards) for preparation of Detailed Project Reports (DPRs) / Project Feasibility Reports / Design Basis Reports etc.
  - Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY 2008-09 onwards) in project management services including turnkey execution of projects inter-alia including Design; Engineering; preparation of Tender Documents and evaluation of bids; finalisation of contracts; procurement; inspection; supervision; erection; testing and commissioning etc.
  - The Annual turnover of the Applicant during any of the last three (3) Financial Years (applicable FY 2015-16 onwards) should be at least USD 15 million / Rs. 100 crore.
  - The Networth of the Applicant during the last three (3) Financial Years (applicable FY 2015-16 onwards) should be atleast USD 3 million / Rs. 20 crore.
- 4.5 Those Applicant(s) who fulfill above eligibility criterion shall be short-listed and evaluated for selection as a Partner in the following areas:

**4.5.1 Power/ Electricity Transmission Sector**

S. No	Description (Minimum Eligibility)	Unit	Criteria	Marks
1	Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY 2008-09 onwards) for preparation of Detailed Project Reports (DPRs) / Project Feasibility Reports / Design Basis Report etc. in various Power/ Electricity Transmission projects. <b>(Maximum Marks 20)</b>	No of Projects	>3	20
			2 to 3	10
			=1	5
2	Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY	No of Projec	> 3	30
			2 to 3	20

	2008-09 onwards) in project management services including turnkey execution of projects inter-alia including Design; Engineering; preparation of Tender Documents and evaluation of bids; finalisation of contracts; procurement; inspection; supervision; erection; testing and commissioning in various Power/ Electricity Transmission projects. <b>(Maximum Marks 30)</b>	ts	=1	10
3	The Annual Turnover of the Applicant in Power/ Electricity Transmission sector during any of the last three (3) financial years (applicable FY 2015-16 onwards) should be at least USD 15 million / Rs. 100 crore. <b>(Maximum Marks 15)</b>	INR Crore (1 USD = INR 70)	>500 300 to 500 100 to 300	15 10 5
5	The Networth of the Applicant in Power/ Electricity Transmission sector during the last three (3) financial years (applicable FY 2015-16 onwards) should be at least USD 3 million / Rs. 20 crore. <b>(Maximum Marks 15)</b>	INR Crore (1 USD = INR 70)	>70 50 to 70 20 to 50	15 10 5
6	Commitment to invest in a specific project on case to case basis. <b>(Maximum Marks 10)</b>	%	upto 100% at least 74% at least 49% at least 26 %	10 8 6 4
8	Approach and methodology for jointly exploring & implementing Business Opportunities in Overseas Power/ Electricity Transmission Sector.			<b>Max marks 10</b>

#### 4.5.2 Power/ Electricity Distribution Sector

S. No	Description (Minimum Eligibility)	Unit	Criteria	Marks
1	Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY 2008-09 onwards) for preparation of Detailed Project Reports (DPRs) / Project Feasibility Reports / Design Basis Report etc. in various Power/ Electricity Distribution projects. <b>(Maximum Marks 20)</b>	No of Projects	>3 2 to 3 =1	20 10 5
2	Applicant should have experience of at least one (1) Overseas project in last ten (10) years (applicable FY 2008-09 onwards) in project management services including turnkey execution of projects inter-alia including Design; Engineering; preparation of Tender Documents and evaluation of bids; finalisation of contracts; procurement; inspection; supervision; erection; testing and commissioning in various Power/ Electricity Distribution projects. <b>(Maximum Marks 30)</b>	No of Projects	> 3 2 to 3 =1	30 20 10
3	The Annual Turnover of the Applicant in Power/ Electricity	INR	>500	15



	Distribution sector during any of the last three (3) financial years (applicable FY 2015-16 onwards) should be at least USD 15 million / Rs. 100 crore. <b>(Maximum Marks 15)</b>	Crore (1 USD = INR 70)	300 to 500	10
			100 to 300	5
5	The Networth of the Applicant in Power/ Electricity Distribution sector during the last three (3) financial years (applicable FY 2015-16 onwards) should be at least USD 3 million / Rs. 20 crore. <b>(Maximum Marks 15)</b>	INR Crore (1 USD = INR 70)	>70	15
			50 to 70	10
			20 to 50	5
6	Commitment to invest in a specific project on case to case basis. <b>(Maximum Marks 10)</b>	%	upto 100%	10
			at least 74%	8
			at least 49%	6
			at least 26 %	4
8	Approach and methodology for jointly exploring & implementing Business Opportunities in Overseas Power/ Electricity Distribution Sector.			<b>Max marks 10</b>

4.6 The Applicant can apply in **either or both** Power/ Electricity Transmission and Distribution sectors separately with meeting the **above criteria independent of each other**.

4.7 Based on the evaluation criteria, ranking of the successful applicants (from highest to lowest) shall be prepared separately for Power/ Electricity Transmission and Distribution sectors based upon the marks obtained.

4.8 PFCCL will have the exclusive right to enter into separate MOUs with one or more successful applicants based upon the ranking and business opportunities for **either or both** Power/ Electricity Transmission and Distribution sectors, initially for a period of five (5) years which can be further extended on mutual consent basis.

## 5. CLARIFICATION ON EOI DOCUMENT

5.1 An Applicant, requiring any clarification on the EOI documents shall notify the PFCCL in writing or by FAX at the PFCCL's given mailing address indicated in this document. PFCCL shall respond in writing to any request for the clarification of the EOI Documents. Copies of the query (without identifying the source) and clarifications by PFCCL shall be put on the PFCCL website. However, PFCCL reserves the right, in their sole discretion not to answer any question raised or provide clarification sought, if it is considered that it would be inappropriate to do so. Nothing in this section shall be

taken or read as compelling or requiring PFCCL to respond to any question or to provide information.

## **6. EOI CONFERENCE**

- 6.1 An EoI Conference shall be held on **October 25, 2018 at 15:00 hrs** at the following address:

PFC Consulting Limited  
9<sup>th</sup> Floor (A Wing)  
Statesman House  
Barakhamba Road, Connaught Place  
New Delhi-110001

## **7. SUBMISSION OF EXPRESSION OF INTEREST**

- 7.1. The application is to be submitted **online on TCIL portal** as per the prescribed format. The following documents are required to be submitted along with the application

- (i) Covering letter in the prescribed format **(Form 1)**
- (ii) Copies of Audited Annual reports for the last three (3) financial years (FY 2015-16 onwards).
- (iii) Details of black listing (if any) by Govt. Companies/Govt. organization/Govt. Agencies etc.
- (iv) The applicant has to mention in the Covering Letter at Annexure 1 that it is not black listed.
- (v) Work order/ Contract Agreement/ completion certificates/ any other document to meet the technical experience requirements.
- (vi) Document Checklist **(Form 2)**

