

## **Standard Bidding Document**

### **Invitation for e-Tender for Procurement of Power on DEEP Portal under the Pilot Scheme**

**Issued by PFC Consulting Limited**

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**Ministry of Power  
Government of India**



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## DISCLAIMER

The information contained in this document (the “**Bidding Document**”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the Nodal Agency and/or the Aggregator or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out here and such other terms and conditions subject to which such information is provided.

This Bidding Document is not an agreement and is neither an offer nor invitation by the Nodal Agency to the prospective Bidders or any other person. The purpose of this Bidding Document is to provide interested parties with information that may be useful to them in the formulation of their application (the “**Application**”) for qualification and selection pursuant to Section A (“**Request for Qualification**” or “**RFQ**”) and financial bids (the “**Bid**”) for qualification and selection pursuant to Section B (“**Request for Proposal**” or “**RFP**”) of this Bidding Document. This Bidding Document includes statements, which reflect various assumptions and assessments arrived at by the Nodal Agency and/or the Aggregator in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This Bidding Document may not be appropriate for all persons, and it is not possible for the Nodal Agency and/or the Aggregator, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Bidding Document. The assumptions, assessments, statements and information contained in this Bidding Document may not be complete, accurate, adequate or correct. Each Bidder should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Bidding Document and obtain independent advice from appropriate sources.

Information provided in this Bidding Document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Nodal Agency and/or the Aggregator accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Nodal Agency and/or the Aggregator, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder or Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Bidding Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Bidding Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Bidding Document or arising in any way with pre-qualification of Bidders for participation in the Bidding Process.

The Nodal Agency and/or the Aggregator also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this Bidding Document.

The Nodal Agency and/or the Aggregator may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Bidding Document.

The issue of this Bidding Document does not imply that the Nodal Agency and/or the Aggregator are bound to select and short-list pre-qualified Applications for opening of the Bids or to appoint the selected Bidder or Supplier, as the case may be, for the Project and the Nodal Agency and/or the Aggregator reserve the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Application and Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Nodal Agency or any other costs incurred in connection with or relating to its Application and Bid. All such costs and expenses will remain with the Bidder and the Nodal Agency and/or the Aggregator shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Application and Bid, regardless of the conduct or outcome of the Bidding Process.

## **SECTION A**

### **Model Pilot Request for Qualification**

**Ministry of Power  
Government of India**

## GLOSSARY

<b>PAPP</b>	As defined in Clause 1.1.3
<b>Application</b>	As defined in the Disclaimer
<b>Aggregator</b>	PTC India Limited
<b>Bid Due Date</b>	As defined in Clause 1.1.7
<b>Bids</b>	As defined in the Disclaimer
<b>Bid Security</b>	As defined in Clause 1.2.6
<b>Bidder(s)</b>	As defined in Clause 1.1.13
<b>Bidding Documents</b>	As defined in the Disclaimer
<b>Bidding Process</b>	As defined in Clause 1.2
<b>BOLT</b>	Build, Own, Lease and Transfer
<b>BOO</b>	Build, Own and Operate
<b>BOOT</b>	Build, Own, Operate and Transfer
<b>BOT</b>	Build, Operate and Transfer
<b>FOO</b>	Finance, Own and Operate
<b>Government</b>	Government of India/State
<b>LOA</b>	Letter of Award
<b>Lowest Bidder</b>	As defined in Clause 1.2.7
<b>Nodal Agency</b>	PFC Consulting Limited
<b>PPP</b>	Public Private Partnership
<b>PPSA</b>	As defined in Clause 1.1.3
<b>Project</b>	As defined in Clause 1.1.2
<b>Qualification</b>	As defined in Clause 1.2.1
<b>Re. or Rs. or INR</b>	Indian Rupee
<b>SECTION A (RFQ)</b>	As defined in the Disclaimer
<b>SECTION B (RFP)</b>	As defined in the Disclaimer
<b>Supplier/ Successful Bidder</b>	As defined in Clause 1.1.4
<b>Tariff</b>	As defined in Clause 1.2.11
<b>Technical Capacity</b>	As defined in Clause 2.2.2 (A)

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto hereinabove.

# 1. INTRODUCTION<sup>§</sup>

## 1.1 Background<sup>1</sup>

- 1.1.1 PFC Consulting Limited (the “Nodal Agency”), has been designated by the by the Ministry of Power, Government of India, to carry out the Bidding Process for selection of the Successful Bidder(s), for implementation of the Pilot Scheme. Further, in order to facilitate the procurement and supply of power between the Successful Bidder(s) and the Utilities, PTC India Limited has been authorised to act as an aggregator for the purpose of procurement and supply of power from the Supplier to the Utilities in accordance with these Bidding Documents (“Aggregator”).
- 1.1.2 As part of the Pilot Scheme, the Aggregator has decided to procure electricity from the Power Stations which are already commissioned without having a power purchase agreement, that would dedicate an aggregated contracted capacity of 2500 MW for production of electricity and supply thereof for a period of 3 (three) years in accordance with the draft PAPP and PPSA (the “Project”), and has, therefore, decided to carry out the bidding process for selection of a corporate entity (ies) as the Successful Bidder(s) to whom the contract may be awarded for production of electricity and supply thereof as per the terms and conditions specified in the Bidding Documents.

Brief particulars of the Project are as follows:

Capacity Required (in MW)	Period when supply must commence	Delivery Point
2500	[***] days from the date of LOA	Nearest interconnection point of the Power Station with the CTU System i.e. point of grid connection

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<sup>§</sup> Instructions for Applicants

Note 1: The provisions in curly brackets shall be suitably modified by the Applicants after the RFQ is issued. (See Appendix-III)

Note 2: Blank spaces contain formats that are to be used by the Applicants after the RFQ is issued. (See Appendix-III)

Note 3: Footnotes marked “\$” in the relevant Clauses of the RFQ are for guidance of the Applicants. In case of Appendices, the footnotes marked “\$” or in other non-numerical characters shall be omitted by the Applicants while submitting their respective Applications. (See Appendix-III)

### <sup>1</sup>Instructions for customisation of this document by the Nodal Agency

This Model Request for Qualification (the “RFQ”) may be customised for project-specific use in accordance with the instructions below:

**Note I:** Serially numbered footnotes in this RFQ are for guidance of the Nodal Agency and should be omitted from the RFQ before it is issued to prospective Applicants. (See Appendix-III)

**Note II:** All project-specific provisions in this RFQ have been enclosed in square parenthesis and may be modified, as necessary, before issuing the RFQ to prospective Applicants. The square parenthesis should be removed after carrying out the required modification. (See Appendix-III)

**Note III:** The asterisks in this RFQ should be substituted by project-specific particulars before issuing the RFQ to prospective Applicants. (See Appendix-III)

**Note IV:** Footnote 1 along with Notes I, II, III and IV shall be omitted prior to issue of this RFQ.

To be fixed between 1(one) and 5 (five) years.

- 1.1.3 The Aggregator shall sign power purchase agreement with the Successful Bidder(s) (the “**Pilot Agreement for Procurement of Power**” or the “**PAPP**”) and back to back power supply agreement with State Utilities/Discoms (the “**Pilot Power Supply Agreement**” or the “**PPSA**”) in the form provided as part of the Bidding Documents pursuant hereto. The Nodal Agency intends to pre-qualify and short-list suitable bidders (the “**Bidders**”) whose Bid shall be opened on the date specified at Clause 1.3 of this RFQ and will be eligible for participation in the Bid Stage, for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.
- 1.1.4 The Successful Bidder (the “**Supplier**”) shall be responsible for financing, operation and maintenance of the Project, under and in accordance with the provisions of PAPP.
- 1.1.5 The scope of work will broadly include operation and maintenance of the Power Station and supply of power, in accordance with the terms of the PAPP.
- 1.1.6 All Bidders shall indicate the particulars of the relevant Power Station in the form specified at Annex-IV of Appendix-I as available at <http://www.mstcecommerce.com/auctionhome/ppa/index.jsp> (“**DEEP Portal**”). Bidders may bid for minimum 100 (one hundred) MW.
- 1.1.7 The Nodal Agency shall receive Applications pursuant to this Bidding Document in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Nodal Agency, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the “**Bid Due Date**”).

