# SECTION – VII

# GENERAL CONDITIONS OF THE CONTRACT (GCC)

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| **1. Definitions** | 1.1 | The following words and expressions shall have the meanings hereby assigned to them:<br>a) "Authority" means Public Procurement Regulatory Authority.<br>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.<br>c) The "Contract" means the agreement entered into between SEPCO 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.<br>d) The "Commencement Date" is the date when the Supplier shall commence execution of the contract as specified in the SCC.<br>e) "Completion" means the fulfillment of the related services by the Supplier in accordance with the terms and conditions set forth in the contract.<br>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.<br>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.<br>h) "Defective Goods" are those goods which are below standards, requirements or specifications stated by the Contract.<br>i) "Delivery" means the transfer of the goods from the supplierequipment, machinery, and /or other materials which the Supplier is required to supply to SEPCO under Contract.<br>j) "Effective Contract date" is the date shown in the Certificate of Contract Commencement issued by SEPCO upon fulfillment of the conditions precedent stipulated in GCC Clause 3.<br>k) "SEPCO" means the person named as SEPCO in the SCC and the legal successors in title to this person, procuring the Goods and related service, as named in SCC.<br>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.<br>m) "GCC" means the General Conditions of Contract contained in this section.<br>n) "Intended Delivery Date" is the date on which it is intended that the Supplier shall effect delivery as specified in the SCC.<br>o) "SCC" means the Special Conditions of Contract.<br>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 SEPCO 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.<br>q) "Project Name" means the name of the project stated in SCC.<br>r) "Day" means calendar day.<br>s) "Eligible Country" means the countries and territories eligible for participation in accordance with the policies of the Federal Government.<br>t) "End User" means the organization(s) where the goods will be used, as named in the SCC.<br>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.<br>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.<br>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 which makes a Party's performance of its obligations hereunder impossible or so impractical as |

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| | | 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.<br>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 SEPCO.<br>x) The Supplier's Bid is the completed Bid document submitted by the Supplier to SEPCO. |
| **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 the 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:<br>i. Form of Contract,<br>ii. Special Conditions of Contract,<br>iii. General Conditions of Contract,<br>iv. Letter of Acceptance,<br>v. Certificate of Contract Commencement<br>vi. Specifications<br>vii. Contractor's Bid, and<br>viii. 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:<br>a) Submission of performance Security (or guarantee) in the form specified in the SCC;<br>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 SEPCO is satisfied that each of the conditions precedent in this contract has been satisfied (except to the extent waived 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 SEPCO 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, as per NTDC Specification No DDS-78:2008 (amended todate). 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 SEPCO'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 SEPCO 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. |

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| | 8.2 | The Supplier shall not, without SEPCO'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 SEPCO and shall be returned (all copies) to SEPCO on completion of the Supplier's performance under the Contract if so required by SEPCO. |
| | 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 SEPCO 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 SEPCO by the Supplier herein shall remain vested in the supplier, or, if they are furnished to SEPCO 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 (Guarantee)** | 10.1 | The Performance Security (Guarantee) shall be provided to SEPCO 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 SEPCO, 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 SEPCO 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:<br>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 SEPCO; or<br>b) A cashier's or certified check. |
| | 10.4 | The performance security (or guarantee) will be discharged by SEPCO 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 | SEPCO 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 SEPCO. SCC and the Technical Specifications shall specify what inspections and tests SEPCO 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 SEPCO. |
| | 11.3 | Should any inspected or tested Goods fail to conform to the Specifications, SEPCO may reject the Goods, and the Supplier shall replace the rejected Goods to meet specification requirements free of cost to SEPCO. |
| | 11.4 | SEPCO's right to inspect, test and, where necessary, reject Goods after the Goods' arrival in SEPCO's country shall in no way be limited or eared by reason of the Goods having previously been inspected, tested, and passed by SEPCO 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. |