- 7.2. The applicant shall also submit a hard copy of above documents clearly marking as **'True Copy - APPLICATION FOR JOINTLY EXPLORING OPPORTUNITIES IN OVERSEAS POWER/ ELECTRICITY TRANSMISSION AND DISTRIBUTION SECTOR'** which should reach the following address on or before October 31, 2018 till 15:00 hours:

**Anupam Kashyap**  
**Deputy Manager**  
**PFC Consulting Limited**  
**13<sup>th</sup> Floor (A Wing)**  
**Statesman House**  
**Barakhamba Road, Connaught Place**  
**New Delhi-110001**  
**Email- [anupam.kashyap@pfcindia.com](mailto:anupam.kashyap@pfcindia.com)**  
**Phone: 91-11-23443837**

- 7.3. The above hard copy shall either be sent by registered post or delivered in person. The responsibility for ensuring that the application is delivered in time would vest with the applicant. Applications delivered in person shall be delivered to the above mentioned address on or before 15:00 hours of due date. PFCCL shall not be responsible if the applications are delivered elsewhere.
- 7.4. PFCCL may, at its discretion, extend the date for the submission of application by press notification, in which case all rights and obligations of PFCCL and applicants whose applications have already been submitted before the extension of this date shall remain unaltered.
- 7.5. Strict adherence to the formats wherever specified, is required. Wherever, information has been sought in the specified formats, the party submitting the EoI shall refrain from referring to brochures/ pamphlets.
- 7.6. Application submitted by the Applicant shall become the property of PFCCL and PFCCL shall have complete right to either accept or reject without mentioning any reasons for its decision.

## **8. SEEKING CLARIFICATIONS**

- 8.1. To assist in the examination, evaluation and comparison of applications, PFCCL may, at its discretion ask the Applicant(s) for clarification on its application. The request for the clarification and the response shall be in writing.
- 8.2. The right to suspend the short-listing process or part of the process, to accept or reject any or all applications at any stage of the process and/or to modify the process or any part thereof at any time without assigning any reason thereof is reserved by PFCCL without any obligation or liability whatsoever.
- 8.3. Acceptance of the application(s) constitutes no form of commitment on the part of PFCCL. Furthermore, this acceptance of the application confers neither the right nor an expectation on any applicant to participate in the proposed Project.

***SECTION -2***  
***EoI FORMS***

**FORMAT OF COVERING LETTER**  
**(On the Letter Head of Prospective Partner)**

Partner's name:

Full Address:

Telephone No.:

E-mail address:

Fax No.:

To

Chief Executive Officer

PFC Consulting Ltd

9th Floor (A Wing)

Statesman House Building

Barakhamba Road

Connaught Place

New Delhi-110001

**Sub: Selection of interested Partner(s) for Jointly Exploring Opportunities in Overseas Power/ Electricity Transmission and Distribution sector**

Ref: No.- \_\_\_\_\_

We are submitting our application along with required data information as sought in the above referred notice for participating in the process of selection of Partner(s) for jointly exploring business in Overseas in the [*Power/ Electricity Transmission or Power/ Electricity Distribution or Power/ Electricity Transmission and Power/ Electricity Distribution*] Sector.

We confirm that we nor any of our Parent/ Affiliate/ Ultimate Parent has have not submitted application other than this application, directly or indirectly in response to the aforesaid notice PFCCL.

It is also understood that in case any party submitting the application conceals any material information or makes wrong statements or misrepresents facts or makes a misleading statement in any manner whatsoever, in order to create circumstances to accept its proposal, PFCCL reserves the right to reject such application.

We hereby undertake that we are not blacklisted by any Govt. Companies/Govt. organization/Govt. Agencies etc. in India or abroad.

We hereby confirm that we are willing to invest at least \_\_\_\_\_% in a specific project on case to case basis.

CONTACT PERSON

Details of contact person are furnished  
as under: Name

Designation

Company Address, Phone Nos,

Fax Nos E-mail Id

We are enclosing therewith the Application with duly signed formats in original as required in the notice.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 2018

Thanking you,

Yours faithfully

(Signature, Name, Designation and

Seal)\* Business Address:

Name and address of Principal Officer

*\* To be signed by Managing Director/ Chief Executive officer who should also be full time director on the Board of the Company submitting the Eol.*

**FORM 2****Check list for documents to be submitted for meeting eligibility criteria**

<b>Sl. No</b>	<b>Description of Document</b>	<b>Enclosed/ Not Enclosed</b>
1	Covering letter in the prescribed format (Annexure1)	
2	Copies of Audited Annual reports for the last three financial years (FY 2015-16 onwards)	
3	Work order/ Contract Agreement/ completion certificates/ any other document to meet the eligibility criteria mentioned at clause no. 4.4 of the EoI Document	
4	Certificate of Registration/Incorporation of Company under the relevant laws	

Note: All the above documents to be apostilled through proper channel (applicable for overseas companies) and self-attested by the person signing the Covering Letter.

# ***ANNEXURES***



**Draft Memorandum of Understanding  
(for Overseas Power/ Electricity Transmission Partner)**

This Memorandum of Understanding (the “**MOU**”) is made on this \_\_\_\_ day of \_\_\_\_ 2018 between:

**PFC Consulting Limited**, a company incorporated under the Companies Act, 1956 having its registered office at First Floor, “Urjanidhi”, 1, Barakhamba Lane, Connaught Place, New Delhi – 110001 (hereinafter referred to as “**PFCCL**”), which expression unless, repugnant to the context or meaning thereof, shall be deemed to include its successors and permitted assigns) as of the **First Part** represented by [Name of the signatory on behalf of PFCCL].

\_\_\_\_, a limited company incorporated under the \_\_\_\_ and having its registered office at \_\_\_\_\_, (hereinafter referred to as “**Overseas Power/ Electricity Transmission Partner(s)**”, which expression shall unless repugnant to the context or meaning thereof mean and include its successors and permitted assigns) as of the **Second Part** represented by [Name of the signatory on behalf of the Partner]

**PFCCL** and **Overseas Power/ Electricity Transmission Partner(s)** would be hereafter individually referred to as a “Party” and collectively as the “Parties”.

**WHEREAS**, PFCCL incorporated with the object to provide objective oriented end to end consulting solutions consistent with long term interests of Power & allied Sectors in India;

**WHEREAS**, \_\_\_\_ has been incorporated with the object of, interalia, to carry on the business of \_\_\_\_\_.

**WHEREAS**, the Parties wish to jointly explore and implement the business opportunities in Overseas Power/ Electricity Transmission sectors for ensuring quality & reliable power supply and highest level of satisfaction to consumers and to enable each Party to enjoy the benefits of the other Party’s diverse and complementary strengths and capabilities in the areas identified in this MoU.

**WHEREAS** the Parties wish to sign this MoU on non-exclusive basis in order to set forth the basic structure and scope of the Parties so they can later jointly proceed to negotiate and execute the overseas assignment(s) as mutually agreed on a case to case basis.