## **1.2 Brief description of Bidding Process:**

- 1.2.1 The bidding shall be conducted by adopting a two-stage bidding process (collectively referred to as the “**Bidding Process**”) for selection of the bidder for award of the Project. The first stage (the “**Qualification Stage**”) of the process involves qualification (the “**Qualification**”) of interested parties who submit Application and Bids in accordance with the provisions of this Bidding Document, comprising of PRFQ and PRFP (the “**Bidder**”). Prior to submission of the Application, the Bidder shall pay to the Nodal Agency a sum of Rs 5,00,000 (Rupees Five Lakhs only) as indicated above, as the cost of the Bid Process. At the end of this stage, an intimation shall be sent by email to all qualified Bidders whose Bid will be opened in the second stage of the Bidding Process (the “**Bid Stage**”) comprising Request for Proposals (the “**Request for Proposals**” or “**RFP**”) and the list of the qualified Bidders shall be uploaded on DEEP Portal.
- 1.2.2 All the Bidders would be able to participate in the e-Bidding events on making payment of the requisite fees of Rs. 8000 per MW for the total capacity sought by the Nodal Agency under this Bidding Document to PFC Consulting Limited (PFCCL). The requisite fee plus applicable taxes shall be deposited through the portal by e-Payment Gateway provided by MSTC Ltd. After the completion of the bidding process, only successful Bidder(s) will have to pay these charges for the quantum allocated to each bidder. The balance amount will be refunded by

PFCCCL within seven (7) working days without any interest. The fee deposited by non-selected Bidder(s) will also be refunded by PFCCCL within seven (7) working days of completion of the event without any interest.

- 1.2.3 In the Qualification Stage, Bidders would be required to furnish all the information specified in this RFQ. Bids of only those Bidders that are pre-qualified and short-listed by the Nodal Agency shall be opened at the Bid Stage. The Bidders are, therefore, advised to familiarise themselves with the terms of the Model PAPP that will govern the structure of this Project. The said Model PAPP has been notified by the Government under section 63 of the Electricity Act 2003 for tariff based bidding by the Nodal Agency.
- 1.2.4 The Bidders will be required to submit their Application and Bid online at the DEEP Portal on or before the Bid Due Date.
- 1.2.5 The Bidders shall submit their financial offers (the "**Bids**") in accordance with the RFP and other documents to be provided by the Nodal Agency (collectively the "**RFP Documents**"). . The Bid shall be valid for a period of not less than 120 days from the Bid Due Date.
- 1.2.6 In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security of Rs 5,00,000 (Rupees five lakh) per MW of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than [60 (sixty) days] from the Bid Due Date, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PAPP. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Nodal Agency <sup>§</sup> or may be submitted as e-bank guarantee or deposited online through NEFT/RTGS payment at the DEEP Portal. The demand draft shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another demand draft before expiry of the existing demand draft and may be further extended as may be mutually agreed between the Nodal Agency and the Bidder from time to time. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Nodal Agency and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.7 Generally, the Bidder who has quoted the lowest Bid at the Bid Stage shall be identified as the Lowest Bidder ("**L-1**") for the quantum of capacity quoted by L-1 or 600 MW, whichever is lower. The other Bidders will be asked to match the Bid of L-1 for the remaining Capacity Required ("**L-1 Matching Round**"). In L-1 Matching Round, the Bidders will be displayed the bid of L-1 ("**Lowest Bid**") and remaining quantity of the Capacity Required. They will be required to input the quantity in MW (increase or decrease of quantum quoted at Qualification Stage, subject to minimum of 100 MW) that they wish to supply at the Lowest Bid. At the end of L-1 Matching round, system will allocate a maximum of 600 MW

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<sup>§</sup> The format for the bank guarantee has been published as part of Section B of this Standard Bidding Document.

capacity each to the Bidders who have matched the Lowest Bid. The allocation shall be made in the order as they were at the end of Bid Stage (like L-1, L-2, L-3 in e-Tender). In the event there is any remaining capacity after allocation as per the L-1 Matching Round, any of the Bidders, including L-1, who have quoted more than 600 MW at the Bid Stage and matched the Lowest Bid thereof shall be allocated such further capacity following the same process as done in the L-1 Matching Round, subject to a maximum of 600 MW and this process shall be followed till the total Capacity Required or the total capacity offered by the Bidders as matched at the Lowest Bid is exhausted up to the maximum of the Capacity Required.

- 1.2.8 In the event the aggregated offered quantity at the Lowest Bid is below the Capacity Required, after completion of the process under Clause 1.2.7, the Nodal Agency shall issue LOA to the Successful Bidder(s) up to the capacity offered only. The Nodal Agency shall have the discretion to either (i) allocate the remaining capacity, if any, after the completion of process under Clause 1.2.7, to the Bidders at the Bid quoted at the Bid Stage in the order as they were at the end of Bid Stage (like L-2, L-3 in e-Tender) or (ii) annul the Bidding Process for the remaining Capacity Required and invite fresh Bid thereof.
- 1.2.9 It is further clarified that the Nodal Agency will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. Further, it is clarified that any single Bidder cannot quote part capacity from different power stations in the same Bid.
- 1.2.10 As part of this Bidding Documents, the Nodal Agency will provide a draft PAPP.
- 1.2.11 Bids are invited for the Project under Section B of this Bidding Document, on the basis of a tariff to be offered by a Bidder for production and supply of electricity in accordance with the terms of the draft PAPP forming part of the Bidding Documents. For the purposes of bidding hereunder, the Fixed Charge of Rs. 0.01 (One Paisa only)/ kWh and a Variable Charge comprising of the entire cost of production and supply of electricity from the Power Station up to the Delivery Point, including but not limited to the transmission charges and transmission losses, shall constitute the lumpsum tariff for the Power Station (the “**Tariff**”). The Bid for the Project shall therefore comprise of Variable Charge, which shall be separately quoted by the Bidders.
- 1.2.12 Further details of the process for submission of Bid to be followed at the Bid Stage and the terms thereof will be spelt out in Section B of this Bidding Document.
- 1.2.13 Any queries or request for additional information concerning this Section A shall be submitted in writing by speed post/courier and e-mail attaching the queries in Microsoft word file so as to reach the officer designated in Clause 2.11.3 by the specified date. The envelopes/ communications shall clearly bear the following identification/ title:

"Queries/ Request for Additional Information: Bidding for \*\*\* Project”.



### 1.3 Schedule of Bidding Process

The Nodal Agency shall endeavour to adhere to the following schedule:

	<b>Event Description</b>	<b>Date and Time</b>
1.	Date and time of Start of Qualification Stage	
2.	Last date and time for receiving queries on RFQ and RFP	[10 days from date of start of Qualification Stage]
3.	Pre-Bid Meeting	[15 days from date of start of Qualification Stage]
4.	Nodal Agency response to queries latest by	[20 days from date of start of Qualification Stage]
5.	Last date and time of submission of Application and Bids (including Section A and Section B) – <b>Bid Due Date</b>	[30 days from date of start of Qualification Stage]
6.	Opening of Application	[30 days from date of start of Qualification Stage]
7.	Intimation to short-listed and pre-qualified Bidders for opening of their Bids	[Within 7 days of Bid Due Date]
8.	Opening of Bids of those Bidders who are short-listed and pre-qualified in the RFQ Process.	[Within 15 days of Bid Due Date]
9.	Letter of Award (LOA)	Within 10 days of Close of Bid Stage
10.	Validity of Bids	120 days of Bid Due Date
11.	Signing of APP	Within 10 days of award of LOA

### 1.4 Pre-Bid Meeting

The date, time and venue of the Pre-Bid Meeting shall be:

Date: \*\*\*\*

Time: \*\*\*

Venue: \*\*\*

## 2. INSTRUCTIONS TO BIDDERS

### A. GENERAL

#### 2.1. Scope of Application

2.1.1. The Nodal Agency wishes to receive Applications for Qualification in order to short-list experienced and capable Bidders for opening of the Bids in the RFP process.

2.1.2. The Bids of the short-listed Bidders may be opened subsequently as per the schedule specified in Clause 1.3. of this RFQ.

#### 2.2. Eligibility of Bidders

2.2.1 For determining the eligibility of Bidders for their pre-qualification hereunder, the following shall apply:

- (a) The Bidder should be a corporate entity;
- (b) The Bidder should either be the owner and operator of a commissioned Power Station from where electricity shall be supplied;
- (c) The Bidder should not have an existing power purchase agreement for the quantum of power quoted under this Bid;

[and

(d) Other eligibility conditions shall include the following<sup>2</sup>:]

2.2.2 To be eligible for pre-qualification and short-listing, a Bidder shall fulfil the following conditions of eligibility:

- (A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Bidder shall own and operate power generating station(s) having an installed capacity equivalent to the capacity for which the Bidder is willing to Bid.

