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TERMS & CONDITIONS OF CONTRACT

1 PERFORMANCE SECURITY

- 1.1 The successful bidder shall furnish to the NTC a performance security equivalent 10% of contract value in the shape of Pay order or CDR or bank guarantee valid for a period of 15 months prior to signing of contract.
- 1.2 Failure of the successful bidder to furnish performance security shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security.
- 1.3 All the correspondence regarding release of performance guarantee shall be made with Director (Procurement) NTC HQ.
- 1.4 Performance security against the contract shall be released upon successful issuance of Final Acceptance Certificate (FAC).

2 CONTRACTORS RESPONSIBILITIES

- 2.1 The contractor shall supply, install, test and commission the equipment in accordance with the contract
- 2.2 All types of transportation for delivery of software / solution at final destination will be the responsibility of the contractor.
- 2.3 The Contractor shall execute the basic and detailed design and the implementation activities necessary for successful installation & commissioning of the solution in compliance with the provisions of the Contract or, where not so specified, in accordance with good industry practice. The Contractor shall prepare and furnish the documents for the Project Director's approval or review. Any part of the System covered by or related to the documents to be approved by the Project Director shall be executed only after the approval of these documents.
- 2.4 The contractor shall carryout installation and commissioning according to the implementation schedule, including all action/activities and inform/update Project Director of NTC.
- 2.5 The contract shall not subcontract the whole of the works. The contractor shall not subcontract any part of the works without consent of NTC.

3 NTC RESPONSIBILITIES

NTC shall be responsible for the following:

- 3.1 Project Director shall arrange to provide the requisite data and site access for implementation of the project.
- 3.2 Project Director shall assist in timely and satisfactory completion of the project in their areas of jurisdiction as per SOW.
- 3.3 Project Director shall be responsible to verify the delivery BOQ against contract, to issue Provisional Acceptance Certificate & Final Acceptance Certificate and to coordinate with any third party (if required). PD will also be responsible to verify the delivery challans of the delivered solution by the contractor.
- 3.4 Project Director shall get approval of the PAT documents from GM (Data & IT) NTC HQs.

3.5 Project Director NTC shall nominate committee for PAT.

4 TIME FOR COMPLETION

The contractor shall supply, install, test and configure the hardware and software within 12 x weeks from the date of signing of contract.

5 LIQUIDATED DAMAGES

- 5.1 Unless the failure to complete the work is caused by force majeure or delay is not on part of NTC, the contractor shall pay to NTC as liquidated damages of the delayed part of the contract, at rate of 0.5% of the delayed part per week, up to a maximum of 10% of the contract value and the same will be recovered from the Contractor at the time of payment.
- 5.2 In case of force majeure the LD charges may be waived off by NTC on receipt of request from contractor with documentary evidences. If the delay is on the part of NTC, and agreed by NTC, then for that time no liquidated damages will be paid to NTC. NTC shall have discretion to impose/waive off LD Charges based on the performance of contractor.

6 WARRANTY / SERVICES

- 6.1 The Contractor will warrant that all goods supplied under the contract are brand new, un-used, and incorporate all the latest improvements in design and materials unless provided otherwise in the contract.
- 6.2 The contractor shall also submit a warranty certificate on judicial paper with undertaking that the software provided / installed are genuine.
- 6.3 Warranty shall remain valid for 01 Year after issuance of Provisional Acceptance Certificate (PAC) by Project Director certifying the successful completion of work.
- 6.4 The warranty includes replacement of faulty hardware, software/subscription updates and support from OEM/contractor for the issues.
- 6.5 The contractor shall provide 24x7 support to resolve the fault occurrence/disruption in service during the period of warranty.
- 6.6 NTC shall promptly notify the supplier in writing of any claims arising under this warranty and the supplier will resolve/ repair / fix the defective items/Software within reasonable time, ensuring minimal impact on services, without any cost to NTC.
- 6.7 If the Contractor, having been notified, fails to remedy the defect(s) within a reasonable period, NTC may proceed to take such remedial actions as may be necessary, at the Contractor's risk and expense and without prejudice to any other rights which NTC may have against the Contractor under the contract.
- 6.8 Without prejudice to any other clauses of this contract, the Contractor shall promptly correct at no cost to NTC, any defect in any work of correction executed previously, upon receipt of written notice of defect within warranty period from the acceptance of the corrected defect.
- 6.9 The contractor shall maintain pool of spares for the duration of complete warranty for immediate replacement of faulty component(s).