**NOW, THEREFORE, in consideration of the premises and mutual undertakings contained herein, the Parties hereby agree as follows:**

## 1. Opportunity

- a) Both the Parties will nominate a “Nodal Official” from each side who shall keep in touch and exchange information/details to explore opportunities for joint participation.
- b) PFCCL and **Overseas Power/ Electricity Transmission Partner(s)**, jointly intend to explore and implement the business opportunities in Overseas power/ electricity transmission sector for ensuring quality & reliable power supply and highest level of satisfaction to consumers.
- c) It is hereby agreed that when a new opportunity arises, both the Parties shall jointly frame detailed terms of reference of the acquired business opportunity on case to case basis each. The roles, responsibilities, cost & project sharing model will be decided on case to case basis.
- d) Once both the Parties are in agreement that any specific opportunity, as identified, is worth exploring for both the Parties, the appropriate way to work forward may be documented on mutually agreed terms.
- e) Both the Parties primarily agree to jointly explore opportunities in Overseas Power/ Electricity Transmission sectors in the following areas:
  - i. Undertaking pre-activities for preparation of Detailed Project Reports (DPRs) e.g. surveys, baseline studies etc.
  - ii. Preparation of DPRs
  - iii. Project Management Services which shall also include turnkey execution of projects inter-alia including preparation of Tender Documents and evaluation of bids; Finalisation of contracts etc.
  - iv. Design; engineering; procurement; inspection; supervision; erection; testing and commissioning; and other works incidental to as may be required
  - v. Assistance in Operation and Maintenance (O&M) of various schemes in Power/ Electricity Transmission sector.
  - vi. Assistance in Capacity Building; training and development; business process Re-Engineering

- vii. The Overseas Power/ Electricity Transmission Partner(s) may also be required to invest in the project based upon the specific requirement of the project.
- viii. Any other related activity as may be mutually agreed upon in power/ electricity transmission sector

Both the parties broadly agree as follows:

## **2. SCOPE OF WORK**

- a) The scope of the intended cooperation between the Parties in relation to each Opportunity is envisaged as follows:
  - i. Both Parties will carry out business development and pre-project activities for conceiving opportunities as mentioned at clause 1(e) above in Overseas power/ electricity transmission sector.
  - ii. On successful conception of such opportunity, both Overseas Power/ Electricity Transmission Partner(s) and PFFCL shall preferably through an agreement document role matrix and term sheet on mutually agreed terms for jointly carrying out activities mentioned at clause 1(e) above.
- b) The cooperation envisaged between the Parties pursuant to this MOU shall be subject to each Party at all times being in compliance with the provisions of the applicable Government rules, regulations and applicable law.
- c) In respect of the opportunities jointly identified and picked up for further exploration, the Parties will work jointly to create an appropriate mechanism, commercial or otherwise on mutually agreed terms.
- d) Each Party will bear all costs, risks and liabilities incurred by it arising out of its obligations and efforts under this MOU. Neither Party shall have any right to any reimbursement, payment or compensation of any kind from the other Party.
- e) Both Parties agree to share, in good faith, with the other Party all possible available information regarding an opportunity worth pursuing.
- f) Each Party will nominate one person or more employed with them to act as nodal point of contact from their side for successful implementation of the objectives laid for this joint effort and for every communication and

correspondence under this MOU.

- g) The nodal contact persons so appointed will hold periodic joint meetings through audio/video conferences and also physical meetings as and when required, to discuss and share any information that might arise during the course of this MOU.
- h) The Parties will be responsible for conduct and remuneration of their employees, officers and agents involved to work under this MOU.

### **3. Continued Cooperation**

The Parties agree to work in good faith as quickly and expeditiously as possible.

### **4. Non-circumvention**

Both Parties further agree not to circumvent each other as set out herein and shall abide by business principles regarding non-circumvention. No Party to this MOU shall in any way whatsoever circumvent or attempt to circumvent the other by entering into any negotiation or dealing with business contact associates or Partners, firms or companies etc. of the other Party with whom he might have become acquainted in the course of the implementation of this MOU, without the prior written consent of the other Party concerned.

### **5. Confidentiality**

Subject to the necessary disclosure of this MOU required to be made by either Party to governmental and/or statutory authorities, each of the Parties shall undertake that during the term of this MOU and at all times thereafter it shall keep confidential and cause their respective affiliates, directors, representatives, employees and agents, as the case may be, to keep confidential any Confidential Information which any such persons may acquire in relation to the transactions contemplated by this MOU or in relation to the employees, clients, business or affairs of any other Party and shall not use or disclose such information except with the consent of the other Party. The restrictions in this clause shall not apply to any information:

- a) which is at the date of this MOU publicly available other than through breach of this MOU by any Party;
- b) which was known to the Party, as evidenced by its written records, prior to it receiving such Confidential Information;
- c) which subsequently comes lawfully into the possession of the receiving Party by a third party which was not bound by any obligation of confidentiality; or

- d) which is required to be disclosed in accordance with the requirements of law, to any Governmental authority, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority, provided that the Party required to disclose shall give the other Party written notice thereof and adequate opportunity to object to disclosure of Confidential Information before appropriate authority.

For purpose of this MOU, “**Confidential Information**” means all the information of a confidential nature (including all information concerning a Party’s business transactions, technical & operational information and financial arrangements) disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by a Party to the other Party whether before or after the date of this MOU.

This clause shall survive for one (1) year after the termination or expiry of this MOU.

- 6. Each party shall bear its own costs of interaction/ negotiation with the client subject to the provisions of this MoU.

#### 7. **Applicable laws and Jurisdiction**

This MOU shall be governed and interpreted by and construed in accordance with the Indian Laws and subject to the provisions of Clause 8 below, the Parties submit to the exclusive jurisdiction of the Courts in Delhi.

#### 8. **Validity and Termination**

- a) Unless otherwise extended with mutual consent by both the Parties in writing, this MOU is valid for a period of five (5) years from the date of its execution i.e. the “**Effective Date**”. However, being the intention of the Parties to work together on multiple opportunities, any definitive documents executed by the Parties towards a specific opportunity will in no way affect the continuation of this MOU till the end of its tenure to enable the Parties to further seek other opportunities on an on-going basis. The term of the MoU is automatically extended for a period commensurating with the period of contract or any agreement with the client.
- b) Notwithstanding any other provision of this MOU, either Party shall have the right to terminate this MOU by giving 30 days prior written notice to the other Party concerned, under the following circumstances:

- (i) Should the other Party become insolvent or a receiver is appointed in respect of its properties;
  - (ii) Should the other Party commit a breach of any material provision of this MOU, which is not remedied within 30 days of receipt of written notice in this respect;
  - (iii) If no commercial agreement for any of the identified project(s) is signed within five (5) years from the date of execution of this MOU or such other extended period as may be mutually agreed between the Parties, in the manner contemplated in this MOU;
- c) In such an event, neither party shall make any claim against the other party for any loss/damage on account of such termination before any forum, whether judicial or otherwise.
- d) The obligations of Parties under the provisions pertaining to Confidentiality shall survive till 1 (one) year after the termination or expiry of the MOU.
- e) Upon termination of this MOU for whatever reason, either Party shall immediately return or destroy all information / documents obtained under this MOU without any delay or limitation and any information shared for an opportunity will be subject to the terms of this MOU.

