

CONDITIONS OF CONTRACT AND CONTRACT FORMS



SECTION–VII
GENERAL CONDITIONS OF THE CONTRACT
(GCC)

GENERAL CONDITIONS OF THE CONTRACT (GCC)

1.	Definitions	1.1	The following words and expressions shall have the meanings hereby assigned to them: a) “Authority” means Public Procurement Regulatory Authority. b) The “Arbitrator” is the person appointed with mutual consent of both the parties, to resolve contractual disputes as provided for in the General Conditions of the Contract GCC Clause 31 hereunder. c) The “Contract” means the agreement entered into between the National Bank of Pakistan and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein. d) The “Commencement Date” is the date when the Supplier shall commence execution of the contract as specified in the SCC. e) “Completion” means the fulfillment of the related services by the Supplier in accordance with the terms and conditions set forth in the contract. f) “Country of Origin” means the countries and territories eligible under the PPRA Rules 2004 and its corresponding Regulations as further elaborated in the SCC. g) The “Contract Price” is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract. h) “Defective Goods” are those goods which are below standards, requirements or specifications stated by the Contract. i) “Delivery” means the transfer of the goods from the supplier equipment, machinery, and /or other materials which the Supplier is required to supply to the Procuring Agency under Contract. j) “Effective Contract date” is the date shown in the Certificate of Contract Commencement issued by the Procuring Agency upon fulfillment of the conditions precedent stipulated in GCC Clause 3. k) “Procuring Agency” means the person named as Procuring Agency in the SCC and the legal successors in title to this person, procuring the Goods and related service, as named in
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			SCC. l) “Related Services” means those services ancillary to the delivery of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, initial maintenance and other such obligations of the Supplier covered under the Contract. m) “GCC” mean the General Conditions of Contract contained in this section. n) “Intended Delivery Date” is the date on which it is intended that the Supplier shall effect delivery as specified in the SCC. o) “SCC” means the Special Conditions of Contract. p) “Supplier” means the individual private or government entity or a combination of the above whose Bid to perform the contract has been accepted by the Procuring Agency and is named as such in the Contract Agreement, and includes the legal successors or permitted assigns of the supplier and shall be named in the SCC. q) “Project Name” means the name of the project stated in SCC. r) “Day” means calendar day. s) “Eligible Country” means the countries and territories eligible for participation in accordance with the policies of the Federal Government. t) “End User” means the organization(s) where the goods will be used, as named in the SCC. u) “Origin” means the place where the Goods were mined, grown, or produced or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new produce results that is substantially different in basic characteristics or in purpose or utility from its components. v) “Force Majeure” means an unforeseeable event which is beyond reasonable control of either Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of a Party, and
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			which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances. and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood, epidemics, or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies. w) "Specification" means the Specification of the Goods and performance of incidental services in accordance with the relevant standards included in the Contract and any modification or addition made or approved by the Procuring Agency. x) "Supplier's Bid" is the completed Bid document submitted by the Supplier to the Procuring Agency.
2.	Application and interpretation	2.1	These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.
		2.2	In interpreting these Conditions of Contract headings and marginal notes are used for convenience only and shall not affect their interpretations unless specifically stated; references to singular include the plural and vice versa; and masculine include the feminine. Words have their ordinary meaning under the language of the Contract unless specifically defined.
		2.3	The documents forming the Contract shall be interpreted in the following order of priority: (1) Form of Contract, (2) Special Conditions of Contract, (3) General Conditions of Contract, (4) Letter of Acceptance, (5) Certificate of Contract Commencement (6) Specifications (7) Contractor's Bid, and (8) Any other document listed in the Special Conditions of Contract as forming part of the Contract.
3.	Conditions Precedent	3.1	Having signed the Contract, it shall come into effect on the date on which the following conditions have been satisfied: - a) Submission of performance Security (or guarantee) in the form