7 PROVISIONAL ACCEPTANCE CERTIFICATE

- 7.1 Upon satisfying itself that installation and commissioning of the equipment, undertaken by the contractor is complete in all respects, the contractor will inform in-writing to Project Director to detail a team for Acceptance Test. PD will constitute team to conduct the Acceptance Test with approval of GM (Data & IT) NTC HQs. The equipment installed will be verified with the contract. The Contractor will arrange to provide the PAT documents within 05 days of the signing of contract and will arrange to conduct the tests as per PAT Documents. The PAT will be conducted in accordance with approved/vetted PAT documents processed by the PD for approval. After successful conduct of test, PD will issue Provisional Acceptance Certificate (PAC).
- 7.2 In case Provisional Acceptance Certificate is not issued within one (01) week of PAT (Provisional Acceptance Testing), PD shall inform in-writing of the specific reason(s) for the delay within one (01) week after receipt of request from the contractor, to this effect. Furthermore, PD will notify the contractor that the work is not fully complete and contractor will rectify the discrepancies. PAT Report will be issued after successful commissioning & testing of equipment at site.
- 7.3 The Provisional Acceptance Certificate (PAC) will be valid for warranty period of 12 months.

8 PAYMENT

- 8.1 Hundred percent (100%) payment of contract value will be made on successful delivery, installation, commissioning and testing of equipment upon issuance of Provisional Acceptance Certificate by Project Director.
- 8.2 All the payments will be made by Finance Wing NTC HQs through Project Director.
- 8.3 The contractor shall ensure provision of duly verified invoices by the Project Director for claiming payment.
- 8.4 Taxes will be deducted as per government rules at the time of payment.

9 FINAL ACCEPTANCE CERTIFICATE

- 9.1 The contractor may notify the NTC concerned officer at-least 15 days before the expiry of warranty for the issuance of final acceptance certificate (FAC). Upon such notification from contractor, the Project Director NTC will issue Final Acceptance Certificate in favor of contractor subject to satisfactory completion of warranty period as per requirement of contract. Alternatively, the NTC concerned officer will notify the contractor for the discrepancies that still remain un-resolved and contractor will rectify the discrepancies. Performance security against contract shall be released upon after issuance of FAC.

10 DEFAULT BY CONTRACTOR

- 10.1 If the contractor fails to provide the store and/or services, refuses or fails to comply with a valid instruction of the NTC, the NTC may give notice and stating the default.

- 10.2 If the contractor has not taken all practicable steps to remedy the default within 14 working days after receipt of NTC notice, the NTC may by a second notice cancel the contract and performance security will be confiscated.

11 ARBITRATION AND APPLICABLE LAW

- 11.1 This Agreement shall be governed under Pakistani law and the Courts at Islamabad shall have exclusive jurisdiction over any matter that may be referred to a Court under this Agreement.
- 11.2 In the event that any dispute arises between the Parties under this Agreement, one Party shall issue notice to the other Party to mutually negotiate a resolution to the dispute. If the negotiations fail to resolve the dispute within seven (7) days of receipt of the notice, the dispute shall be referred to the Managing Director, National Telecommunication Corporation ("MD") or his nominee who shall provide a personal hearing to Contractor and render a decision thereon within a period of thirty (30) days. In the personal hearing conducted pursuant to this clause, the Contractor shall not be represented by a legal practitioner within the meaning of the Legal Practitioners and Bar Councils Act, 1973.
- 11.3 If the Contractor is aggrieved of the decision of the MD or his nominee rendered under clause preceding hereof, the Contractor may refer the dispute to arbitration within thirty (30) days of the date of the decision of the MD or his nominee under the Arbitration Act, 1940 or any law that the Arbitration Act, 1940 is repealed, amended, or modified by at the time of referral of the dispute to arbitration. The arbitration shall be conducted before a Sole Arbitrator to be appointed by the consent of the Parties. The seat and venue of arbitration shall be at the National Telecommunication Corporation Headquarters, Sector G-5/2, Islamabad. The arbitration and the award thereof shall be conducted in the English language.
- 11.4 The costs and fees of the Sole Arbitrator shall be shared by the Parties equally. A Party shall bear the costs and fees of its legal practitioners and other personnel that a Party engages for the arbitration unless otherwise awarded by the Sole Arbitrator.

12 FORCE MAJEURE

- 12.1 The Contractor shall not be liable for forfeiture of its performance security, liquidated damages or termination for default, if and to the extent that, its delay in performance or other failure to perform its obligations under the contract is the result of an event of Force Majeure.
- 12.2 If either party is temporarily rendered unable, wholly or in part by Force Majeure to perform its duties or accept performance by the other party under the Contract it is agreed that on such party, giving notice with full particulars in writing of such Force majeure to the other party within 14 (fourteen) days after the occurrence of the cause relied on, then the duties, of such party as far as they are affected by such Force Majeure shall be suspended during the continuance of any inability so caused but for not longer period and such cause shall as far as possible be

removed with all reasonable speed. Neither party shall be responsible for delay caused by Force Majeure.