## **9. Representation and Warranties**

Each Party hereby represents and warrants to the other Party as follows:

- (i) it has full power and authority to enter into this MOU and to perform its obligations under this MOU;
- (ii) the execution and delivery of this MOU and the performance by it of its obligations under this MOU have been duly and validly authorised by all necessary corporate actions on the part of it.
- (iii) the execution, delivery and performance by such Party of this MOU and the acts and transactions contemplated hereby do not and will not, with or without the giving of notice or lapse of time or both, violate, conflict with, require any consent under or result in a breach of or default under:

- i. applicable law; or
  - ii. any order, judgment or decree applicable to it; or
  - iii. any terms, conditions, covenants, undertakings, agreements or other instruments to which it is a party or by which it is bound;
- (iv) there are no legal, quasi-legal, administrative, arbitration, mediation, conciliation or other proceedings, claims, actions, governmental investigations, orders, judgments or decrees of any nature made, existing, or pending or, to the best of its knowledge, threatened or anticipated, which may prejudicially affect the due performance or enforceability of this MOU or any obligation, act, omission or transactions contemplated hereunder; and
- (v) that it will comply with all applicable laws and regulatory requirements in connection with the performance of its obligations under this MOU, and will not do or permit anything to be done which might cause or otherwise result in a breach of this MOU or cause any detriment to the transactions herein envisaged.

## **10. Dispute Resolution**

- 10.1 In the event of any dispute arising between the Parties in connection with any matter or thing herein contained or the operation or construction thereof or any matter or thing in any way connected with this MoU, including any question regarding its existence, interpretation, validity or termination, the Parties shall first endeavour to reach an amicable settlement through mutual consultations and negotiations by the senior officials of the Parties. In case of such failure to resolve the dispute amicably in 30 days, the dispute shall be referred to sole Arbitrator, who shall be mutually appointed by the parties. The Arbitration proceedings shall be governed by the (Indian) Arbitration and Conciliation Act, 1996 and any amendments thereof and shall be held at New Delhi. The language of Arbitration shall be English. Any award made in any such arbitration shall be enforceable in any court of competent jurisdiction. The cost of the arbitrator shall be shared mutually between the Parties.
- 10.2 The courts of Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with this MoU

## **11. Copies**

This MOU may be entered into in two or more counterparts each of which, when executed and delivered, shall be an original, but all the counterparts shall together constitute one and the same instrument.

## **12. Intellectual Property Rights**

All the information/material be it either technical, commercial, financial or proprietary etc. in nature which are shared by the Parties in connection with achieving the objectives of this MOU shall remain the exclusive property of the concerned Party and nothing contained in this MOU shall be construed as granting or conferring any rights to such information/material on the other Party. Further each Party shall retain and/or own their intellectual property rights in all of its pre-existing and/or independently developed intellectual property including but not limited to reusable software assets, tools, documents, manuals, frameworks and solutions among other things during the term of this MOU. A Party may use the other Party's name, logo, trademark or any other symbol or design or the analytic solution being provided by the parties under this MOU.

## **13. Limitation of Liability**

Neither Party shall be liable to the other Party for damages, whether in contract, tort or otherwise, arising out of or in connection with this MOU other than for breach of obligations of either Party under this MOU.

In no event shall either Party be liable for any indirect, special, incidental, consequential, punitive, tort or other damages, however caused arising out of or in connection with this MOU, or of any other obligations relating to this MOU, whether or not the Party has been advised of the possibility of such damages.

No Party shall be liable to the other in any manner in the event the Parties are not being able to reach any agreement pursuant hereto or fail to sign the commercial agreement as contemplated in this MoU.

## **14. Notice**

All notices, certificates, acknowledgments and other reports hereunder or in connection with this MOU shall be in writing and shall be effective upon receipt and shall be deemed to be sufficiently given if personally delivered, emailed or if sent by courier or other express mail service, postage prepaid, addressed to the Party entitled or required to receive such notice at the address for such Party as follows:

### **To PFFCL:**

Sanjay Nayak  
Associate Vice President  
PFC Consulting Limited



13<sup>th</sup> Floor (A Wing)  
Statesman House  
Barakhamba Road, Connaught Place  
New Delhi-110001  
Email- [sanjaynayak@pfcindia.com](mailto:sanjaynayak@pfcindia.com)  
Phone: 91-11-23443804

**To Party:**

[\_\_\_\_\_  
\_\_\_\_\_]

All notices shall be in English language and given in accordance with Clause 14 and shall be deemed to have been served:

- I. if delivered by hand, at the time of delivery;
- II. if posted, at the expiration of 7 (seven) days after the envelope containing the same was delivered into the custody of the postal authorities; and
- III. if communicated by facsimile, email, on receipt of confirmation of successful transmission.

Either Party may change such address by notice to the other Party.

**15. Good Faith**

The Parties hereby intends to work, together and in good faith, to undertake and perform the actions envisaged under this MOU.

**16. Assignment**

This MOU shall ensure to benefit of the Parties hereto and to their respective successors and permitted assigns. This MOU is exclusive to the Parties and the Parties shall not assign their rights and benefits hereunder except with mutual consent which should not be unreasonably withheld by other party. Notwithstanding the above or any contrary provision contained in this MOU, the Parties shall have the right to assign this MOU, in whole or in part, to any of their subsidiary company or to any successor by way of merger, consolidation or acquisition of a substantial amount of the assets of said corporation or its parent company.

**17.** During the validity of this MOU, the rights and obligations of the Parties arising in relation to the transaction(s) contemplated herein shall be interpreted, acted upon and governed in accordance with the terms and conditions of this MOU.

#### **18. Relationship of the parties**

The Parties are acting herein as independent Parties and nothing herein contained shall create or be construed as creating a Partnership or joint venture between any of the Parties and no party shall have the authority to bind another party in any respect other than related to the arrangement contemplated herein and on the terms and conditions specified in this MOU.

#### **19. Fee Structure and Sharing**

There is no financial transaction through this MOU. Each Party shall bear its own costs of interaction/ negotiation etc. with the client. The Parties shall decide on the level and extent of involvement in the prospective assignment and decide on the cost of services to be submitted and finalized with the client. The Parties shall not be allowed to part ways once the assignment is awarded by the client. In the event of the Party parting ways, the party parting ways shall be liable to pay the other Party an amount equivalent to the rest of the work to be undertaken by both the Parties.