			specified in the SCC ; b) Furnishing of Advance Payment Unconditional Guarantee.
		3.2	If the Condition precedent stipulated on GCC Clause 3.1 is not met by the date specified in the SCC this contract shall not come into effect;
		3.3	If the Procuring Agency is satisfied that each of the conditions precedent in this contract has been satisfied (except to the extent waved by him, but subject to such conditions as he shall impose in respect of such waiver) he shall promptly issue to the supplier a certificate of Contract commencement, which shall confirm the start date.
4.	Governing Language	4.1	The Contract as all correspondence and documents relating to the contract exchanged by the Supplier and the Procuring Agency shall be written in the language specified in SCC . Subject to GCC Clause 3.1 , the version of the Contract written in the specified language shall govern its interpretation.
5.	Applicable Law	5.1	The contract shall be governed and interpreted in accordance with the laws of Pakistan, unless otherwise specified in SCC .
6.	Country of Origin	6.1	The origin of Goods and Services may be distinct from the nationality of the Supplier.
7.	Standards	7.1	The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, the American Standards (such as ACI, IEEE, ASME, etc.) or the Pakistani standards such as PSQCA Such standards shall be the latest issued by the concerned institution.
8.	Use of Contract Documents and Information; Inspection and Audit by the Government of Pakistan	8.1	The Supplier shall not, without the Procuring Agency's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring Agency in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
		8.2	The Supplier shall not, without the Procuring Agency's prior written consent, make use of any document or information enumerated in GCC Clause 7.1 except for purposes of performing the Contract.
		8.3	Any document, other than the Contract itself, enumerated in GCC Clause 7.1 shall remain the property of the Procuring Agency and shall be returned (all copies) to the Procuring Agency on completion of the

			Supplier's performance under the Contract if so required by the Procuring Agency.
		8.4	The Supplier shall permit the Government of Pakistan or / and donor agencies involved in financing the project to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the Government of Pakistan or / and the appropriate donor agencies, if so required by the Government of Pakistan or / and the appropriate donor agencies.
9.	Patent and Copy Rights	9.1	The Supplier shall indemnify the Procuring Agency against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Pakistan.
		9.2	The patent right in all drawings, documents, and other materials containing data and information furnished to the Procuring Agency by the Supplier herein shall remain vested in the supplier, or, if they are furnished to the Procuring Agency directly, or through the Supplier by any third party, including suppliers of materials, the patent right in such materials shall remain vested in such third party.
10.	Performance Security (or Guarantee)	10.1	The Performance Security (or Guarantee) shall be provided to the Procuring Agency no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Agency, and denominated in the types and proportions of the currencies in which the Contract Price is payable as specified in the SCC .
		10.2	The proceeds of the Performance Security (or Guarantee) shall be payable to the Procuring Agency as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
		10.3	The Performance Security (or Guarantee) shall be in one of the following forms: a) A bank guarantee, an irrevocable letter of credit issued by a reputable bank, or in the form provided in the Bidding Documents or another form acceptable to the Procuring Agency; or b) A cashier's or certified check.
		10.4	The performance security (or guarantee) will be discharged by the Procuring Agency and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's

			performance obligations under the Contract, including any warranty obligations, unless otherwise specified in SCC .
11.	Inspections and Test	11.1	The Procuring Agency or its representative shall have the right to inspect and /or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Agency. SCC and the Technical Specifications shall specify what inspections and tests the Procuring Agency shall notify the Supplier in writing or in electronic forms that provide record of the content of communication, in a timely manner, of the identity of any representatives retained for these purposes.
		11.2	The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Agency.
		11.3	Should any inspected or tested Goods fail to conform to the Specifications, the Procuring Agency may reject the Goods, and the Supplier shall replace the rejected Goods to meet specification requirements free of cost to the Procuring Agency.
		11.4	The Procuring Agency's right to inspect, test and, where necessary, reject Goods after the Goods' arrival in the Procuring Agency's country shall in no way be limited or eared by reason of the Goods having previously been inspected, tested, and passed by the Procuring Agency or its representative prior to the Goods' shipment from the country of origin.
		11.5	Nothing in GCC Clause 10 shall in any way release the supplier from any warranty or other obligations under this Contract.
12.	Packing	12.1	The supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods final destination and the absence of heavy handling facilities at all points in transit.
		12.2	The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall

			be expressly provided for in the Contract, including additional requirements, if any, specified in SCC , and in any subsequent instructions ordered by the Procuring Agency.
13.	Delivery and Documents	13.1	Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and or other documents to be furnished by the Supplier as specified in SCC .
		13.2	For purposes of the Contract, “EXW”, “FOB”, “FCA”, “CIF”, “CIP,” and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris.
		13.3	Documents to be submitted by the Supplier are specified in SCC .
14.	Insurance	14.1	The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the SCC .
15.	Transportation	15.1	Where the Supplier is required under Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Procuring Agency or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
		15.2	Where the Supplier is required under Contract to deliver the Goods CIF or CIP, transport of the Goods to the port of destination or such other named place of destination in Pakistan, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
		15.3	Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Pakistan, defined as the Project Site, transport to such place of destination in Pakistan, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

16.	Related Services	16.1	The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC: a) Performance or supervision of on-site assembly, Installation Commissioning and/or start-up of the supplied Goods; b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods; c) Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods; d) Performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and e) Training of the Procuring Agency's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.
17.	Spare Parts	17.2	As specified in SCC, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier: a) Such spare parts as the Procuring Agency may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and b) In the event of termination of production of the spare parts: i) advance notification to the Procuring Agency of the pending termination, in sufficient time to permit the Procuring Agency to procure needed requirements; and ii) following such termination, furnishing at no cost to the Procuring Agency, the blueprints, drawings, and specifications of the spare parts, if requested.
18.	Warranty/ Defect Liability Period	18.1	The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Procuring Agency, specifications) or from any act or omission of the Supplier, that may develop under

			normal use of the supplied Goods in the conditions prevailing in Pakistan.
		18.2	This warranty shall remain valid for a period specified in the SCC after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for a period specified in the SCC after the date of shipment from the port or place of loading in the source country, +whichever period concludes earlier, unless specified otherwise in SCC .
		18.3	The Procuring Agency shall promptly notify the Supplier in writing or in electronic forms that provide record of the content of communication of any claims arising under this warranty.
		18.4	Upon receipt of such notice, the Supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Procuring Agency other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from EXW or the port or place of entry to entry to the final destination.
		18.5	If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC , the Procuring Agency may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Agency may have against the Supplier under the Contract.
19.	Payment	19.1	The method and conditions of payment to be made to the Supplier under this Contract shall be specified in SCC .
		19.2	The Supplier's request(s) for payment shall be made to the Procuring Agency in writing or in electronic forms that provide record of the content of communication, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 13 , and upon fulfillment of other obligations stipulated in the Contract.
		19.3	Payments shall be made promptly by the Procuring Agency, within sixty (60) days after submission of an invoice or claim by the Supplier. If the Procuring Agency makes a late payment, the Supplier shall be paid interest on the late payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the rate as specified in the SCC .
		19.4	The currency or currencies in which payment is made to the Supplier under this Contract shall be specified in SCC subject to the following

			general principle: payment will be made in the currency or currencies in which the payment has been requested in the Supplier's Bid.
		19.5	All payments shall be made in the currency or currencies specified in the SCC pursuant to GCC Clause 19.4
20.	Prices	20.1	The contract price shall be as specified in the Contract Agreement Subject to any additions and adjustments thereto or deductions there from, as may be made pursuant to the Contract.
		20.2	Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Bid, with the exception of any price adjustments authorized in SCC or in the Procuring Agency's request for Bid Validity extension, as the case may be.
21.	Change Order	21.1	The Procuring Agency may at any time, by a written order given to the Supplier pursuant to GCC Clause 22 , make changes within the general scope of the Contract in any one or more of the following: a) Drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Agency; a) The method of shipment or packing; b) The place of delivery; and/or c) The Services to be provided by the Supplier.
		21.2	If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Procuring Agency change order.
		21.3	Prices to be charged by the supplier for any related services that might be needed but which were not included in the Contract shall be agreed upon in advance by the Parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
22.	Contract Amendments	22.1	Subject to GCC Clause 21 , no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.
23.	Assignment	23.1	Neither the Procuring Agency nor the Supplier shall assign, in whole or in part, obligations under this Contract, except with the prior written consent

