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SECTION-II: TERMS & CONDITIONS OF CONTRACT

1 PERFORMANCE SECURITY

- 1.1 The successful bidder shall furnish to the NTC a performance security equivalent amounting to **10%** of the total Contractual cost in the shape of Pay order **or** CDR **or** bank guarantee valid for a period of 12 months (as per format attached as **Annex-N**) after signing of contract.
- 1.2 The bank guarantee of performance security shall be further extended if the delivery is delayed 'or' if discrepancies observed in one year from the date of "Section-wise" Provisional Acceptance Certificate period are not rectified / removed by the contractor. Furthermore, the contractor shall extend the bank guarantee (if required) to cover the warranty period.
- 1.3 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.
- 1.4 All the correspondence regarding release of performance guarantee shall be made with Director Dev (North) NTC Islamabad after deducting any sums which may become due from contractor in terms of provision of contract.
- 1.5 Performance security against the contract shall be released upon successful completion of warranty period & issuance of Final Acceptance Certificate (FAC).

2 CONTRACTORS RESPONSIBILITIES

- 2.1 The contractor shall complete the work in accordance with the contract BoQ, Specs, Plan and responsibility matrix within the agreed completion time.
- 2.2 The contract shall, in accordance with the contract, with due care and diligence, complete the works and test and commission the network/works and carry out the works within the stipulated "Time for Completion".
- 2.3 The contractor shall commence the work immediately after signing of agreement and complete the work in accordance with the contract BoQ, Specs, Plan and responsibility matrix within the agreed completion time
- 2.4 The contractor shall ensure international packing and labeling for safe transportation and identification of store.
- 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 TRANSPORTATION / PACKING

- 3.1 All types of transportation for delivery at final destination will be the responsibility of the contractor. Contractor shall ensure proper / international packing of material/items to avoid its deterioration etc.

4 NTC RESPONSIBILITIES

- 4.1 Director Development (North) shall coordinate and facilitate the contractor for smooth execution of work in accordance with this contract:
- 4.2 Director Development (North) shall timely review and verify deliverables provided by the Contractor and issue acceptance certificate(s) upon satisfactory compliance with the agreed scope of work.

4.3 NTC shall be responsible to process invoices for payment.

5 TIME FOR COMPLETION

5.1 The contractor shall complete “Section-wise” work within:

Sr#	Description	Completion Time
1.	Section-I: NSDRA Offices, Mall of Islamabad – BOQ as Annex-A & Drawing as Annex-B	06 x weeks

starting from the date of signing of contract *or* issuance of work order *or* complete store provision by NTC (whichever is later). However, incumbent bidder must also specify the timelines in which they can execute the work. The timeline can be finalized by mutual consent of both parties.

5.2 Date of successful completion shall be the complete GPON network deployment & commissioning date, which shall be considered as the date when network successfully commissioned for usage on NTC live system by the contractor.

6 WARRANTY / SERVICES

- 6.1 The contractor will warrant that the material/item supplied under the contract are new, unused, and incorporates all recent improvements in design and materials and of good quality.
- 6.2 The contractor shall also furnish a warranty certificate on judicial paper with undertaking that the store / software provided / installed are genuine that is not stolen, from old stock or smuggled.
- 6.3 Standard warranty shall remain valid for 01 x Year after issuance of “Section-wise” Provisional Acceptance Certificate (PAC) by Project Director / ultimate consignee(s) certifying the successful completion of work.
- 6.4 The contractor shall provide 24x7 support to resolve the fault occurrence/ disruption in service during the period of warranty.
- 6.5 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 without any cost to NTC.
- 6.6 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.
- 6.7 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.
- 6.8 The contractor shall maintain pool of spares for the duration of complete warranty for immediate replacement of faulty component(s).
- 6.9 If no discrepancy is reported within the warranty period, then the performance security submitted against the contract shall be released by Director Development (North).

7 LIQUIDATED DAMAGES

- 7.1 If the Contractor fails to complete the work within the time prescribed in Clause-5 (*Time for completion*), and such delay is attributable to the Contractor and not caused by a Force Majeure event, the Contractor shall pay to NTC, as liquidated damages (LD), an amount equivalent to **0.07%** of the value of the delayed work (or the completed cost if the completed component is usable in all respects) for **each day** of delay, subject to a maximum of 10% of the value of the delayed work or completed cost. The LD amount shall be recovered from the Contractor at the time of issuance of the "Section-wise" Provisional Acceptance Certificate (PAC).
- 7.2 In the event of Force Majeure, the delivery period may be extended, and the LD charges may be waived by NTC, provided that the Contractor submits a written request/intimation along with satisfactory evidence during the execution period.
- 7.3 The parties agree that the accumulated total liquidated damages for delay shall carry a maximum limit of upto 10% of the contract value.
- 7.4 If the delay is due to NTC, and such delay is acknowledged by NTC, no LD shall be charged for the corresponding period. NTC reserves the right, at its discretion, to impose or waive LD charges based on the Contractor's performance and the circumstances of the delay.