**20.** If any provision embodied in this MOU is held to be legally invalid or null, such provision to the extent reasonably practicable shall be severed, and the Parties will replace such provision, considering the nature and contents of this MOU, the manner in which consensus is reached, the mutually known interests of both Parties as well as the other relevant circumstances, by a provision which is not unreasonably onerous to any Party and approximates the meaning of the legally invalid provision as closely as possible.

#### **21. Amendment/Waiver**

The failure on the part of one Party to exercise or enforce any rights resulting from this MOU shall not be a waiver of any such rights, nor shall any single or partial exercise thereof operate so as to bar the latter exercise or enforcement thereof.

#### **22. Interpretation**

The various headings appearing in this MOU are only for sake of convenience and shall not affect the interpretation of subject matter of various clauses of this MOU.

**23.Change of address:**

A Party may notify the other Party of a change to its name, addressee, address and telex or facsimile numbers for the purpose of Clause 14 provided that such notification shall only be effective on the date specified in the notification as the date on which the change is to take place, or if no date is specified, the date falling five days after notice of any such change has been given.

**24. Fraud Prevention:**

Each Party shall adhere to their respective policies for prevention of fraud and not indulge or allow anybody else working in their respective organization to indulge in fraudulent activities and would immediately apprise each other of the fraud/suspected fraud as soon as it comes to their notice.”

**IN WITNESS WHEREOF**, the Parties through their duly authorized representatives have executed this MOU on the date and year first hereinbefore written.

**For and on behalf of  
PFC Consulting Limited**

**For and on behalf of**

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Witness : 1

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Witness : 1

**Draft Memorandum of Understanding  
(for Overseas Power/ Electricity Distribution Partner)**

This Memorandum of Understanding (the “MOU”) is made on this \_\_\_\_ day of \_\_\_\_ 2018 between:

**PFC Consulting Limited**, a company incorporated under the Companies Act, 1956 having its registered office at First Floor, “Urjanidhi”, 1, Barakhamba Lane, Connaught Place, New Delhi – 110001 (hereinafter referred to as “**PFCCL**”), which expression unless, repugnant to the context or meaning thereof, shall be deemed to include its successors and permitted assigns) as of the **First Part** represented by [Name of the signatory on behalf of PFCCL].

\_\_\_\_, a limited company incorporated under the \_\_\_\_ and having its registered office at \_\_\_\_\_, (hereinafter referred to as “**Overseas Power/ Electricity Distribution Partner(s)**”), which expression shall unless repugnant to the context or meaning thereof mean and include its successors and permitted assigns) as of the **Second Part** represented by [Name of the signatory on behalf of the Partner]

**PFCCL** and **Overseas Power/ Electricity Distribution Partner(s)** would be hereafter individually referred to as a “Party” and collectively as the “Parties”.

**WHEREAS**, PFCCL incorporated with the object to provide objective oriented end to end consulting solutions consistent with long term interests of Power & allied Sectors in India;

**WHEREAS**, \_\_\_\_ has been incorporated with the object of, inter alia, to carry on the business of \_\_\_\_\_.

**WHEREAS**, the Parties wish to jointly explore and implement the business opportunities in Overseas Power/ Electricity Distribution sectors for ensuring quality & reliable power supply and highest level of satisfaction to consumers and to enable each Party to enjoy the benefits of the other Party’s diverse and complementary strengths and capabilities in the areas identified in this MoU.

**WHEREAS** the Parties wish to sign this MoU on non-exclusive basis in order to set forth the basic structure and scope of the Parties so they can later jointly proceed to negotiate and execute the overseas assignment(s) as mutually agreed on a case to case basis.

**NOW, THEREFORE, in consideration of the premises and mutual undertakings contained herein, the Parties hereby agree as follows:**

## 1. Opportunity

- a) Both the Parties will nominate a “Nodal Official” from each side who shall keep in touch and exchange information/details to explore opportunities for joint participation.
- b) PFCCL and **Overseas Power/ Electricity Distribution Partner(s)**, jointly intend to explore and implement the business opportunities in Overseas power/ electricity Distribution sector for ensuring quality & reliable power supply and highest level of satisfaction to consumers.
- c) It is hereby agreed that when a new opportunity arises, both the Parties shall jointly frame detailed terms of reference of the acquired business opportunity on case to case basis each. The roles, responsibilities, cost & project sharing model will be decided on case to case basis.
- d) Once both the Parties are in agreement that any specific opportunity, as identified, is worth exploring for both the Parties, the appropriate way to work forward may be documented on mutually agreed terms.
- e) Both the Parties primarily agree to jointly explore opportunities in Overseas Power/ Electricity Distribution sectors in the following areas:
  - i. Undertaking pre-activities for preparation of Detailed Project Reports (DPRs) e.g. surveys, baseline studies etc.
  - ii. Preparation of DPRs
  - iii. Project Management Services which shall also include turnkey execution of projects inter-alia including preparation of Tender Documents and evaluation of bids; Finalisation of contracts etc.
  - iv. Design; engineering; procurement; inspection; supervision; erection; testing and commissioning; and other works incidental to as may be required
  - v. Assistance in Operation and Maintenance (O&M) of various schemes in Power/ Electricity Distribution sector.
  - vi. Assistance in Capacity Building; training and development; business process Re-Engineering

- vii. The Overseas Power/ Electricity Distribution Partner(s) may also be required to invest in the project based upon the specific requirement of the project.
- viii. Any other related activity as may be mutually agreed upon in power/ electricity Distribution sector

Both the parties broadly agree as follows:

## **2. SCOPE OF WORK**

- a) The scope of the intended cooperation between the Parties in relation to each Opportunity is envisaged as follows:
  - i. Both Parties will carry out business development and pre-project activities for conceiving opportunities as mentioned at clause 1(e) above in Overseas power/ electricity Distribution sector.
  - ii. On successful conception of such opportunity, both Overseas Power/ Electricity Distribution Partner(s) and PFFCL shall preferably through an agreement document role matrix and term sheet on mutually agreed terms for jointly carrying out activities mentioned at clause 1(e) above.
- b) The cooperation envisaged between the Parties pursuant to this MOU shall be subject to each Party at all times being in compliance with the provisions of the applicable Government rules, regulations and applicable law.
- c) In respect of the opportunities jointly identified and picked up for further exploration, the Parties will work jointly to create an appropriate mechanism, commercial or otherwise on mutually agreed terms.
- d) Each Party will bear all costs, risks and liabilities incurred by it arising out of its obligations and efforts under this MOU. Neither Party shall have any right to any reimbursement, payment or compensation of any kind from the other Party.
- e) Both Parties agree to share, in good faith, with the other Party all possible available information regarding an opportunity worth pursuing.
- f) Each Party will nominate one person or more employed with them to act as nodal point of contact from their side for successful implementation of the objectives laid for this joint effort and for every communication and

correspondence under this MOU.

- g) The nodal contact persons so appointed will hold periodic joint meetings through audio/video conferences and also physical meetings as and when required, to discuss and share any information that might arise during the course of this MOU.
- h) The Parties will be responsible for conduct and remuneration of their employees, officers and agents involved to work under this MOU.