			of the other party.
24.	Sub-contracts	24.1	The Supplier shall consult the Procuring Agency in the event of subcontracting under this contract if not already specified in the Bid. Subcontracting shall not alter the Supplier's obligations.
		24.2	Subcontracts must comply with the provision of GCC Clause 5 .
25.	Delays in the Supplier's Performance	25.1	Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Agency in the Schedule of Requirements.
		25.2	If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Procuring Agency in writing or in electronic forms that provide record of the content of communication of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Procuring Agency shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.
		25.3	Except as provided under GCC Clause 28 , a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26 , unless an extension of time is agreed upon pursuant to GCC Clause 25.2 without the application of liquidated damages.
26.	Liquidated Damages	26.1	Subject to GCC Clause 25 , if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Procuring Agency shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the performance security (or guarantee) specified in SCC . Once the said maximum is reached, the Procuring Agency may consider termination of the Contract pursuant to GCC Clause 27 .
27.	Termination for Default	27.1	The Procuring Agency or the Supplier, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the concerned party may terminate the Contract if the other party causes a fundamental breach of the Contract.

		27.2	Fundamental breaches of Contract shall include, but shall not be limited to the following: a) the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring Agency pursuant to GCC Clause 25; or b) the Supplier fails to perform any other obligation(s) under the Contract; c) Supplier's failure to submit performance security (or guarantee) within the time stipulated in the SCC; d) the supplier has abandoned or repudiated the contract. e) the Procuring Agency or the Supplier is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation; f) a payment is not paid by the Procuring Agency to the Supplier after 84 days from the due date for payment; g) the Procuring Agency gives Notice that goods delivered with a defect is a fundamental breach of Contract and the Supplier fails to correct it within a reasonable period of time determined by the Procuring Agency; and h) if the Procuring Agency determines, based on the reasonable evidence, that the Supplier has engaged in corrupt, coercive, collusive, obstructive or fraudulent practices, in competing for or in executing the Contract.
		27.3	For the purpose of this clause: "Corrupt and Fraudulent Practice" means the practices as described in Rule-2 (1) (f) of Public Procurement Rules-2004.
		27.4	In the event the Procuring Agency terminates the Contract in whole or in part, pursuant to GCC Clause 27.1, the Procuring Agency may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Agency for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.
28.	Termination for Force Majeure	28.1	Notwithstanding the provisions of GCC Clauses 25, 26, and 27, neither Party shall have any liability or be deemed to be in breach of the Contract for any delay nor is other failure in performance of its obligations under the Contract, if such delay or failure is a result of

			an event of Force Majeure. For purpose of this clause, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood, epidemics, or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent
		28.2	If a Party (hereinafter referred to as “the Affected Party”) is or will be prevented from performing its substantial obligation under the contract by Force Majeure, it shall give a Notice to the other Party giving full particulars of the event and circumstance of Force Majeure in writing or in electronic forms that provide record of the content of communication of such condition and the cause thereof. Unless otherwise directed by the Procuring Agency in writing or in electronic forms that provide record of the content of communication, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
29.	Termination for Insolvency	29.1	The Procuring Agency may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Agency.
30.	Termination for Convenience	30.1	The Procuring Agency, by written notice sent to the Supplier, may terminate the contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Agency’s convenience, the Contract is terminated, and the date upon which such termination becomes effective.
		30.2	The Goods that are complete and ready for shipment within thirty (30) days after the Supplier’s receipt of notice of termination shall be accepted by the Procuring Agency at the Contract terms and price. For the remaining Goods, the Procuring Agency may elect:

			a) To have any portion completed and delivered at the Contract terms and prices; and / or b) To cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.
31.	Disputes Resolution	31.1	In the event of any dispute arising out of this contract, either party shall issue a notice of dispute to settle the dispute amicably. The parties hereto shall, within twenty-eight (28) days from the notice date, use their best efforts to settle the dispute amicably through mutual consultations and negotiation. Any unsolved dispute may be referred by either party to an arbitrator that shall be appointed by mutual consent of the both parties.
		31.2	After the dispute has been referred to the arbitrator, within 30 days, or within such other period as may be proposed by the Parties, the Arbitrator shall give its decision. The rendered decision shall be binding to the Parties.
32.	Procedure for Disputes Resolution	32.1	The arbitration shall be conducted in accordance with the arbitration procedure published by the Institution named and in the place shown in the SCC .
		32.2	The rate of the Arbitrator's fee and administrative costs of arbitration shall be borne equally by the Parties. The rates and costs shall be in accordance with the rules of the Appointing Authority. In conducting arbitration to its finality each party shall bear its incurred costs and expenses.
		32.3	The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the SCC .
33.	Replacement of Arbitrator	33.1	Should the Arbitrator resign or die, or should the Procuring Agency and the Supplier agree that the Arbitrator is not functioning in accordance with the provisions of the contract, a new Arbitrator shall be appointed by mutual consent of the both parties.
34.	Limitation of Liability	34.1	Except in cases of criminal negligence or willful conduct, and in the case of infringement pursuant to GCC Clause 8, a) The supplier shall not be liable to the Procuring Agency, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall

			not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Agency; and b) The aggregate liability of the Supplier to the Procuring Agency, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment or to any obligation of the Supplier to indemnify the Procuring Agency with respect to patent infringement.
35.	Notices	35.1	Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or in electronic forms that provide record of the content of communication and confirmed in writing or in electronic forms that provide record of the content of communication to the other party's address specified in SCC .
		35.2	A notice shall be effective when delivered or on the notice's effective date, whichever is later.
36.	Taxes and Duties	36.1	A foreign Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Pakistan.
		36.2	If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Pakistan the Procuring Agency shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.
		36.3	A local Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Procuring Agency.

SECTION–VIII
SPECIAL CONDITIONS OF CONTRACT (SCC)

SPECIAL CONDITIONS OF CONTRACT (SCC)

The following Special Conditions of Contract (SCC) shall supplement the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The corresponding clause number of the GCC is indicated in parentheses.

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
	Definitions (GCC 1)	
1.	1.1(d)	The Commencement Date is: As stated in the Certificate of Contract Commencement
2.	1.1(f)	Country of Origin means: Origin of the Country where Goods are manufactured and can be imported as per Laws of Pakistan.
3.	1.1(k)	The Procuring Agency is: National Bank of Pakistan Goods & related Services: 2 KVA UPS Units, other components/systems and their installation, testing & commissioning with necessary power cabling/wiring at NBP's identified places.
4.	1.1(n)	Intended Delivery Date (Project Completion Date is: 30 days from the Effective Contract Date.
5.	1.1(p)	The Supplier is: _____
6.	1.1(q)	The title of the subject procurement or The Project is: SUPPLY AND INSTALLTION OF 02 KVA UPS FOR DIFFERENT NBP BRANCHES ACROSS PAKISTAN.
7.	1.1(t)	End User: National Bank of Pakistan
	Conditions Precedent (GCC 3)	
8.	3.1	a) The Performance Security (or guarantee) is to be submitted in the form of: As specified in the BDS Clause: 47. b) The Advance payment unconditional Guarantee to be submitted in the form of: Not Applicable
9.	3.2	The date for Condition precedent is : As specified in the Letter of Acceptance