2.2.3 The Bidders shall enclose with its Application, to be submitted as per the format at Appendix-I, complete with its Annexes, the following<sup>5</sup>:

- (i) Certificate(s) from statutory auditors of the Bidder stating the power stations

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<sup>2</sup> Other project-specific conditions of eligibility or restrictions, if any, may be stated here, such as a limit on the supply of power that may be contracted with an entity.

<sup>5</sup> In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.3 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFQ.

which are owned and operated by the Bidder as specified in paragraph 2.2.2 (A) above; and

- 2.2.4 The Bidder should submit a Power of Attorney as per the format at Appendix-II, authorising the signatory of the Bidder to digitally sign and submit the Application and Bid.
- 2.2.5 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application.
- 2.2.6 A Bidder should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder. Provided, however, that where an Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.5 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Nodal Agency for seeking a waiver from the disqualification hereunder and the Nodal Agency may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.
- 2.2.7 The following conditions shall be adhered to while submitting an Application:
- (a) Bidders should submit their Application online at the Deep Portal only and upload clearly marked and referenced documents/sheets in the Qualification Stage.
  - (b) information supplied by a Bidder must apply to the Bidder named in the Application and not, unless specifically requested, to other associated companies or firms. The Bid of only those Bidders will be opened whose identity and/ or constitution is identical to that at pre-qualification; and
  - (c) in responding to the pre-qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below.

2.2.8 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 3 (three) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

### **2.3. Number of Applications and costs thereof**

2.3.1. No Bidder shall submit more than one Application for the Project.

2.3.2. The Bidders shall be responsible for all of the costs associated with the preparation of their Applications and their participation in the RFP process. The Aggregator/ Nodal Agency will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

### **2.4. Acknowledgement by Bidder**

2.4.1. It shall be deemed that by submitting the Application, the Bidder has:

- (a) made a complete and careful examination of this Section A;
- (b) received all relevant information requested from the Nodal Agency;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in this Section A or furnished by or on behalf of the Nodal Agency relating to any of the matters referred to in Clause 2.4 above; and
- (d) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.4.2. The Nodal Agency shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to this document or the Bidding Process, including any error or mistake therein or in any information or data given by the Nodal Agency.

### **2.5. Right to accept or reject any or all Applications/ Bids**

2.5.1. Notwithstanding anything contained in this Section A, the Nodal Agency reserve the right to accept or reject any Application and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Nodal Agency reject or annul all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.5.2. The Nodal Agency reserve the right to reject any Application and/ or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or

- (b) the Bidder does not provide, within the time specified by the Nodal Agency, the supplemental information sought by the Nodal Agency for evaluation of the Application.

If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Nodal Agency reserve the right to take any such measure as may be deemed fit in the sole discretion of the Nodal Agency, including annulment of the Bidding Process.

- 2.5.3. In case it is found during the evaluation or at any time before signing of the PAPP or after its execution and during the period of subsistence thereof, including the contract thereby granted by the Aggregator, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the PAPP, and if the Bidder/SPV has already been issued the LOA or has entered into the PAPP, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Section A, be liable to be terminated, by a communication in writing by the Nodal Agency to the Bidder, without the Aggregator/ Nodal Agency being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Aggregator/ Nodal Agency may have under this Section A, the Bidding Documents, the PAPP or under applicable law.
- 2.5.4. The Nodal Agency reserve the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ. Any such verification or lack of such verification by the Nodal Agency shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Nodal Agency thereunder.

## **B. DOCUMENTS**

### **2.6. Contents of the RFQ (Section A)**

This RFQ comprises the glossary; disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.13.

#### **Invitation for Qualification**

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Criteria for Evaluation
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre – Bid Meeting
- Section 6. Miscellaneous

#### **Appendices**

- I. Letter comprising the Application
- II. Power of Attorney for signing of Application

## **2.7. Clarifications**

- 2.7.1. Bidders requiring any clarification on the RFQ may notify the Nodal Agency in writing by speed post/courier and e-mail attaching the queries in Microsoft word file in accordance with Clause 1.2.13. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3 of the RFQ. The Nodal Agency shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Bid Due Date. The responses will be sent by e-mail or online at the DEEP Portal. The Nodal Agency will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries or upload all the queries and its responses on the DEEP Portal.
- 2.7.2. The Nodal Agency shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Nodal Agency reserve the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Nodal Agency to respond to any question or to provide any clarification.
- 2.7.3. The Nodal Agency may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Nodal Agency shall be deemed to be part of the RFQ. Verbal clarifications and information given by Nodal Agency or its employees or representatives shall not in any way or manner be binding on the Authorised Representative.

## **2.8. Amendment of RFQ**

- 2.8.1. At any time prior to the deadline for submission of Application, the Nodal Agency may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFQ by the issuance of Addenda.
- 2.8.2. Any Addendum thus issued will be available at the DEEP Portal. The Bidders are advised to check the DEEP Portal for any amendments or notifications.
- 2.8.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Nodal Agency may, in its sole discretion, extend the Bid Due Date.<sup>§</sup>

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<sup>§</sup> While extending the Bid Due Date on account of an addendum, the Nodal Agency shall have due regard for the time required by bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Bid Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

## **C. PREPARATION AND SUBMISSION OF APPLICATION**

### **2.9. Language**

2.9.1. The Application and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Application may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Application, the English language translation shall prevail.

### **2.10. Format and signing of Application**

2.10.1. The Bidder shall provide all the information sought under this RFQ. The Nodal Agency will evaluate only those Applications that are received in the required formats and complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.

2.10.2. The Bidder shall submit their Application online on the DEEP portal, signed by a valid digital signature of the authorized signatory of the Bidder.

2.10.3. For the documents uploaded online, the Application shall be typed or written in indelible ink. It shall be signed by the authorized signatory of the Bidder who shall also initial each page of the Bidder (including each Appendix and Annex) in blue ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Application shall be initialed by the person(s) signing the Application. The Application shall contain page numbers.

2.10.4. The Bidder shall ensure that its authorized signatory has a Digital Signature Certificate (DSC).

2.10.5. The Bidder shall register on the DEEP Portal for participation in the Bidding Process.

2.10.6. The Official Copy of the Bidding Document shall be available for download on the DEEP Portal and on the website of Nodal Agency.

### **2.11. Sealing and Marking of Applications**

2.11.1. The Bidder shall submit the Application in the format specified at Appendix-I and the format created online in the DEEP portal, together with the documents specified in Clause 2.11.2.

2.11.2. Documents required to be uploaded as per this RFQ shall contain:

- (i) Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Power of Attorney for digitally signing the Application as per the format at Appendix-II;
- (iii) copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
- (iv) copies of Bidder's duly audited balance sheet and profit and loss account for the preceding five years;  
[; and
- (v) any other project-specific requirement that may be specified by the Authorised Representative].

2.11.3. The Bidders shall send the hard copy of all the original documents stated at Clause 2.11.2 in an envelope clearly indicating the name and address of the Bidder, addressed to:

ATTN. OF:	Mr***
DESIGNATION:	***
ADDRESS:	***
FAX NO:	***
E-MAIL ADDRESS:	***

Such hard copies should reach the aforementioned address within 2 days after the opening of the Application in accordance with Clause 1.3 of this RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.11, the documents uploaded online shall prevail.

2.11.4. If the Application is not uploaded and digitally signed as instructed above, the Nodal Agency assume no responsibility for rejection of the Application and consequent losses, if any, suffered by the Bidder.

Applications submitted by fax or e-mail shall not be entertained and shall be rejected.

2.11.5. In the Qualification stage, all Bidders after uploading on the DEEP Portal the Application and the Bid as per the RFP and digitally signing the same must click on 'Final submit' button to finally submit their Application and Bid, without clicking the 'Final submit' button the system will not consider the Application or the Bid.

## **2.12. Bid Due Date**

- 2.12.1. Applications should be submitted online latest by \*\*\* hours IST on the Bid Due Date, at the DEEP Portal in the manner and form as detailed in this RFQ.
- 2.12.2. The Nodal Agency may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

## **2.13. Late Applications**

Applications will not be accepted for submission at the DEEP Portal after the time specified on the Bid Due Date.