### **3. Continued Cooperation**

The Parties agree to work in good faith as quickly and expeditiously as possible.

### **4. Non-circumvention**

Both Parties further agree not to circumvent each other as set out herein and shall abide by business principles regarding non-circumvention. No Party to this MOU shall in any way whatsoever circumvent or attempt to circumvent the other by entering into any negotiation or dealing with business contact associates or Partners, firms or companies etc. of the other Party with whom he might have become acquainted in the course of the implementation of this MOU, without the prior written consent of the other Party concerned.

### **5. Confidentiality**

Subject to the necessary disclosure of this MOU required to be made by either Party to governmental and/or statutory authorities, each of the Parties shall undertake that during the term of this MOU and at all times thereafter it shall keep confidential and cause their respective affiliates, directors, representatives, employees and agents, as the case may be, to keep confidential any Confidential Information which any such persons may acquire in relation to the transactions contemplated by this MOU or in relation to the employees, clients, business or affairs of any other Party and shall not use or disclose such information except with the consent of the other Party. The restrictions in this clause shall not apply to any information:

- a) which is at the date of this MOU publicly available other than through breach of this MOU by any Party;
- b) which was known to the Party, as evidenced by its written records, prior to it receiving such Confidential Information;
- c) which subsequently comes lawfully into the possession of the receiving Party by a third party which was not bound by any obligation of confidentiality; or

- d) which is required to be disclosed in accordance with the requirements of law, to any Governmental authority, any stock exchange regulation or any binding judgment, order or requirement of any court or other competent authority, provided that the Party required to disclose shall give the other Party written notice thereof and adequate opportunity to object to disclosure of Confidential Information before appropriate authority.

For purpose of this MOU, “**Confidential Information**” means all the information of a confidential nature (including all information concerning a Party’s business transactions, technical & operational information and financial arrangements) disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by a Party to the other Party whether before or after the date of this MOU.

This clause shall survive for one (1) year after the termination or expiry of this MOU.

- 6. Each party shall bear its own costs of interaction/ negotiation with the client subject to the provisions of this MoU.

#### 7. **Applicable laws and Jurisdiction**

This MOU shall be governed and interpreted by and construed in accordance with the Indian Laws and subject to the provisions of Clause 8 below, the Parties submit to the exclusive jurisdiction of the Courts in Delhi.

#### 8. **Validity and Termination**

- a) Unless otherwise extended with mutual consent by both the Parties in writing, this MOU is valid for a period of five (5) years from the date of its execution i.e. the “**Effective Date**”. However, being the intention of the Parties to work together on multiple opportunities, any definitive documents executed by the Parties towards a specific opportunity will in no way affect the continuation of this MOU till the end of its tenure to enable the Parties to further seek other opportunities on an on-going basis. The term of the MoU is automatically extended for a period commensurating with the period of contract or any agreement with the client.
- b) Notwithstanding any other provision of this MOU, either Party shall have the right to terminate this MOU by giving 30 days prior written notice to the other Party concerned, under the following circumstances:



- (i) Should the other Party become insolvent or a receiver is appointed in respect of its properties;
  - (ii) Should the other Party commit a breach of any material provision of this MOU, which is not remedied within 30 days of receipt of written notice in this respect;
  - (iii) If no commercial agreement for any of the identified project(s) is signed within five (5) years from the date of execution of this MOU or such other extended period as may be mutually agreed between the Parties, in the manner contemplated in this MOU;
- c) In such an event, neither party shall make any claim against the other party for any loss/damage on account of such termination before any forum, whether judicial or otherwise.
- d) The obligations of Parties under the provisions pertaining to Confidentiality shall survive till 1 (one) year after the termination or expiry of the MOU.
- e) Upon termination of this MOU for whatever reason, either Party shall immediately return or destroy all information / documents obtained under this MOU without any delay or limitation and any information shared for an opportunity will be subject to the terms of this MOU.

## **9. Representation and Warranties**

Each Party hereby represents and warrants to the other Party as follows:

- (i) it has full power and authority to enter into this MOU and to perform its obligations under this MOU;
- (ii) the execution and delivery of this MOU and the performance by it of its obligations under this MOU have been duly and validly authorised by all necessary corporate actions on the part of it.
- (iii) the execution, delivery and performance by such Party of this MOU and the acts and transactions contemplated hereby do not and will not, with or without the giving of notice or lapse of time or both, violate, conflict with, require any consent under or result in a breach of or default under:

- i. applicable law; or
  - ii. any order, judgment or decree applicable to it; or
  - iii. any terms, conditions, covenants, undertakings, agreements or other instruments to which it is a party or by which it is bound;
- (iv) there are no legal, quasi-legal, administrative, arbitration, mediation, conciliation or other proceedings, claims, actions, governmental investigations, orders, judgments or decrees of any nature made, existing, or pending or, to the best of its knowledge, threatened or anticipated, which may prejudicially affect the due performance or enforceability of this MOU or any obligation, act, omission or transactions contemplated hereunder; and
- (v) that it will comply with all applicable laws and regulatory requirements in connection with the performance of its obligations under this MOU, and will not do or permit anything to be done which might cause or otherwise result in a breach of this MOU or cause any detriment to the transactions herein envisaged.

## **10. Dispute Resolution**

- 10.1 In the event of any dispute arising between the Parties in connection with any matter or thing herein contained or the operation or construction thereof or any matter or thing in any way connected with this MoU, including any question regarding its existence, interpretation, validity or termination, the Parties shall first endeavour to reach an amicable settlement through mutual consultations and negotiations by the senior officials of the Parties. In case of such failure to resolve the dispute amicably in 30 days, the dispute shall be referred to sole Arbitrator, who shall be mutually appointed by the parties. The Arbitration proceedings shall be governed by the (Indian) Arbitration and Conciliation Act, 1996 and any amendments thereof and shall be held at New Delhi. The language of Arbitration shall be English. Any award made in any such arbitration shall be enforceable in any court of competent jurisdiction. The cost of the arbitrator shall be shared mutually between the Parties.
- 10.2 The courts of Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with this MoU

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## **12. Intellectual Property Rights**

All the information/material be it either technical, commercial, financial or proprietary etc. in nature which are shared by the Parties in connection with achieving the objectives of this MOU shall remain the exclusive property of the concerned Party and nothing contained in this MOU shall be construed as granting or conferring any rights to such information/material on the other Party. Further each Party shall retain and/or own their intellectual property rights in all of its pre-existing and/or independently developed intellectual property including but not limited to reusable software assets, tools, documents, manuals, frameworks and solutions among other things during the term of this MOU. A Party may use the other Party's name, logo, trademark or any other symbol or design or the analytic solution being provided by the parties under this MOU.

## **13. Limitation of Liability**

Neither Party shall be liable to the other Party for damages, whether in contract, tort or otherwise, arising out of or in connection with this MOU other than for breach of obligations of either Party under this MOU.