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| **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 SEPCO. |
| **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:<br>a) Performance or supervision of on-site assembly, Installation Commissioning and/or start-up of the supplied Goods;<br>b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods;<br>c) Furnishing of detailed operations and maintenance manual for each appropriate unit of the supplied Goods;<br>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<br>e) Training of SEPCO's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods. |
| | 16.2 | Prices charged by the Supplier for related services, if not included in the Contract Price for the Goods, 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. |

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| **17. Spare Parts** | 17.1 | 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:<br>a) Such spare parts as SEPCO may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and<br>b) In the event of termination of production of the spare parts:<br>i. Advance notification to SEPCO of the pending termination, in sufficient time to permit SEPCO to procure needed requirements; and<br>ii. Following such termination, furnishing at no cost to SEPCO, 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 have incorporated all recent improvements in design and materials unless provided otherwise in the Contract.<br>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 SEPCO, 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. |
| | 18.3 | SEPCO shall promptly notify the Supplier in writing or in electronic forms that provide a record of the content of communication of any claims arising under this warranty. |
| | 18.4 | Upon receipt of such notice, the manufacturer/supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof. The cost of lifting the defective materials its subsequent repair or replacement and returning back to SEPCO stores shall be borne by the supplier. |
| | 18.5 | If the supplier, having been notified, fails to remedy the defect(s) within the period specified, SEPCO 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 SEPCO 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 SEPCO in writing or in electronic forms that provide a 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 SEPCO, within sixty (30) days after submission of an invoice or claim by the supplier. If SEPCO 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 specified in the Contract Agreement subject to any additions and adjustments thereto or deductions therefrom, 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 SEPCO's request for bid validity extension, as the case may be. |

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| **21. Change Orders** | 21.1 | SEPCO 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:<br>a) Drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for SEPCO;<br>b) The method of shipment or packing;<br>c) The place of delivery; and/or<br>d) 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 SEPCO 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 20, no variation in or modification of the terms of the Contract shall be made except by a written amendment signed by the parties. |
| **23. Assignment** | 23.1 | Neither SEPCO 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 SEPCO 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 SEPCO in the Schedule of Requirements. |
| | 25.2 | If at any time during the 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 SEPCO 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, SEPCO 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 28, 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, SEPCO 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, SEPCO may consider termination of the Contract pursuant to GCC Clause 26. |
| **27. Termination for Default** | 27.1 | SEPCO 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. |

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| | 27.2 | Fundamental breaches of contract shall include, but shall not be limited to the following:<br>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 SEPCO pursuant to GCC Clause 24; or<br>b) the Supplier fails to perform any other obligation(s) under the Contract;<br>c) Supplier's failure to submit performance security (or guarantee) within the time stipulated in the SCC;<br>d) the supplier has abandoned or repudiated the contract.<br>e) SEPCO or the Supplier is declared bankrupt or goes into liquidation other than for reconstruction or amalgamation;<br>f) a payment is not paid by SEPCO to the Supplier after 84 days from the due date for payment;<br>g) the SEPCO 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 SEPCO; and<br>h) if SEPCO determines, based on reasonable evidence, that the Supplier has engaged in corrupt, coercive, collusive, obstructive or fraudulent practices, in competing for or in executing the Contract.<br>For the purpose of this clause:<br>"Corrupt and Fraudulent Practice" means the practices as described in Rule-2 (1) (f) of Public Procurement Rules-2004. |
| | 27.3 | In the event SEPCO terminates the contract in whole or in part, pursuant to GCC Clause 26.1 SEPCO 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 SEPCO for any excess costs for such similar Goods or Services. However, the Supplier shall continue the 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.<br>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 a record of the content of communication of such condition and the cause thereof. Unless otherwise directed by SEPCO in writing or in electronic forms that provide a 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 | SEPCO 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 SEPCO. |