## **2.14. Modifications/ substitution/ withdrawal of Applications**

- 2.14.1. The Bidder may modify, substitute or withdraw its Application after submission, provided that such modification, substitution or withdrawal is made prior to the Bid Due Date. No Application shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Application and the Bid as per this Bidding Document, to withdraw and delete the Application. Clicking on withdraw, Application will withdraw the Bidders Application and no further submission will be allowed whatsoever. While clicking on delete, Application will delete all the encrypted data saved on the DEEP Portal and the Bidder may submit fresh Application prior to the Bid Due Date.
- 2.14.2. Any alteration/ modification in the Application or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authorised Representative, shall be disregarded.

## **D. EVALUATION PROCESS**

### **2.15. Opening and Evaluation of Applications**

- 2.15.1. The Nodal Agency shall open the Applications at \*\*\* hours IST on the Bid Due Date, at the place specified in Clause 2.11.3 and in the presence of the Bidders who choose to attend.
- 2.15.2. Applications which are withdrawn in accordance with Clause 2.14 shall not be opened and payments if any made shall be refunded within [7] days in accordance with Clause 2.19.2.
- 2.15.3. The Nodal Agency will subsequently examine and evaluate Applications in accordance with the provisions set out in Clause 3.
- 2.15.4. Bidders are advised that pre-qualification of Bidders will be entirely at the discretion of the Nodal Agency. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.15.5. Any information contained in the Application shall not in any way be construed as binding on the Nodal Agency, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.15.6. The Nodal Agency reserve the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.
- 2.15.7. If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Nodal Agency may, in its sole discretion, exclude the relevant project from computation of the Technical Capacity of the Bidder.

### **2.16. Confidentiality**

- 2.16.1. Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Nodal Agency in relation to, or matters arising out of, or concerning the Bidding Process. The Nodal Agency will treat all information, submitted as part of Application, in confidence and will require all those who have access to such material to treat the same in confidence. The Nodal Agency may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Nodal Agency or as may be required by law or in connection with any legal process.

## **2.17. Tests of responsiveness**

2.17.1. Prior to evaluation of Applications, the Nodal Agency shall determine whether each Application is responsive to the requirements of the RFQ. An Application shall be considered responsive if:

- (a) it is received as per format at Appendix-I.
- (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;
- (c) it is digitally signed and uploaded as stipulated in Clauses 2.10 and 2.11;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.3;
- (e) it contains all the information and documents (complete in all respects) as requested in this RFQ;
- (f) it contains information in formats same as those specified in this RFQ;
- (g) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the RFQ for Power Station;
- (h) it contains an attested copy of the system generated receipt or receipt of the Nodal Agency for payments towards the cost of the RFQ process, cost of the RFP process, fees submitted to PFCCL as per Clause 1.2.1 and Bid Security as specified in Clause 1.2.6;
- (i) it does not contain any condition or qualification; and
- (j) it is not non-responsive in terms hereof.

2.17.2. The Nodal Agency reserve the right to reject any Application which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Nodal Agency in respect of such Application. Provided, however, that the Nodal Agency may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Application

## **2.18. Clarifications**

2.18.1. To facilitate evaluation of Applications, the Nodal Agency may, at its sole discretion, seek clarifications from any Bidder regarding its Application. Such clarification(s) shall be provided within the time specified by the Nodal Agency for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.18.2. If a Bidder does not provide clarifications sought under Clause 2.18.1 above within the prescribed time, its Application shall be liable to be rejected. In case the Application is not rejected, the Nodal Agency may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Nodal Agency.

## **E. QUALIFICATION AND BIDDING**

### **2.19. Pre-qualification and notification**

2.19.1. After the evaluation of Applications, the Nodal Agency would announce a list of pre-qualified Bidders (Bidders) whose Bid submitted online shall be opened on the date specified in accordance with Section B of this Bidding Document. At the same time, the Nodal Agency would notify the other Bidders that they have not been pre-qualified. The Nodal Agency will not entertain any query or clarification from Bidders who fail to qualify.

2.19.2. The Bid Security and the cost of RFP process submitted by the Bidders who do not qualify after the evaluation of the Applications shall be refunded by the Nodal Agency, without any interest, to such Bidders within 7 days of completion of RFQ evaluation.

### **2.20. Submission of Bids**

The Bidders will be requested to submit a Bid online in the form and manner to be set out in Section B of the Bidding Document.

The Bids of only pre-qualified Bidders shall be opened by the Nodal Agency on such date as specified in this Bidding Document. The Nodal Agency are likely to provide a comparatively short time span for submission of the Bids for the Project. The Bidders are therefore advised to examine the Bidding Documents, and to carry out such scrutiny and studies as may be required for submitting their respective Bids for award of the Project. No extension of time is likely to be considered for submission of Bids.

### **2.21. Proprietary data**

All documents and other information supplied by the Nodal Agency or submitted by a Bidder to the Nodal Agency shall remain or become the property of the Nodal Agency. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Nodal Agency will not return any Application or any information provided along therewith.

### **2.22. Correspondence with the Bidder**

Save and except as provided in this Section A, the Nodal Agency shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Application.

### **3. CRITERIA FOR EVALUATION**

#### **3.1. Evaluation parameters**

3.1.1 Only those Bidders who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Clause 3. Applications of Bidders who do not meet these criteria shall be rejected.

3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:

(a) Technical Capacity.

#### **3.2. Technical Capacity for purposes of evaluation**

3.2.1 Subject to the provisions of Clause 2.2, the Bidders must establish the minimum Technical Capacity specified in Clause 2.2.2 (A). For a power generating project to qualify, it should be owned and operated by the Bidder, and shall include a power station built and operated on PPP, BOLT, BOO, BOOT, BOT, DBFOO or on other similar basis.

3.2.2 The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-II of Appendix-I.

#### **4. FRAUD AND CORRUPT PRACTICES**

- 4.1.** The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Nodal Agency may reject an Application without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2.** Without prejudice to the rights of the Nodal Agency under Clause 4.1 hereinabove, if an Bidder is found by the Nodal Agency to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Bidder shall not be eligible to participate in any tender or SECTION A issued by the Nodal Agency during a period of 2 (two) years from the date such Bidder is found by the Nodal Agency to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3.** For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

“corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Nodal Agency/ Aggregator who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the PPA or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Aggregator/ Nodal Agency , shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under this RFQ, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the PAPP, as the case may be, any person in respect of any matter relating to the Project or the LOA or the PAPP, who at any time has been or is a legal, financial or technical adviser of the Nodal Agency/Aggregator in relation to any matter concerning the Project;

“fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

“coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

“undesirable practice” means establishing contact with any person connected with or employed or engaged by the Nodal Agency/Aggregator with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process;; and

“restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## **5. PRE-BID MEETING**

- 5.1.** A Pre-Bid meeting of the interested parties shall be convened at the designated date, time and place. Only those persons who have registered at the DEEP Portal for participating in the Bidding Process shall be allowed to participate in the Pre-Bid meeting. A maximum of three representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.2.** During the course of Pre-Bid meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authorised Representative. The Nodal Agency shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 5.3.** In case the Nodal Agency desire to have the pre-bid meeting online at the DEEP Portal, the Pre-bid meeting will take place as per the schedule specified in this Bidding Document. A report of the Pre-Bid meeting shall be prepared online and be made available to all the participating Bidders.

## **6. MISCELLANEOUS**

- 6.1.** The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2.** The Nodal Agency , in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - (b) consult with any Bidder in order to receive clarification or further information;
  - (c) pre-qualify or not to pre-qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
  - (d) retain any information and/ or evidence submitted to the Nodal Agency by, on behalf of, and/ or in relation to any Bidder; and/ or
  - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3.** It shall be deemed that by submitting the Application, the Bidder agrees and releases the Nodal Agency , its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

## APPENDIX I

Letter Comprising the Application for Pre-Qualification  
(Refer Clause 2.2.3) – to be uploaded during Qualification Stage

To,

[The \*\*\*,  
\*\*\*  
\*\*\*]

Sub: Application for pre-qualification for \*\*\* Project

Dated:

Dear Sir,

1. With reference to your Bidding Document dated ....<sup>\$</sup>, I/we, having examined Section A of the Bidding Document and understood its contents, hereby submit my/our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.
2. I/ We acknowledge that the Nodal Agency will be relying on the information provided in the Application and the documents accompanying such Application for pre-qualification of the Bidders for the aforesaid project, and we certify that all information provided in the Application and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the aforesaid Project and for sale of power to the Aggregator.
4. I/ We shall make available to the Nodal Agency any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. I/ We acknowledge the right of the Nodal Agency to reject our Application without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

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<sup>\$</sup> All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant.