- 12.3 The terms "Force Majeure" as used herein shall mean Acts of God, strikes, lockouts or other industrial disturbance, act of public enemy, war, blockages, insurrections, riots, epidemics, landslides, earthquakes, fires, storms, lightning, flood, washouts, civil disturbances, explosion, Governmental Export/Import Restrictions (to be supported by a letter from the relevant Authority and verified by the Diplomatic Mission in Pakistan), Government actions/restrictions due to economic and financial hardships, change of priorities and any other cause similar to the kind herein enumerated or of equivalent effect, not within the control of either party and which by the exercise of due care and diligence either party is unable to overcome.
- 12.4 The term of this Contract shall be extended for such period of time as may be necessary to complete the work which might have been accomplished but for such suspension. If either party is permanently prevented wholly or in part by Force Majeure for period exceeding 12 (twelve) months from performing or accepting performance, the party concerned shall have the right to terminate this contract immediately giving notice with full particulars for such Force Majeure in writing to the other party, and in such event, the other party shall be entitled to compensation for an amount to be fixed by negotiations and mutual agreement.
- 12.5 If a Force Majeure situation arises, the Contractor shall promptly notify NTC in writing of such conditions and the cause thereof. Unless otherwise directed by NTC in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

13 TERMINATION FOR INSOLVENCY

The NTC may at any time terminate the contract by giving written notice to the contractor, without any compensation to contractor. If the contractor becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to action to the NTC.

14 TERMINATION FOR CONVENIENCE

Without prejudice to the contractor, the NTC may send a written notice to the bidder, terminate the contract in whole or in part any time for its convenience. The notice of termination shall specify that the termination is for the NTC's convenience, the extent to which performance or work under the contract is terminated and the date upon which such termination becomes effective.

15 PROJECT DIRECTOR

Director (Data Center) NTC HQs Islamabad

Email: amer.shamsher@ntc.org.pk

Ph: 051-9208809

16 DEBARMENT / BLACKLISTING OF FIRM

- 16.1 As per clause-19 of the PPRA rules 2004, NTC reserves the right of debarment 'or' blacklisting of a firm, association, corporation, joint venture, company, partnership or any other legal entity subject to any of the following acts: -
- Consistent failure to provide satisfactory performance.
 - Contractor becomes insolvent.
 - Existence of judicial decision against a contractor in respect of a corrupt or collusive practice.
 - Submission of false and spurious documents, making false statements and allegations to gain undue advantage.
 - Commission of fraud.
 - Contractor abandons the contract.
 - Contractor without reasonable excuse fails to commence the work 'or' suspends the progress of work for 14 days.
 - Contractor is not executing the work in accordance with the contract or is persistently or flagrantly neglecting to carry out his obligations under the contract.
 - Commission of embezzlement, criminal breach of trust, theft, cheating, forgery, bribery, falsification or destruction of records, receiving stolen property, false use of trademark, securing fraudulent registration with sales tax authorities, Pakistan Engineering council etc, giving false evidence, furnishing of false information of serious nature.
- 16.2 Managing Director NTC will constitute a committee comprising of three NTC officers and they will investigate the matter in connection with allegation of corrupt, fraudulent, coercive or collusive practices or illegally harassment or threat. Moreover, the committee shall also accord adequate opportunity of being heard to the contractor who is to be debarred / blacklisted. The said committee will forward its clear recommendations for the approval of Managing Director NTC.
- 16.3 The debarment shall be for a reasonable specified period of time, commensurate with the seriousness of the cause. However, the debarment period shall not exceed from three years. Moreover, NTC also reserves the right of permanent blacklisting of a contractor subject to severity of the corrupt or fraudulent practices.

17 INTEGRITY

- 17.1 The Contractor hereby declares that it has not obtained or induced the procurement of this Contract or a right, interest, privilege or other obligation or benefit under this Contract from Government of Pakistan or any administrative subdivision or agency thereof or any other owned or controlled by it (GoP) through any corrupt business practice.
- 17.2 Without limiting the generality of the foregoing the Contractor represents and warrants that it has fully declared the brokerage, commission, fees etc, paid or payable to anyone and not given or agreed to give and shall not give or agree to give to anyone within or outside Pakistan either directly or indirectly through any

natural or juridical person, any commission, gratification, bribe, finder's fee or kickback, whether described as consultation fee or otherwise, with the object of obtaining or including the procurement of this Contract or a right, interest, privilege or other obligation or benefit under this Contract in whatsoever form from GoP, except that which has been expressly declared pursuant hereto.

- 17.3 The Contractor accepts full responsibility and strict liability for making any false declaration, not making full disclosure, misrepresenting facts or taking any action likely to defeat the purpose of this Clause.

18 DECLARATION OF BENEFICIAL OWNERS' INFORMATION

The "Declaration of Beneficial Owners' Information of Public Procurement Contract Awarded Regulations, 2022" require that the contractor shall be bound to provide beneficial ownership information as per prescribed Performa.