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| **30. Termination for Convenience** | 30.1 | SEPCO, 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 SEPCO'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 SEPCO at the Contract terms and price. For the remaining Goods, SEPCO may elect:<br>a) To have any portion completed and delivered at the Contract terms and prices; and / 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. Dispute Resolution** | 31.1 | In the event of any dispute arising out of this contract, either party shall issue a notice of the 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 to by either party to an arbitrator that shall be appointed by mutual consent of 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 SEPCO 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 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,<br>a) The supplier shall not be liable to the SEPCO, 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 SEPCO; and<br>b) The aggregate liability of the Supplier to SEPCO, 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 SEPCO 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 a record of the content of communication and confirmed in writing or in electronic forms that provide a 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 SEPCO 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 SEPCO. |

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# SECTION – VIII

# SPECIAL CONDITIONS OF THE 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 |
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| **Definitions (GCC 1)** | | |
| **1.** | 1.1 | The Procuring Agency is: Sukkur Electric Supply Company (SEPCO) |
| **Documents forming the Contract (GCC)** | | |
| **2.** | 2.3 | (1) Purchase Order (PO)<br>(2) Performance Guarantee submitted by the successful Firm and its verification from the concerned Bank.<br>(3) Letter of Intent (LOI) issued by SEPCO and its acceptance by the successful bidder<br>(4) Special Conditions of Contract,<br>(5) General Conditions of Contract,<br>(6) Specifications<br>(7) Contractor's Bid on EPADS<br>(8) Bidding Document and Notice inviting to Bids<br>(9) Addendum (if any) |
| **Conditions Precedent (GCC 3)** | | |
| **3.** | 3.1 | Having signed the contract it shall come into effect on the date of its issuance. |
| **4.** | 3.1 (b) | Not applicable |
| **Governing Language (GCC 4)** | | |
| **5.** | 4.1 | The Governing Language shall be English |
| **Applicable Law (GCC 5)** | | |
| **6.** | 5.1 | The Applicable Law shall be: Laws of the Government of Pakistan and PPRA rules. |
| **Performance Security (or Guarantee) (GCC 10)** | | |
| **7.** | 10.1 | The amount of performance security (or guarantee), as a percentage of the Contract Price, shall be: 5% of the total bid price (including GST)<br>**Time period of validity: shall be 24 months from the date of completion of supply**. |
| **8.** | 10.3<br>(a) & (b) | The Performance Security/Guarantee shall be in PKR issued in favour of Chief Executive Officer (CEO) SEPCO and it shall be in the form as the per following:<br>a. A bank guarantee issued by a scheduled bank of Pakistan in the form provided in the Bidding Documents.<br>b. Call Deposit Receipt (CDR)<br>**Note:** The performance security from any insurance company will not be acceptable in any case and the bid shall be liable for rejection. |
| | 10.4 | After delivery and acceptance of the Goods, the Performance Security (or guarantee) shall be withheld to cover the Supplier's obligations in accordance with the SSC clause 14 & 15 (Warranty GCC-18). The Performance Security (or guarantee) shall be extended by the firm in case any defect or replacement of material is claimed until the expiry/extended warranty period. |