7. I/ We declare that:
- 7.1. I/ We have examined and have no reservations to the Bidding Document, including any Addendum issued by the Nodal Agency ;
  - 7.2. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of Section A of the Bidding Document, in respect of any tender or Section B of the Bidding Document issued by or any agreement entered into with the Nodal Agency or any other public sector enterprise or any government, Central or State; and
  - 7.3. I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of Section A of the Bidding Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Application that you may receive nor to open the Bid of the Bidders, without incurring any liability to the Bidders, in accordance with Clause 2.15.6 of Section A of the Bidding Document.
9. I/ We believe that we/ satisfy the Net Worth criteria and meet all the requirements as specified in Section A of the Bidding Document and are/ am qualified to submit a Bid.
10. I/ We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/ We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
12. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our CEO or any of our directors/managers/ employees<sup>§</sup>.
13. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of Section A of this Bidding Document, we shall intimate the Nodal Agency of the same immediately.

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<sup>§</sup> In case the Applicant is unable to provide the certification specified in para 12, it may precede the paragraph by the words, viz. "Except as specified in Schedule \*\*\*\* hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Nodal Agency will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are of a nature that could cast a doubt on the ability or suitability of the Applicant to undertake the Project.

14. The Statement of Legal Capacity as per format provided at Annex-IV in Appendix-I of Section A of the Bidding Document, and duly signed, is enclosed.
15. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Nodal Agency in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
16. I/ We agree and undertake to abide by all the terms and conditions of the Bidding Document.
17. I/ We certify that in terms of Section A of the Bidding Document, our Technical Capacity is equivalent to .....MW (MW in words).
18. I/We offer a Capacity of {...MW} from {Capacity, Name and address of the Project} which conforms to Clause 1.1.2 of Section A of the Bidding Document out of the Capacity Required of {... MW} given under Clause 1.1.2 of Section A of the Bidding Document.

In witness thereof, I/ we submit this application under and in accordance with the terms of Section A of the Bidding Document.

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Applicant

**ANNEX-I**  
**Particulars of the Bidder**

1. (a) Name:  
(b) Date of commencement of business:  
(c) Address of the corporate headquarters:
2. Brief description of the Company including details of its main lines of business:
3. Particulars of individual(s) who will serve as the point of contact/ communication for the Bidder:
  - (a) Name:
  - (b) Designation:
  - (c) Company:
  - (d) Address:
  - (e) Telephone Number:
  - (f) E-Mail Address:
  - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Bidder:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Phone Number:
  - (e) Fax Number:
5. The following information shall also be provided for the Bidder:

Name of Bidder:

No.	Criteria	Yes	No
1.	Has the Bidder been barred by the Central/State Government, or any entity controlled by it, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Application?		
3.	Has the Bidder paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

6. A statement by the Bidder disclosing material non- performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

**ANNEX-II**

**Technical Capacity of the Bidder<sup>@</sup>**

*(Refer to Clauses 2.2.2(A) and 3.2 of the RFQ)*

<b>Item (1)</b>	<b>Refer Instruction (2)</b>	<b>Particulars of the Project (3)</b>
Title of the project	1	
Location		
Total Project cost	3	
Installed capacity of the plant	2	
Project Type (Coal)		
Date of completion/ Commissioning	4	

<sup>@</sup> *Provide details of only those projects that have been undertaken by the Bidder under its own name specified in Clause 2.2.7.*

**Instructions:**

1. The total number of units along with the details of the capacity of each unit should be provided.
2. Provide the capital cost of the Project.
3. The date of commissioning of the project, upon completion, should be indicated.

4. Certificate from the Bidder's, as applicable, statutory auditor<sup>§</sup> must be furnished as per formats below for each Project.

**Certificate from the Statutory Auditor <sup>Φ</sup>**

Based on its books of accounts and other published information authenticated by it, this is to certify that ..... (*name of the Bidder*) is an equity shareholder in ..... (*title of the project company*) and holds Rs.

..... cr. (Rupees ..... crore) of equity (which constitutes .....% of the total paid up and subscribed equity capital) of the project company. The project was commissioned on ..... (*date of commissioning of the project*).

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the  
authorised signatory)

Date:

<sup>Φ</sup> Provide Certificate as per this format only. Attach explanatory notes to the Certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder may provide the certificates required under this RFQ.

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<sup>§</sup> In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

7. In the absence of any detail in the above certificates, the information would be considered inadequate and could lead to disqualification of the project.

**ANNEX-III**  
**Statement of Legal Capacity**  
*(To be forwarded on the letterhead of the Bidder)*

Ref.

Date:

To,

\*\*\*

\*\*\*

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the Bidding Document.

We have agreed that ..... (insert individual's name) will act as our representative on its behalf and has been duly authorized to submit the Application and the Bid. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

**ANNEX-IV**  
**Particulars of the Power Station**

1. Name of the Developer, Date of commencement of business, Address of the corporate headquarters, Brief description of the Company including details of its main lines of business:
2. Location of Power Station (Specify place, district and state):
3. No. of units and installed capacity of each unit (in MW):

Existing No. of Units	Installed Capacity (in MW)	COD
--------------------------	-------------------------------	-----

  

Proposed No. of Units	Installed Capacity (in MW)	COD
--------------------------	-------------------------------	-----
4. Quantum of power contracted with other purchasers, if any (in MW):
5. Details of surplus capacity (in MW):
6. Proposed Supply of Power (in MW):

Signature:

Name:

Designation:

Date:

Place:

**APPENDIX II**  
**Power of Attorney for signing of Application and Bid<sup>§</sup>**  
**(Refer Clause 2.3)**

Know all men by these presents, we..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorised Mr/ Ms (name), .... son/daughter/wife of .... and presently residing at..., who is presently employed with us and holding the position of.... , as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our application for pre-qualification and submission of our bid for the \*\*\*\*\* Project proposed by the \*\*\*\*\* (the “**Aggregator**”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in Pre-Applications and other conferences and providing information/ responses to the PFC Consulting Limited (“**Nodal Agency**”), representing us in all matters before the Nodal Agency, signing and execution of all contracts including the Pilot Agreement for Procurement of Power (PAPP) and undertakings consequent to acceptance of our bid, and generally dealing with the Nodal Agency in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the PAPP with the Aggregator.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ....., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ... DAY OF ....2.....

For

....

(Signature, name, designation and address)

Witnesses:

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<sup>§</sup> To be submitted in original.

Affixation of Common Seal

1.

(Notarised)

2

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

*Notes:*

- 1. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- 2. Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as aboard or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

**SECTION B**

**Model Pilot Request for Proposal**

**(Bid submission)**

**Ministry of Power**  
**Government of India**



## 1. INTRODUCTION<sup>§</sup>

### 1.1 Brief description of Bidding Process

- 1.1.1 The bidding shall be conducted by adopting a two-stage bidding process (collectively referred to as the "**Bidding Process**") for selection of the Bidder for award of the Project. The first stage (the "**Qualification Stage**") of the process involves pre-qualification of interested parties in accordance with the provisions of the Section A and opening of the Bid of the pre-qualified and short-listed Bidders in accordance with this Section B. At the end of the Qualification Stage, system will send an email to all qualified Bidders. The Bid shall be valid for a period of not less than 120 days (one hundred twenty days) from the Bid Due Date.
- 1.1.2 The Bidding Documents include the draft PAPP for the Project which is enclosed. Subject to the provisions of Clause 1.1.3, the aforesaid documents and any addenda issued subsequent to this RFP, will be deemed to form part of the Bidding Documents.
- 1.1.3 A Bidder is required to deposit, along with its Bid, a bid security of Rs. 5 lakh (Rupees five lakh) per MW of capacity offered by the Bidder (the "**Bid Security**"), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the APP. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Nodal Agency or may be deposited online through NEFT/RTGS payment at the DEEP Portal. The demand draft shall be kept valid for a period not less than 180 (one hundred and eighty) days from the Bid Due Date, by submitting another demand draft before expiry of the existing demand draft and may be further extended as may be mutually agreed between the Nodal Agency and the Bidder from time to time. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Nodal Agency and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security

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#### <sup>§</sup> Instructions for Bidders

**Note 1:** The provisions in curly brackets shall be suitably modified by the Bidders after the RFP is issued.

**Note 2:** Blank spaces contain formats that are to be used by the Bidders after the RFP is issued.

**Note 3:** Footnotes marked "\$" in the relevant Clauses of the RFP are for guidance of the Bidders. In case of Appendices, the footnotes marked "\$" or in other non-numerical characters shall be omitted by the Bidders while submitting their respective Bids.