In no event shall either Party be liable for any indirect, special, incidental, consequential, punitive, tort or other damages, however caused arising out of or in connection with this MOU, or of any other obligations relating to this MOU, whether or not the Party has been advised of the possibility of such damages.

No Party shall be liable to the other in any manner in the event the Parties are not being able to reach any agreement pursuant hereto or fail to sign the commercial agreement as contemplated in this MoU.

## **14. Notice**

All notices, certificates, acknowledgments and other reports hereunder or in connection with this MOU shall be in writing and shall be effective upon receipt and shall be deemed to be sufficiently given if personally delivered, emailed or if sent by courier or other express mail service, postage prepaid, addressed to the Party entitled or required to receive such notice at the address for such Party as follows:

### **To PFFCL:**

Sanjay Nayak  
Associate Vice President  
PFC Consulting Limited

13<sup>th</sup> Floor (A Wing)  
Statesman House  
Barakhamba Road, Connaught Place  
New Delhi-110001  
Email- [sanjaynayak@pfcindia.com](mailto:sanjaynayak@pfcindia.com)  
Phone: 91-11-23443804

**To Party:**

[\_\_\_\_\_  
\_\_\_\_\_]

All notices shall be in English language and given in accordance with Clause 14 and shall be deemed to have been served:

- IV. if delivered by hand, at the time of delivery;
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**17.** During the validity of this MOU, the rights and obligations of the Parties arising in relation to the transaction(s) contemplated herein shall be interpreted, acted upon and governed in accordance with the terms and conditions of this MOU.

#### **18. Relationship of the parties**

The Parties are acting herein as independent Parties and nothing herein contained shall create or be construed as creating a Partnership or joint venture between any of the Parties and no party shall have the authority to bind another party in any respect other than related to the arrangement contemplated herein and on the terms and conditions specified in this MOU.

#### **19. Fee Structure and Sharing**

There is no financial transaction through this MOU. Each Party shall bear its own costs of interaction/ negotiation etc. with the client. The Parties shall decide on the level and extent of involvement in the prospective assignment and decide on the cost of services to be submitted and finalized with the client. The Parties shall not be allowed to part ways once the assignment is awarded by the client. In the event of the Party parting ways, the party parting ways shall be liable to pay the other Party an amount equivalent to the rest of the work to be undertaken by both the Parties.

**20.** If any provision embodied in this MOU is held to be legally invalid or null, such provision to the extent reasonably practicable shall be severed, and the Parties will replace such provision, considering the nature and contents of this MOU, the manner in which consensus is reached, the mutually known interests of both Parties as well as the other relevant circumstances, by a provision which is not unreasonably onerous to any Party and approximates the meaning of the legally invalid provision as closely as possible.

#### **21. Amendment/Waiver**

The failure on the part of one Party to exercise or enforce any rights resulting from this MOU shall not be a waiver of any such rights, nor shall any single or partial exercise thereof operate so as to bar the latter exercise or enforcement thereof.

#### **22. Interpretation**

The various headings appearing in this MOU are only for sake of convenience and shall not affect the interpretation of subject matter of various clauses of this MOU.

**23.Change of address:**

A Party may notify the other Party of a change to its name, addressee, address and telex or facsimile numbers for the purpose of Clause 14 provided that such notification shall only be effective on the date specified in the notification as the date on which the change is to take place, or if no date is specified, the date falling five days after notice of any such change has been given.

**24. Fraud Prevention:**

Each Party shall adhere to their respective policies for prevention of fraud and not indulge or allow anybody else working in their respective organization to indulge in fraudulent activities and would immediately apprise each other of the fraud/suspected fraud as soon as it comes to their notice.”

**IN WITNESS WHEREOF**, the Parties through their duly authorized representatives have executed this MOU on the date and year first hereinbefore written.

**For and on behalf of  
PFC Consulting Limited**

**For and on behalf of**

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Witness : 1

**SPECIAL INSTRUCTIONS TO APPLICANTS FOR SUBMISSION OF EOI****General**

The Special Instructions supplement 'Instruction to Applicants', as given in this EoI Document. Submission of Online EoIs is mandatory. PFC Consulting Ltd. has decided to use the portal <https://www.tcil-india-electronictender.com> through TCIL, a Government of India Undertaking. This portal is based on the world's most 'secure' and 'user friendly' software from Electronic Tender. A portal built using Electronic Tender's software is also referred to as Electronic Tender System (ETS). Benefits to Suppliers are outlined on the Home-page of the portal.

**Instructions****Tender Bidding Methodology:**

- **Electronic Bid System**
- **Single Stage Single Envelope**

Broad Outline of Activities from Applicant's Perspective:

1. **Procure a Digital Signing Certificate (DSC)**
2. Register on Electronic Tendering System (ETS)
3. Create Marketing Authorities (MAs), Users and assign roles on ETS
4. View EoI on ETS
5. For this EoI -- Assign Tender Search Code (TSC) to a MA
6. Download Official Copy of EoI Documents from ETS
7. Clarification to EoI Documents on ETS
  - Query to **PFC Consulting Ltd.** (Optional)
  - View response to queries posted by **PFC Consulting Ltd.**
8. Bid-Submission on ETS
9. Attend Public Online EoI Opening Event on ETS
  - Opening of relevant EoI-Part

For participating in this tender online, the following instructions are to be read carefully. These instructions are supplemented with more detailed guidelines on the relevant screens of the ETS.

## Digital Certificates

For integrity of data and authenticity/ non-repudiation of electronic records, and to be compliant with IT Act 2000, it is necessary for each user to have a Digital Certificate (DC) also referred to as Digital Signature Certificate (DSC), of Class 2 or above, issued by a Certifying Authority (CA) licensed by Controller of Certifying Authorities (CCA) [refer <http://www.cca.gov.in>].

## Registration

To use the Electronic Tender® portal <https://www.tcil-india-electronictender.com> vendors need to register on the portal. Registration of each organization is to be done by one of its senior persons who will be the main person coordinating for the e-tendering activities. In ETS terminology, this person will be referred to as the Super User (SU) of that organization. For further details, please visit the website/portal, and click on the 'Supplier Organization' link under 'Registration' (on the Home Page), and follow further instructions as given on the site. Pay Annual Registration Fee as applicable.

After successful submission of Registration details and Annual Registration Fee, please contact TCIL/ ETS Helpdesk (as given below), to get your registration accepted/activated.

**Important Note:** To minimize teething problems during the use of ETS (including the Registration process), it is recommended that the user should peruse the instructions given under 'ETS User-Guidance Center' located on ETS Home Page, including instructions for timely registration on ETS. The instructions relating to 'Essential Computer Security Settings for Use of ETS' and 'Important Functionality Checks' should be especially taken into cognizance.

Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of users, assigning roles to them, etc.