**Inspections and Tests (GCC 11)**

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| **9.** | 11.1<br><br>11.2<br><br>11.3<br><br>11.4 | Inspection and tests prior to shipment of Goods and at final acceptance are as follows:<br>Quality and quantity inspection shall be carried out prior to shipment of Goods by the manufacturer(s) at the supplier's own expense and responsibility in terms of the items specified in the specifications. The supplier shall submit the inspection certificate issued by himself which should be attached with the certificate(s) of the manufacturer(s) to the Procuring Agency in order to ensure that the goods are manufactured in compliance with the contract.<br><br>The joint inspection shall be carried out at the manufacturer's/supplier's premises by the Chief Engineering (MI) PPMC Lahore or his authorized representative and SEPCO representative. Notice in writing shall have to be given to the office of Chief Engineer PPMC and Manager Material Management SEPCO simultaneously by the manufacturer/supplier when the store against the order is ready for inspection. The inspection call shall be effective when delivered to SEPCO or Chief Engineer (MI) PPMC Lahore, whichever is later.<br><br>The manufacturer/Supplier shall have to deposit Inspection Fee @ 0.5% of the cost of material on order while offering material for inspection in the Account of Chief Engineer (MI) PPMC.<br>All expenses of Inspector(s) of SEPCO shall be borne by the Tenderer including Boarding/ Lodging, Daily Allowance etc.<br><br>Stage inspection may be carried out, if necessary.<br><br>All reasonable facilities as provided in the specification or followed by the industry or trade, in general, shall have to be accorded to the inspecting officers at your expense for carrying out the inspection.<br><br>The Inspecting Officer may reject a part or the whole of the consignment tendered for inspection, if after inspection, such portion thereof as he may decide, on his discretion, he is satisfied that the consignment is below the requirements of the particulars governing the supply given in the Purchase Order.<br><br>The decision of the Inspecting Officer shall be binding on the supplier.<br><br>If the stores are rejected as aforesaid, then without prejudice to the right of the Purchaser, the supplier may submit stores in replacement of those rejected but resubmission will not mean the extension of the delivery period.<br><br>On final rejection, the purchaser shall have the following rights:<br>a. To purchase the rejected goods at the supplier's cost and expense.<br>b. To terminate the contract/PO and recover from the supplier the loss the Company, thereby incurs.<br><br>SEPCO reserves the right to re-inspect, re-test (at its own expense) and, where necessary, reject the Goods after the arrival at the final destination. This shall in no way be limited to or eased because of the Goods having previously been inspected, tested and passed by SEPCO or its representative prior to the Goods' shipment. The decision of SEPCO based on the reports of re-inspection and/or re- |

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| | | testing shall be binding on the manufacturer/supplier.<br>**A. VISUAL INSPECTION:**<br>Visual Inspection shall be carried out by SEPCO Material Inspection Committee and will highlight and communicate any defect found at time of visual inspection to this office as well as to the supplier. The concerned Deputy Manager Regional Store SEPCO shall be issued GRN after issuance of Verification Certificate in accordance with Material Quality and as per Specification / Standard by SEPCO Material Inspection Committee. |

**Packaging (GCC 12)**

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| **10.** | 12.2 | The Goods shall be packed properly in accordance with standard export packing specified by the Procuring Agency in the Technical Specification.<br><br>The word "Sukkur Electric Supply Company" or SEPCO with PO No. & year of manufacturing together with other essential markings as per the Specification shall be provided. |

**Delivery and Documents (GCC 13)**

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| **11.** | **13.2** | The Goods shall be supplied on FCS (Free Consignee Stores) at Regional Stores SEPCO ROHRI & LARKANA basis. The unloading of the goods shall be the responsibility of the Supplier. |
| **12.** | **13.3** | Upon delivery of the Goods, the Supplier shall notify SEPCO and mail the following documents to SEPCO:<br>i. one original plus four copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;<br>ii. delivery note, railway receipt, or truck receipt;<br>iii. Manufacturer's or Supplier's warranty certificate;<br>iv. Certificate to the effect that the prime material has been used in the manufacturing of Goods, and if any evidence of used/scrap material is found at a later stage the supplied Goods shall be replaced free of cost with the Goods having prime material. Also, if any manufacturing, design and/or inherent fault is detected at later stage the faulty Goods shall be replaced with Healthy Goods. The inspection procedure for the replaced goods shall be same as per the inspection requirement in the Technical Specifications and the Contract.<br>v. inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection/test report; and<br>vi. certificate of country of origin issued by Pakistan Chamber of Commerce and Industry or equivalent authority in the country of origin in duplicate.<br><br>The above documents shall be received by SEPCO before the arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses. |

**Insurance (GCC 14)**

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| **13.** | **14.1** | The Insurance shall be in an amount equal to 110 percent of the FCS value of the Goods from "warehouse" to "warehouse" on "All Risks" basis, including War Risks and Strikes. |