- 1.1.4 Bids are invited for the Project under Section B of this Bidding Document, on the basis of a tariff to be offered by a Bidder for production and supply of electricity in accordance with the terms of the draft PAPP forming part of the Bidding Documents. For the purposes of bidding hereunder, the Fixed Charge of Rs. 0.01 (One Paisa only)/ kWh and a Variable Charge comprising of the entire cost of production and supply of electricity from the Power Station up to the Delivery Point, including but not limited to the transmission charges and transmission losses, shall constitute the lumpsum tariff for the Power Station (the “**Tariff**”). The Bid for the Project shall therefore comprise of Variable Charge, which shall be separately quoted by the Bidders.
- 1.1.5 Generally, the Bidder who has quoted the lowest Bid at the Bid Stage shall be identified as the Lowest Bidder (“**L-1**”) for the quantum of capacity quoted by L-1 or 600 MW, whichever is lower. The other Bidders will be asked to match the Bid of L-1 for the remaining Capacity Required (“**L-1 Matching Round**”). In L-1 Matching Round, the Bidders will be displayed the bid of L-1 (“**Lowest Bid**”) and remaining quantity of the Capacity Required. They will be required to input the quantity in MW (increase or decrease of quantum quoted at Qualification Stage, subject to minimum of 100 MW) that they wish to supply at the Lowest Bid. At the end of L-1 Matching Round, system will allocate a maximum of 600 MW capacity each to the Bidders who have matched the Lowest Bid. The allocation shall be made in the order as they were at the end of Bid Stage (like L-1, L-2, L-3 in e-Tender). In the event there is any remaining capacity after allocation as per the L-1 Matching Round, any of the Bidders, including L-1, who have quoted more than 600 MW at the Bid Stage and matched the Lowest Bid thereof shall be allocated such further capacity following the same process as done in the L-1 Matching Round, subject to a maximum of 600 MW and this process shall be followed till the total Capacity Required or the total capacity offered by the Bidders as matched at the Lowest Bid is exhausted up to the maximum of the Capacity Required.
- 1.1.6 In the event the aggregated offered quantity at the Lowest Bid is below the Capacity Required, after completion of the process under Clause 1.1.5, the Nodal Agency shall issue LOA to the Successful Bidder(s) up to the capacity offered only. The Nodal Agency shall have the discretion to either (i) allocate the remaining capacity, if any, after the completion of process under Clause 1.1.5, to the Bidders at the Bid quoted at the Bid Stage in the order as they were at the end of Bid Stage (like L-2, L-3 in e-Tender) or (ii) annul the Bidding Process for the remaining Capacity Required and invite fresh Bid thereof.
- 1.1.7 It is hereby clarified that the Nodal Agency will not accept the entire capacity offered of the last Lowest Bidder in the order of progression, in the event the Capacity Required gets fulfilled by a part thereof. Further, it is clarified that any single Bidder cannot quote part capacity from different power stations in single Bid.
- 1.1.8 Details of the process to be followed at the Bid Stage and the terms thereof are spelt out in this RFP.

1.1.9 Any queries or request for additional information concerning this RFP shall be submitted in writing by speed post/courier or by e-mail attaching the queries in Microsoft word file so as to reach the officer designated in Clause 2.8.4 by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: RFP for \*\*\*\*\* Project".

## **2. INSTRUCTIONS TO BIDDERS**

### **A. General**

#### **2.1 General Terms of Bidding**

- 2.1.1 No Bidder shall submit more than one Bid for the Project.
- 2.1.2 Unless the context otherwise requires, the terms not defined in this Section B, but defined in Section A of this Bidding Document shall have the meaning assigned thereto in Section A.
- 2.1.3 The Bidders are expected to carry out detailed examination of the Documents/Information provided by the Nodal Agency before submitting their Bids. Any variations or deviations found subsequently shall not confer any right on the Bidders, and the Nodal Agency shall have no liability whatsoever in relation to or arising out of any variations or deviations detected subsequently.
- 2.1.4 Notwithstanding anything to the contrary contained in this Section B, the detailed terms specified in the draft PAPP shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the PAPP.
- 2.1.5 The Bid should be furnished in the format at Appendix–I, clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.6 The Bid shall consist of a Tariff to be quoted by the Bidder, as per the terms and conditions of this Section B and the provisions of the PAPP.
- 2.1.7 The Bidder shall deposit a Bid Security as specified in Clause 1.1.4 of this Section B. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee acceptable to the Nodal Agency, as per format at Appendix–II or through NEFT/RTGS payment online at DEEP Portal.
- 2.1.8 The validity period of the Bank Guarantee shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Nodal Agency and the Bidder. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from the Bid Due Date except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PAPP.
- 2.1.9 The Bidder should submit a Power of Attorney as per the format at Appendix– III, authorising the signatory of the Bid to commit the Bidder.

- 2.1.10 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.11 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.12 The documents including this Section B and all attached documents, provided by the Nodal Agency are and shall remain or become the property of the Nodal Agency and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Nodal Agency will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.13 This Bidding Document is not transferable.
- 2.1.14 Any award of Contract pursuant to this Section B shall be subject to the terms of Bidding Document.
- 2.1.15 [Other Bid conditions shall include:\*\*\*]<sup>1</sup>

## **2.2 Cost of Bidding**

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Nodal Agency will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

## **2.3 Verification of information**

- 2.3.1 Bidders are encouraged to submit their respective Bids after familiarising themselves with the information and physical conditions relevant to the Project, including the transmission capacity, applicable laws and regulations, and any other matter considered relevant by them.
- 2.3.2 It shall be deemed that by submitting a Bid, the Bidder has:
- (a) made a complete and careful examination of the Bidding Documents;
  - (b) received all relevant information requested from the Nodal Agency;
  - (c) accepted the risk of inadequacy, error or mistake in the information provided in

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<sup>1</sup> Other Project specific conditions of bidding or restrictions, if any, may be stated here, such as a limit on the supply of power that may be contracted with a Bidder.

the Bidding Documents or furnished by or on behalf of the Nodal Agency relating to any of the matters referred to in Clause 2.3.1 above;

- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.3.1 hereinabove necessary and required for
- (e) submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- (f) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.3.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Nodal Agency, or a ground for termination of the PAPP by the Supplier; and
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.3.3 The Nodal Agency shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Bidding Document or the Bidding Process, including any error or mistake therein or in any information or data given by the Nodal Agency.

## **2.4 Verification and Disqualification**

2.4.1 The Nodal Agency reserve the right to verify all statements, information and documents submitted by the Bidder in response to the document, the RFQ or RFP and the Bidder shall, when so required by the Nodal Agency, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Nodal Agency shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Nodal Agency thereunder.

2.4.2 The Nodal Agency reserves the right to reject any Bid and appropriate the Bid Security if

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Nodal Agency, the supplemental information sought by the Nodal Agency for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified / rejected, then the Nodal Agency reserves the right to:

- (i) invite the remaining Bidders to submit their Bids in accordance with Clauses 4.4;

or

- (i) take any such measure as may be deemed fit in the sole discretion of the Nodal Agency, including annulment of the Bidding Process.

2.4.3 In case it is found during the evaluation or at any time before signing of the PAPP or after its execution and during the period of subsistence thereof, including the Contract thereby granted by the Aggregator, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Supplier either by issue of the LOA or entering into of the PAPP, and if the Successful Bidder has already been issued the LOA or has entered into the APP, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Section B, be liable to be terminated, by a communication in writing by the Nodal Agency to the Successful Bidder or the Supplier, as the case may be, without the Nodal Agency/Aggregator being liable in any manner whatsoever to the Successful Bidder or Supplier. In such an event, the Aggregator/ Nodal Agency shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Aggregator/ Nodal Agency under the Bidding Documents and/ or the PAPP, or otherwise.

## **B. DOCUMENTS**

### **2.5 Contents of the RFP**

2.5.1 This RFP comprises the Glossary, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.8.

#### **Invitation for Bids**

Section 1.	Introduction
Section 2.	Instructions to Bidders
Section 3.	Evaluation of Bids
Section 4.	Selection of Bidders
Section 5.	Miscellaneous

#### Appendices

I.	Letter comprising the Bid
II.	Bank Guarantee for Bid Security
III.	Power of Attorney for signing of Bid

2.5.2 The draft PAPP provided by the Nodal Agency as part of the Bidding Documents shall be deemed to be part of this Document.