TCIL/ ETS Helpdesk	
<b>Telephone/ Mobile</b>	Customer Support: +91-11-26241790(Multiple Lines) Emergency Mobile Numbers: +91-9868393775, 9868393717, 9868393792
<b>E-mail ID</b>	ets_support@tcil-india.com

PFC Consulting Ltd. Contact	
<b>Contact Person</b>	Mr. Anupam Kashyap, Deputy Manager



<b>Telephone</b>	011-23443837 [between 9:00 hrs to 17:30 hrs on working days]
<b>E-mail ID</b>	<a href="mailto:anupam_kashyap@pfcindia.com">anupam_kashyap@pfcindia.com</a>

### **Some Bidding related Information for this EoI (Sealed EoI)**

The Applicant has to submit EoI document by **October 31, 2018 till 15:00 hrs (IST)** online on TCIL portal. The entire EoI-submission would be online on ETS. Broad outline of submissions are as follows:

- Submission of EoI-Parts
  - Technical Part
  - Submission of digitally signed copy of entire EoI Documents/Addendum

### **Offline Submissions:**

No offline submission is required except Pass-phrase.

The Bidders are requested to submit the original copies of the response submitted on TCIL along with the Pass-phrase.

*Note: The Applicant should also upload the scanned copies of all the documents as EoI-Annexure during Online EoI-Submission.*

### **Special Note on Security and Transparency of EoIs**

Security related functionality has been rigorously implemented in ETS in a multi-dimensional manner. Starting with 'Acceptance of Registration by the Service Provider', provision for security has been made at various stages in Electronic Tender's software, Specifically for EoI Submission, some security related aspects are outlined below:

As part of the Electronic Encrypted functionality, the contents of both the 'Electronic Forms' and the 'Main-EoI' are securely encrypted using a Pass-Phrase created by the Applicant himself. Unlike a 'password', a Pass-Phrase can be a multi-word sentence with spaces between words (e.g I love this World). A Pass-Phrase is easier to remember, and more difficult to break. This method of EoI-encryption does not have the security and data-integrity related vulnerabilities which are inherent in e-tendering systems which use Public-Key of the specified officer of a Buyer organization for EoI-encryption. EoI encryption in ETS is such that the EoIs cannot be decrypted before the Public Online Tender Opening Event (TOE), even if there is connivance between the concerned tender-opening officers of the Buyer organization and the personnel of e-tendering service provider.

CAUTION: All Applicants must fill Electronic Forms sincerely and carefully, and avoid any discrepancy between information given in the Electronic Forms and the corresponding EoIs. For transparency, the information submitted by an Applicant in the Electronic Forms is made available to other Applicants during the Online Public TOE. If it is found during the Online Public TOE that an Applicant has not filled in the complete information in the Electronic Forms, the TOE officer may make available for downloading the EoI of that Applicant at the risk of the Applicant. If variation is noted between the information contained in the Electronic Forms and the 'EoI', the contents of the Electronic Forms shall prevail.

Typically, 'Pass-Phrase' of the EoI to be opened during a particular Public Online Tender Opening Event (TOE) is furnished offline by each Applicant, when demanded by the concerned Tender Opening Officer.

**The applicant shall make sure that the Pass-Phrase to decrypt the EoI is provided to PFCCL at email id [anupam.kashyap@pfcindia.com](mailto:anupam.kashyap@pfcindia.com) after the corresponding deadline of EoI Submission, and before the commencement of the Online TOE.**

There is an additional protection with SSL Encryption during transit from the client-end computer of a Supplier organization to the e-tendering server/ portal.

### **Public Online Tender Opening Event (TOE)**

ETS offers a unique facility for 'Public Online Tender Opening Event (TOE)'. Tender Opening Officers, as well as, authorized representatives of Applicants can simultaneously attend the Public Online Tender Opening Event (TOE) from the comfort of their offices. Alternatively, one/ two duly authorized representative(s) of Applicants (i.e. Supplier organization) are requested to carry a Laptop with Wireless Internet Connectivity, if they wish to come to **PFC Consulting Ltd.** office for the Public Online TOE.

Every legal requirement for a transparent and secure 'Public Online Tender Opening Event (TOE)', including digital counter-signing of each opened EoI by the authorized TOE-officer(s) in the simultaneous online presence of the participating Applicants' representatives, has been implemented on ETS.

ETS has a unique facility of a detailed report titled 'Minutes of Online Tender Opening Event (TOE)' covering all important activities of 'Online Tender Opening Event (TOE)'. This is available to all participating Applicants for 'Viewing/Downloading'.

There are many more facilities and features on ETS. For a particular tender, the screens viewed by a Supplier will depend upon the options selected by the concerned Buyer.

## Other Instructions

For further instructions, the vendor should visit the home-page of the portal <https://www.tcil-india-electronictender.com>, and go to the **User-Guidance Centre**.

The help information provided through 'ETS User-Guidance Centre' is available in three categories – Users intending to Register / First-Time Users, Logged-in users of Buyer organizations, and Logged-in users of Supplier organizations. Various links (including links for User Manuals) are provided under each of the three categories.

Important Note: It is strongly recommended that all authorized users of Supplier organizations should thoroughly peruse the information provided under the relevant links, and take appropriate action. This will prevent hiccups, and minimize teething problems during the use of ETS.

### **SIX CRITICAL DO'S AND DON'TS FOR APPLICANTS**

Specifically for Supplier organizations, the following 'SIX KEY INSTRUCTIONS for APPLICANTS' must be assiduously adhered to:

1. Obtain individual Digital Signing Certificate (DSC or DC) well in advance of your first tender submission deadline on ETS
2. Register your organization on ETS well in advance of the important deadlines for your first tender on ETS viz 'Date and Time of Closure of Procurement of EoI Documents' and 'Last Date and Time of Receipt of EoIs'. Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of users, assigning roles to them, etc.
3. Get your organization's concerned executives trained on ETS well in advance of your first tender submission deadline on ETS
4. Submit your EoIs well in advance of tender submission deadline on ETS (There could be last minute problems due to internet timeout, breakdown, et al)
5. It is the responsibility of each Applicant to remember and securely store the Pass-Phrase submitted by that Applicant. In the event of a Applicant forgetting the Pass-Phrase before the expiry of deadline for EoI-Submission, facility is provided to the Applicant to 'Annul Previous Submission' from the EoI-Submission Overview page and start afresh with new Pass-Phrase(s)
6. ETS will make your EoI available for opening during the Online Public Tender Opening Event (TOE) 'ONLY IF' your 'Status pertaining Overall EoI-Submission' is 'Complete'.

#### **Note:**

*While the first three instructions mentioned above are especially relevant to first-time users of ETS, the fourth, fifth and sixth instructions are relevant at all times.*

#### **Minimum Requirements at Applicant's End**

- Computer System with good configuration (Min Pentium IV processor, 1 GB RAM, Windows 7 or above)
- Broadband connectivity
- Microsoft Internet Explorer 6.0 or above
- Digital Certificate(s)