**Warranty (GCC 18)**



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| **14.** | **18.2** | **The warranty period** shall be for a period of **24 Months** as stated in the relevant (S&S) NTDC Specification for Single Phase Meter AMR. The warranty period shall be started from the date of issuance of GRN.<br>The Supplier shall be held responsible for all the losses and the unacceptable Goods shall be substituted with the acceptable Goods free of cost. |
| **15.** | **18.4 & 18.5** | Upon receipt of notice for correction of defects under the warranty period the manufacturer/supplier shall, within 45 days (or the period specified in Specification) and with all reasonable speed, repair or replace the defective Goods or parts thereof. The cost of lifting the defective Goods its subsequent repair or replacement and returning back to SEPCO stores shall be borne by the supplier.<br><br>If the supplied Goods or its part(s) is/are damaged during the warranty and need repair, its warranty period will be protected. The warranty period shall effectively remain active from the date of intimation of defective goods to the manufacturer/supplier and shall resume again once the defect has been removed and goods supplied back to SEPCO stores. **For Example:** An item has a warranty period of 24 months. Its warranty starts on 1st January and it gets defective after its successful use/commissioning after 6 months on 5th July. The manufacturer/supplier is intimated about the defect on 7th July. The remaining warranty is 1year, 5 months and 23days. This remaining warranty period shall remain reserved. The item is lifted for repair on 15th July and returned to SEPCO stores on 7th August. The remaining warranty of 1 year, 5 months and 23 days will resume from 7th August.<br><br>If the Goods under warranty period already repaired are damaged again (second time) the procedure mentioned for the first time damage shall be followed. Accordingly, the same procedure shall be followed for damage/defect for the third time. However, if the goods under warranty period are damaged for the third time the manufacturer/supplier shall be issued a Performance Certificate that will have an impact on its participation in future bids/tenders in SEPCO.<br><br>The warranty period of the entirely replaced item shall be as per the initial warranty period of new goods.<br><br>***NOTE: Liquidated Damages shall be applicable where there is a delay in delivery of material under the warranty claim. Liquidated Damages shall be applicable as per SCC clause 20.*** |

**Payment (GCC 18)**

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| **16.** | **19.1** | The payment will be made directly by the Chief Financial Officer / FD Finance Director SEPCO Sukkur within (30) days on the presentation of the following documents:<br>i. Invoice of the supplied material in triplicate.<br>ii. Delivery Challan duly acknowledged and signed by the consignee.<br>iii. GRN issued by concerned Deputy Manager, Regional Store SEPCO Concerned and Countersign by Manager MM SEPCO Sukkur.<br>iv. Warranty Certificate.<br>v. Inspection Certificate issued by Chief Engineer, (MI) PPMC or his authorized representative.<br>vi. Confirmation letter of acceptance of performance Bond/Security by the Manager (MM) SEPCO.<br>vii. Confirmation letter by the Manager (MM) SEPCO against each invoice claim regarding the adequacy of the validity of the Performance guarantee with respect to supplies / delivery.<br>viii. Certificate to the effect that the billed amount has not been claimed or received earlier (Non-payment certificate).<br>ix. Professional Tax paid certificate by the firm.<br>x. All Federal & Provincial Taxes will be applied as per prevailing laws.<br>xi. Copy of General Sales Tax/Excise Duty Invoice.<br>xii. The manufacturer/supplier in its invoices shall also give an undertaking, in case of omission of any deductible amount; SEPCO's claim at any later stage (through pre-audit / post audit) shall be acceptable to them.<br>xiii. As per directions of FBR dated. 3.9.2015 conveyed vide C.E (Operation) PEPCO vide letter No. 1918-28 dated. 17.09.2015, the payment to the registered persons may be linked with the active taxpayer status of the suppliers as per FBR database. If any registered supplier is not in ATL his payment should be stopped till he files his mandatory returns and appears on ATL of FBR.<br>**NOTE:**<br>**Payment shall be made as follows:**<br>**xiv. Ninety percent (95%) Payment will be made upon delivery of the material and issuance of GRN (Goods Received Note).**<br>**xv. The remaining ten percent (5%) shall be released upon issuance of the Tier-2 UDIL Certificate.**<br><br>***PARTIAL DELIVERIES AND PARTIAL PAYMENTS ARE ALLOWED.***<br><br>The amount of 18% sales tax will be reimbursed by the Chief Financial Officer/FD Finance Director SEPCO Sukkur as under:<br>i. Sales Tax return cum payment Challan for the month of delivery of material.<br>ii. Copy of GRN duly stamped and signed by the respective consignees.<br>iii. Sales Tax Invoice as per GRN above.<br>iv. Any increase/decrease in the existing tariff of custom duty/Sales tax or any other tax is imposed or charged by the Government of Pakistan/Provincial Government, the same will be adjusted by the Chief Financial Officer/FD Finance Director, SEPCO Limited, Sukkur on presentation of documentary evidence.<br><br>In case the manufactures who pay lump-sum Sales Tax, they shall also submit an affidavit on non-judicial paper separately that "Challan includes the amount of Rs.__________of Sales Tax for supply of material to SEPCO against P.O. |