### **2.6 Amendment of RFP**

- 2.6.1 At any time prior to the Bid Due Date, the Nodal Agency may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 2.6.2 Any Addendum issued hereunder will be in writing and shall be available at the DEEP Portal. The Bidders are advised to check the DEEP Portal for any amendments or notifications.
- 2.6.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Nodal Agency may, in its sole discretion, extend the Bid Due Date<sup>s</sup>.

## **C. PREPARATION AND SUBMISSION OF BIDS**

### **2.7 Format and Signing of Bid**

- 2.7.1 The Bidder shall provide all the information sought under this RFP. The Nodal Agency will evaluate only those Bids that are received in the required formats on the DEEP Portal and complete in all respects.

### **2.8 Sealing and Marking of Bids**

- 2.8.1 The Bidder shall submit the Bid in the format specified herein at the DEEP Portal only, signed by a valid digital signature of the authorized signatory of the Bidder.
- 2.8.2 The documents accompanying the Bid shall be submitted in original to the designated contact mentioned at Clause 2.8.4. The documents shall include:
- (a) Bid Security in the format at Appendix–II;
  - (b) Power of Attorney for signing of Bid in the format at Appendix–III; and
  - (c) A copy of draft PAPP with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) hereinabove.
- 2.8.3 A true copy of the documents accompanying the Bid, as specified in Clause 2.8.2 (a), (b) and (c) above, shall be uploaded together and a copy of draft PAPP as specified in Clause 2.8.2 (c) shall be uploaded separately. The pages in copy shall be numbered serially and every page shall be initialed in blue ink by the authorised signatory of the Bidder.
- 2.8.4 The Bidders shall send the hard copy of all the original documents stated at Clause 2.8.2 in an envelope clearly indicating the name and address of the Bidder, addressed

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<sup>s</sup> While extending the Bid Due Date on account of an addendum, the Nodal Agency shall have due regard for the time required by Bidders to address the amendments specified therein. In the case of significant amendments, at least 15 (fifteen) days shall be provided between the date of amendment and the Bid Due Date, and in the case of minor amendments, at least 7 (seven) days shall be provided.

to:

ATTN. OF: Mr. \*\*\*\*\*  
DESIGNATION \*\*\*\*\*  
ADDRESS: \*\*\*\*\*  
FAX NO: \*\*\*\*\*  
E-MAIL ADDRESS \*\*\*\*\*

Such hard copies should reach the aforementioned address within 2 days after the opening of the Application in accordance with Clause 1.3 of the RFQ. The Bidders are notified that in case of any discrepancy in the documents uploaded online at the DEEP Portal and the hard copies submitted in accordance with this Clause 2.8.4, the documents uploaded online shall prevail.

- 2.8.5 If the Bids are not uploaded and signed as instructed above, the Nodal Agency assume no responsibility for rejection of the Bid submitted and consequent losses, if any, suffered by the Bidder.
- 2.8.6 Bids submitted by fax or e-mail shall not be entertained and shall be rejected.
- 2.8.7 In the Bid stage, all Bidders after uploading on the DEEP Portal the Application and the Bid as per the RFP and digitally signing the same must click on 'Final submit' button to finally submit their Application and Bid, without clicking the 'Final submit' button the system will not consider the Application or the Bid.

## **2.9 Bid Due Date**

- 2.9.1 Bids should be submitted online latest by the Bid Due Date and time specified on the DEEP Portal in the manner and form as detailed in this Section B. A system generated email shall be sent to the Bidder as a receipt thereof.
- 2.9.2 The Nodal Agency may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

## **2.10 Late Bids**

Applications will not be accepted for submission at the DEEP Portal after the time specified on the Bid Due Date.

## **2.11 Contents of the Bid**

- 2.11.1 The Bid shall be furnished in the format at Appendix-I and shall consist of a Tariff to be quoted by the Bidder. The Bidder shall specify (in Indian Rupees) the Tariff to

undertake the Project in accordance with this RFP and the provisions of the APP.

2.11.2 Generally, the Project will be awarded to the Lowest Bidder after the completion of process under Clause 1.1.5 and Clause 1.1.6 above.

2.11.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this Section B.

2.11.4 The draft PAPP shall be deemed to be part of the Bid.

## **2.12 Modifications/ Substitution/ Withdrawal of Bids**

2.12.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that such modification, substitution or withdrawal is made prior to the Bid Due Date. The DEEP Portal shall provide the option to Bidders, after submission of the Bid as per this Bidding Document, to withdraw and delete Bids. Clicking on withdraw Bid, will withdraw the Bidder's Bid and no further submission will be allowed whatsoever. While clicking on Delete Bid, will delete all the encrypted data saved on the DEEP Portal and the Bidder may submit fresh Bids prior to the Bid Due Date.

2.12.2 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Nodal Agency, shall be disregarded.

## **2.13 Rejection of Bids**

2.13.1 Notwithstanding anything contained in this Section B, the Nodal Agency reserve the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Nodal Agency reject or annul all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.13.2 The Nodal Agency reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

## **2.14 Validity of Bids**

The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Nodal Agency.

## **2.15 Confidentiality**

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Nodal

Agency/Aggregator in relation to, or matters arising out of, or concerning the Bidding Process. The Nodal Agency will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Nodal Agency may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Nodal Agency or as may be required by law or in connection with any legal process.

## **2.16 Correspondence with the Bidder**

Save and except as provided in this Section B, the Nodal Agency shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

## **B. BID SECURITY**

### **2.17 Bid Security**

- 2.17.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 1.1.3 hereinabove in the form of a bank guarantee or e-bank guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Aggregator in the format at Appendix–II (the “Bank Guarantee”) and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Nodal Agency and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.17.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Aggregator and payable at New Delhi (the “**Demand Draft**”) or may be payable online to Aggregator through NEFT/RTGS payment. The Aggregator shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.17.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Nodal Agency as non-responsive.
- 2.17.4 Save and except as provided in Clauses 1.1.3 hereinabove, the Bid Security of unsuccessful Bidders will be returned by the Nodal Agency, without any interest, as prompt as possible on acceptance of the Bid of the Successful Bidder or when the Bidding process is cancelled by the Nodal Agency, and in any case within 60 (sixty) days from the Bid Due Date. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Nodal Agency give the name and address of the person in whose favour the said demand draft shall be drawn by the Aggregator for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.17.5 The Successful Bidder’s Bid Security will be returned, without any interest, upon the Supplier signing the PAPP and furnishing the Performance Security in accordance with the provisions thereof..
- 2.17.6 The Nodal Agency shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.17.7 herein below. The Bidder, by submitting its Bid pursuant to this Section B, shall be deemed to have acknowledged and confirmed that the Nodal Agency will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this Section B. No relaxation of any kind on Bid

Security shall be given to any Bidder.

- 2.17.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Nodal Agency under the Bidding Documents and/ or under the APP, or otherwise, if:
- a. a Bidder submits a non-responsive Bid;
  - b. a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of Section A;
  - c. a Bidder withdraws its Bid during the period of Bid validity as specified in this SECTION B and as extended by mutual consent of the respective Bidder(s) and the Nodal Agency;
  - d. the Successful Bidder fails within the specified time limit-
    - i. to sign and return the duplicate copy of LOA;
    - ii. to sign the PAPP; or
    - iii. to furnish the Performance Security within the period prescribed therefore in the PAPP; or
  - e. the Successful Bidder, having signed the PAPP, commits any breach thereof prior to furnishing the Performance Security.