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
	Governing Language (GCC 4)	
10.	4.1	The Governing Language shall be: English
	Applicable Law (GCC 5)	
11.	5.1	The Applicable Law shall be: Laws of the Pakistan
	Country of Origin (GCC 6)	
12.	6.1	Country of Origin is the country where offered UPS and other components / systems are manufactured.
	Performance Security (or guarantee) (GCC 10)	
13.	10.1	The amount of performance security (or guarantee), as a percentage of the Contract Price, shall be: 5% of the Contract Price
14.	10.4	After delivery and acceptance of the Goods, 100 percent of the Performance Security (or guarantee) shall be withheld to cover the Supplier's warranty obligations in accordance with GCC Clause 18.2.
	Inspections and Tests (GCC 11)	
15.	11.1	Inspection and tests prior to shipment of Goods and at final acceptance are as follows: The supplier shall submit the FAT Report and will get the installation done either through OEM or OEM's Certified Engineer at NBP's premises. The supplier shall submit the inspection certificate issued by himself which should be attached with the certificate(s) of the manufacturer(s) to the National Bank of Pakistan in order to ensure that the goods are manufactured in compliance with the contract.
	Packing (GCC Clause 12)	
16.	12.2	The following SCC shall supplement GCC Clause 12.2: The Goods shall be packed properly in accordance with standard export packing specified by the National Bank of Pakistan in the Technical Specification.

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
	Delivery and Documents (GCC Clause 13)	
17.	13.1	For Goods supplied from abroad: Upon shipment, the Supplier shall notify the Procuring Agency and the Insurance Company by cable the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the National Bank of Pakistan, with a copy to the Insurance Company: (i.) One original plus four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount; (ii.) original and four copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and four copies of nonnegotiable bill of lading; (iii.) One original plus four copies of the packing list identifying contents of each package; (iv.) Insurance Certificate; (v.) Manufacturer's or Supplier's warranty certificate; (vi.) inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and (vii.) certificate of country of origin issued by the chamber of commerce and industry or equivalent authority in the country of origin in duplicate. The above documents shall be received by the Procuring Agency at least one week before arrival of the Goods at the port or place of arrival & , if not received, the Supplier will be responsible for any consequent expenses. (Only necessary documents may be required, as per NBP's discretion, since the procurement is on DDP basis)
18.	13.3	For Goods from within Pakistan: Upon delivery of the Goods, the Supplier shall notify the Procuring Agency and mail/deliver the following documents to the Procuring Agency: (i.) one original plus two copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount; (ii.) delivery note; (iii.) Manufacturer's or Supplier's Warranty Certificate; (iv.) Inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report (if any); and (v.) certificate of country of origin issued by Pakistan Chamber of Commerce and Industry or equivalent authority in the country of origin in duplicate (optional). The above documents shall be received by the Procuring Agency before or after arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses. (Only necessary documents may be required, as per NBP's discretion, since the procurement is on DDP basis)

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
Insurance (GCC Clause 14)		
19.	14.1	The Insurance shall be in an amount equal to 110 percent of the applicable INCOTERM value of the Goods from “warehouse” to “warehouse” on “All Risks” basis, including War Risks and Strikes. (For Goods imported from abroad) (Only necessary documents may be required, as per NBP’s discretion, since the procurement is on DDP basis)
Related Services (GCC Clause 16)		
20.	16.1	Related services to be provided are: (Refer Section V)
Spare Parts (GCC Clause 17)		
21.	17.1	Additional spare parts requirements are: (Refer Section V)
Warranty (GCC Clause 18)		
22.	18.2	GCC Clause 18.2—In partial modification of the provisions, the warranty period shall be Three Years from date of acceptance of the Goods and related Services. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either: (a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with SCC 15, Or (b) pay liquidated damages to the Procuring Agency with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be 0.20 percent per day of undelivered materials/goods value up to the sum equivalent to the amount of ten percent of the contract value.
23.	18.4 & 18.5	The period for correction of defects in the warranty period is: Refer Section V