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| **17.** | **19.3** | Not applicable. |
| **18.** | **19.5** | All payments shall be made in PKR |

**Prices (GCC 20)**

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| **19.** | **20.1 & 20.2** | Prices shall not be adjusted. The offered price shall be firm and final. |

**Liquidated Damages (GCC 26)**

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| **20.** | **26.1** | If the supplier fails to deliver the Goods or any consignment thereof within the specified delivery period, the purchaser shall be entitled at his option, either:<br><br>a) To recover from the supplier liquidated damages levied at the rate of two percent (2%) per month or a fraction thereof subject to a maximum of ten percent (10%) of the PO/contract price, except:<br><br>• Where un-delivered stores hold up the use of other stores, liquidated damages shall be levied on the total value of the contract/PO.<br>• The recovery of liquidated damages mentioned above can be effected from any payment due to the supplier from any unit of SEPCO Or<br><br>b) To purchase from elsewhere, without notice to the supplier, at the supplier's risk and cost, the stores not delivered, without canceling the contract/PO in respect of the consignment not yet due for delivery Or<br>c) To cancel the contract/PO at the supplier's risk and cost.<br><br>In the event of action being taken under (b) or (c) above, the supplier shall be liable for any loss which the purchaser may suffer on the account, but the supplier shall not be entitled to any gain on repurchase made against the supply order. |

**Procedure for Dispute Resolution (GCC 32)**

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| **21.** | **32.1** | As per the Laws of Government of Pakistan. |

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| **22.** | **32.3** | **(a) <u>For Contracts to be entered with foreign Contractor/ Service Provider:</u>**<br>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.<br><br>**(b) <u>For Contracts to be entered with nationals of Pakistan:</u>**<br><br>1. If any dispute of any kind whatsoever shall arise between SEPCO 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.<br>2. At future of negotiation the dispute shall be resolved through Arbitrator shall be appointed by mutual consent of both parties, after consultation between the contractor & procuring agency to act as the adjudicator in case of any arisen disputes in accordance with **BDS Clause 48.**<br>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 Arbitration shall take place in SEPCO Sukkur and proceedings will be conducted in English language.<br>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.<br>5. Arbitration proceedings as mentioned in the above clause regarding resolution of disputes may be commenced prior to, during or after delivery of goods.<br><br>Notwithstanding any reference to the arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree that SEPCO shall pay the Supplier any monies due to the Supplier.<br>**Furthermore, the supplier agrees that the territorial jurisdiction of the litigation shall be Sukkur District. No court other than Sukkur District will entertain any judicial matter in respect thereto.** |

**Notices (GCC 35)**

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| **23.** | 35.1 | **The address of the Procuring Agency:**<br>Manager Material Management, Sukkur Electric Power Company (SEPCO)<br>Regional Head Quarter, Old Thermal Power Station Sukkur Pakistan<br>Direct: +92-719310798, P.N: +92-719310796<br>Email: arif.bhutto@sepco.com.pk<br>Email: managermmsepco@gmail.com |

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