### **3. EVALUATION OF BIDS**

#### **3.1 Opening and Evaluation of Bids**

- 3.1.1 The Nodal Agency shall open the Bids at \*\*\*\* hours on the Bid Due Date,.
- 3.1.2 The Nodal Agency will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Clause 3.
- 3.1.3 To facilitate evaluation of Bids, the Nodal Agency may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

#### **3.2 Tests of responsiveness**

- 3.2.1 Prior to evaluation of Bids, the Nodal Agency shall determine whether each Bid is responsive to the requirements of this Section B. A Bid shall be considered responsive only if:
  - a. it is received as per the format at Appendix-I;
  - b. it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.9.2;
  - c. it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.7 and 2.8;
  - d. it is accompanied by the Bid Security as specified in Clause 1.1.3;
  - e. it is accompanied by the Power(s) of Attorney as specified in Clause 2.1.9;
  - f. it contains all the information (complete in all respects) as requested in this Section B and/or Bidding Documents (in formats same as those specified);
  - g. it does not contain any condition or qualification; and
  - h. it is not non-responsive in terms hereof.
- 3.2.2 The Nodal Agency reserve the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Nodal Agency in respect of such Bid. Provided, however, that the Nodal Agency may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

#### 4 SELECTION OF BIDDER

- 4.1 Subject to the provisions of Clause 2.13.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the Lowest Tariff offered to the Nodal Agency after Bid Stage, shall be declared as the selected Bidder(s) (the “**Successful Bidder(s)**”). In the event that the Nodal Agency rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 4.2 In the event that two or more Bidders quote the same amount of Tariff (the “**Tie Bidders**”), the Authorised Representative shall identify the Lowest Bidder, and subsequently the second lowest Bidder and so on and so forth for the purpose of allocation of capacity under Clause 1.1.5, by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders, who choose to attend.
- 4.3 In the event that the Lowest Bidder withdraws or is not selected for any reason in the first instance, the Nodal Agency shall have the discretion to either (i) consider the Bid quoted by the second Lowest Bidder as the Lowest Bid; or (ii) annul the Bidding Process.
- 4.4 After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Nodal Agency to the Successful Bidder(s) and the Successful Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Bidder is not received by the stipulated date, the Nodal Agency may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Successful Bidder to acknowledge the LOA.
- 4.5 After acknowledgement of the LOA as aforesaid by the Successful Bidder, it shall cause the Supplier to execute the PAPP within the period prescribed in Clause 1.3 of Section A. The Successful Bidder shall not be entitled to seek any deviation, modification or amendment in the PAPP.

#### 4.6 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Nodal Agency makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Nodal Agency and/ or their employees/ representatives on matters related to the Bids under consideration.

#### 4.7 Bid Parameter

The Bid shall comprise the Tariff offered by the Bidder to the Nodal Agency.

## 5. MISCELLANEOUS

- 5.1. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 5.2. The Nodal Agency, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - (b) consult with any Bidder in order to receive clarification or further information;
  - (c) retain any information and/ or evidence submitted to the Nodal Agency by, on behalf of, and/ or in relation to any Bidder; and/ or
  - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 5.3. It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authorised Representative, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 5.4. The Section B and Section A are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Section B, in the event of any conflict between them the priority shall be in the following order:
- (a) the Section B;
  - (b) the Section A.

i.e. the Section B at (a) above shall prevail over the Section A at (b) above.

**APPENDIX – I**

Letter comprising the Bid<sup>2</sup>

(Refer Clauses 2.1.5 and 2.11.1 in section B, signed copy to be submitted to Aggregator and uploaded with Bid)

Dated:

[The .....,  
.....  
.....

Sub: Bid for .....Project

Dear Sir,

1. With reference to your Bidding Document dated ....., comprising of the RFQ & RFP, draft PAPP, I/we, having examined the Bidding Document and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Nodal Agency will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Supplier for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Supplier for the development, construction, operation and maintenance of the aforesaid Project and for sale of power to the Aggregators.
4. I/ We shall make available to the Nodal Agency any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Nodal Agency to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:

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<sup>2</sup> In case of State specific bids, separate letter to be provided for each State.

- 7.1 I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of Section A of the Bidding Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
- 7.2 the undertakings given by us along with the Application in response to the Section A for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.13 of Section B of the Bidding Document.
9. I/ We believe that we satisfy the Net Worth criteria and meet the requirements as specified in Section A of the Bidding Document.
10. I/ We declare that we are not a Member of a/ any other Bidder submitting a Bid for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our CEO or any of our directors/ managers/ employees<sup>§</sup>.
14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Nodal Agency of the same immediately.
15. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Nodal Agency in connection with the selection of the Bidder, or in connection with the

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<sup>§</sup> In case the Applicant is unable to provide the certification specified in para 13, it may precede the paragraph by the words, viz. "Except as specified in Schedule \*\*\*\* hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Nodal Agency will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are of a nature that could cast a doubt on the ability or suitability of the Applicant to undertake the Project.

Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

16. In the event of my/ our being declared as the Successful Bidder, I/we agree to enter into a PAPP in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
17. I/ We have studied all the Bidding Documents carefully and also surveyed the Site. We understand that except to the extent as expressly set forth in the APP, we shall have no claim, right or title arising out of any documents or information provided to us by the Nodal Agency or in respect of any matter arising out of or relating to the Bidding Process including the award of Contract.
18. I/ We offer a Bid Security of Rs..... (Rupees .....only) to the Aggregator in accordance with Section B of the Bidding Document.
19. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.<sup>3</sup>
20. The documents accompanying the Bid, as specified in Clause 2.8.2 of Section B of the Bidding Document, have been submitted online at the e-Bidding Portal.
21. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Document. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our Bid is not opened or rejected.
22. The Tariff has been quoted by me/us after taking into consideration all the terms and conditions stated in the bidding document, draft PAPP, our own estimates of costs and revenues, and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.
23. I/ We agree and undertake to abide by all the terms and conditions of the Bidding Document.
24. I/ We undertake to feed electric supply into the grid at a point that is economical and efficient, as determined by the RLDC or SLDC, as the case may be.
25. I/ We undertake to bear the transmission charges and transmission losses upto the Delivery Point from out of the Tariff offered below and in accordance with the terms to be set forth in the PAPP.
26. I/We offer a Capacity of {...MW} from {Capacity, Name and address of the Project} which conforms to Clause 1.1.4 of Section A of the Bidding Document out of the

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<sup>3</sup> In case the Bid Security is submitted online, a receipt of the same shall be submitted.



**APPENDIX – II**  
Bank Guarantee for Bid Security  
(Refer Clauses 2.1.7 and 2.17.1)

B.G. No. Dated:

1. In consideration of you, PTC India Limited, having its office at \*\*\*\*\*, (hereinafter referred to as the “**Aggregator**”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of .....(a company registered under the Companies Act, 1956/2013) and having its registered office at ..... ((hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the ..... Project (hereinafter referred to as the “**Project**”) pursuant to the Bidding Document dated ..... issued in respect of the Project and other related documents including without limitation the draft Pilot Agreement for Procurement of Power (the “PAPP”) (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at ..... and one of its branches at .... (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of Section B of the Bidding Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Document (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Aggregator an amount of Rs. \*\*\*\*\* (Rupees \*\*\*\*\* only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Nodal Agency/Aggregator stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Nodal Agency/Aggregator is disputed by the Bidder or not, merely on the first demand from the Nodal Agency/Aggregator stating that the amount claimed is due to the Nodal Agency/Aggregator by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. \*\*\*\*\* (Rupees \*\*\*\*\* only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Nodal Agency/Aggregator and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Nodal Agency/Aggregator shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Aggregator that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Nodal Agency/Aggregator and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Nodal Agency/Aggregator shall be entitled to treat the Bank as the principal debtor. The Aggregator shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Nodal Agency/Aggregator, and the Bank shall not be released from its liability under these presents by any exercise by the Nodal Agency/Aggregator of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Nodal Agency/Aggregator or any indulgence by the Aggregator to the said Bidder or by any change in the constitution of the Aggregator or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Aggregator to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Nodal Agency/Aggregator may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Aggregator in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. \*\*\* crore (Rupees \*\*\*\*\* crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Aggregator serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [\*\*\* (indicate date falling 180 days from the Bid Due Date)].

Signed and Delivered by .... Bank  
By the hand of Mr./Ms ....., its .. and authorised official.

(Signature of the Authorised Signatory)  
(Official Seal)

**APPENDIX – III**  
Power of Attorney for signing of Bid  
(Refer Clause 2.1.9)

Know all men by these presents, We, ... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms (Name), son/daughter/wife of ... and presently residing at ....., who is presently employed with us and holding the position of ....., as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the \*\*\*\*\* Project proposed by the PFC Consulting Limited (the “**Nodal Agency**”) including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Nodal Agency, representing us in all matters before the Nodal Agency, signing and execution of all contracts including the Pilot Agreement for Procurement of Power (PAPP) and undertakings consequent to acceptance of our Bid, and generally dealing with the Nodal Agency in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the PAPP with the Aggregator.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ..., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ... DAY OF ....., 20...

For.....

(Signature, name, designation and address)

Affixation of Common Seal

Witnesses:

1.

2.

Appendix - III  
Page 2

Accepted

Notarised

(Signature, name, designation and address of the Attorney)

*Notes:*

1. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
  
2. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*