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
	Payment (GCC Clause 19)	
24.	19.1	The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: Payment for Goods supplied from abroad: Payment of foreign currency portion shall be made in : Not Applicable Advance Payment: Zero (0) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the Bidding Documents or another form acceptable to the National Bank of Pakistan. On Shipment: Zero (0) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 10. On Acceptance: 100 percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Procuring Agency. Payment of local currency portion shall be made in: Pak Rupees within thirty (30) days of presentation of claim supported by a certificate from the PE declaring that the Goods have been delivered and that all other contracted Services have been performed.
		Payment for Goods and Services supplied from within Pakistan: Payment for Goods and Services supplied from within Pakistan shall be made in Pakistani Rupees, as follows: Advance Payment: Zero (0) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the Bidding Documents or another form acceptable to the National Bank of Pakistan. On Delivery: Zero (0) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 13. On Acceptance: 100 percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Procuring Agency.
25.	19.3	Rate to be used for paying the Supplier's interest on the late payment made by Procuring Agency shall be: 0%

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
26.	19.4	Payment to be made to the supplier in : Pak Rupees
	Prices (GCC 20)	
27.	20.1 & 20.2	Prices shall be adjusted in accordance with provisions in the Attachment to SCC. Not Applicable
	Liquidated Damages (GCC Clause 26)	
28.	26.1	Applicable rate: 0.5% per week of undelivered materials/good's value or Completion of related services.
		Maximum deduction: is equal to the performance security .
	Termination for Default (GCC Clause 27)	
29.	27.2 (c)	Deadline for submission of Performance Security: As specified in the Letter of Acceptance
	Procedure for Dispute Resolution (GCC Clause 32)	
30.	32.1	Place: Karachi
31.	32.3	Dispute Resolution (a) <u>For Contracts to be entered with foreign Contractor/ Service Provider:</u> All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. (b) <u>For Contracts to be entered with nationals of Pakistan:</u> 1. If any dispute of any kind whatsoever shall arise between the National Bank of Pakistan and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of foregoing, any question regarding its existence, validity, termination and the execution of the Contract– whether during developing phase or after their completion and whether before or after the termination, abandonment or breach of the Contract – the parties shall seek to resolve any such dispute or difference by mutual diligent negotiations in good faith within 7 (seven) days following a notice sent by one Party to the other Party in this regard. 2. At future of negotiation the dispute shall be resolved through mediation and mediator shall be appointed with the mutual consent of the both parties. 3. At the event of failure of mediation to resolve the dispute relating to this contract such dispute shall finally be resolved through binding Arbitration by sole arbitrator in accordance with Arbitration Act 1940. The arbitrator shall be appointed by mutual consent of the both parties. The Arbitration shall take place in [<i>Insert name of the city</i>] and proceedings will be conducted in – [<i>Specify language</i>] language.

SCC Clause Number	GCC Clause Number	Amendments of, and Supplements to, Clauses in the GCC
		4. The cost of the mediation and arbitration shall be shared by the parties in equal proportion however the both parties shall bear their own costs and lawyer's fees regarding their own participation in the mediation and arbitration. However, the Arbitrator may make an award of costs upon the conclusion of the arbitration making any party to the dispute liable to pay the costs of another party to the dispute. 5. Arbitration proceedings as mentioned in the above clause regarding resolution of disputes may be commenced prior to, during or after delivery of goods. 6. Notwithstanding any reference to the arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree that the Procuring Agency shall pay the Supplier any monies due to the Supplier.
	Notices (GCC Clause 35)	
29.	35.1	— Procuring Agency's address for notice purposes: Divisional Head Procurement Division, Logistics Communications & Marketing Group, 3rd Floor, NBP Head Office Building, I.I Chandigarh Road, Karachi —Supplier's address for notice purposes: _____