8 PROVISIONAL ACCEPTANCE CERTIFICATE

- 8.1 Upon satisfactory completion of project in all aspect, the contractor will inform in-writing to Project Director "Director Development North" to detail a team for Acceptance Test.
- 8.2 Director Development North being PD will detail a PAT team for Provisional Acceptance Test and a team for final inspection. The team(s) shall confirm the quantities/ functioning of network and will mention discrepancies, if any. Director Development North will issue the "Section-wise" PAC on the basis of successful conduct of "Section-wise" PAT/ Final inspection including verification of contract BOQ as per site requirement.
- 8.3 In case "Section-wise" Provisional Acceptance Certificate is not issued within Fifteen (15) days, Director Development North shall inform in-writing of the specific reason(s) for the delay within 05 days after receipt of request from the Contractors.
- 8.4 Any discrepancies found will be intimated to the contractor who will arrange to sort out the discrepancy at the earliest but not later than fourteen working days, from the date when he is informed about the discrepancy.
- 8.5 Shortage of any quantity will also be pointed out and will be intimated to the contractor. If any discrepancies are observed after issuance of "Section-wise" PAC / NDC then Director Development (North) NTC will notify to the contractor for removal of the same. The contractor will be bound to remove the discrepancy within reasonable time period but not later than 14 x days.
- 8.6 NTC reserves the rights to reject any item even after issuance of "Section-wise" Provisional Acceptance Certificate if it does not conform to the specifications by reason of some defect, latent or otherwise of material which was not discoverable by a reasonable examination.
- 8.7 The "Section-wise" Provisional Acceptance Certificate (PAC) will be valid for warranty period of 01 year.

9 PAYMENT

- 9.1 Hundred percent (100%) payment of contract value will be made upon successful delivery, installation, commissioning and testing of network and completion of work, which will be notified by the issuance of "Section-wise" Provisional Acceptance Certificate by Project Director.
- 9.2 In case NTC deemed necessary then NTC may make running payments to the contractor based on the actual work progress as follows:
- In case NTC has to provide the major portion of stores, running payments upto 60% will be made, based on the progress of actual work / store consumption.
 - In case NTC has not to provide stores, running payments upto 70% will be made, based on the actual work progress.
- 9.3 The running payment, as per clause 9.2 above, shall be made after necessary testing/inspection, as deemed necessary by Director Development (North) NTC Islamabad.
- 9.4 The execution of work by contractor shall not be conditional to payment of running bills by NTC.
- 9.5 The balance payment shall be made to the contractor after issuance of "Section-wise" PAC Director Development (North) NTC Islamabad.
- 9.6 The Contractor will submit the commercial invoice & sales tax invoice to Director Development (North), along with duly verified delivery challan by Ultimate Consignee(s). The Contractor will clearly mention NTN & GST number of both supplier & purchaser on the invoice (NTC NTN # 1218153-6, NTC GST # 07-01-9802-013-64). Taxes will be deducted as per government rules.
- 9.7 All the payments will be made by Director Development (North), NTC Islamabad.
- 9.8 Payments shall only be released if the contractor is found to be "Active Tax Payer" in Federal Board of Revenue (FBR) Pakistan database at the time of payment. Contractor will provide the e-return of each invoice after payment.
- 9.9 Taxes will be deducted as per government rules at the time of payment(s) under the term for execution of contract.
- 9.10 Payments shall only be released as per NTC / Govt payment procedure.
- 9.11 Amount of GST and Services Tax (where applicable) will be released after submission of its deposit proof / FBR Annex-C by Contractor.
- 9.12 All the payments shall be made through crossed cheque in Pak Rupees.

10 FINAL ACCEPTANCE CERTIFICATE

- 10.1 The contractor may notify the NTC concerned officer at-least 15 days before the expiry of extended warranty for the issuance of final acceptance certificate (FAC).
- 10.2 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.

10.3 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.

10.4 On issuance of all Final Acceptance Certificate (s), contractor shall request for release of bank guarantee or CDR submitted as performance security

11 REPEAT ORDER

11.1 Repeat Order may be placed in accordance with Public Procurement Rules 2004.

12 DEFAULT BY CONTRACTOR

12.1 If the contractor fails to provide the Store/ Material 'or' complete the work, refuses or fails to comply with a valid instruction of the NTC, the NTC may give notice and stating the default.

12.2 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.

13 ARBITRATION AND APPLICABLE LAW

13.1 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.

13.2 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.

13.3 If the Contractor is aggrieved of the decision of the MD or his nominee rendered under clause (10.2) 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.

13.4 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.

14 FORCE MAJEURE

14.1 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.

14.2 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 no 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.

- 14.3 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.
- 14.4 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.
- 14.5 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.

15 TERMINATION FOR INSOLVENCY

- 15.1 The NTC may at any time terminate the contract by giving written notice to the bidder, without any compensation to bidder. If the bidder 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.

16 TERMINATION FOR CONVENIENCE

- 16.1 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.

17 DEBARMENT / BLACKLISTING OF FIRM

- 17.1 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.

- c. Existence of judicial decision against a contractor in respect of a corrupt or collusive practice.
- d. Submission of false and spurious documents, making false statements and allegations to gain undue advantage.
- e. Commission of fraud.
- f. Contractor abandons the contract.
- g. Contractor without reasonable excuse fails to commence the work 'or' suspends the progress of work for 14 days.
- h. 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.
- i. 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.

17.2 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.

17.3 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.

18 INTEGRITY

18.1 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.

18.2 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.

18.3 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.

19 PROJECT DIRECTOR/ ULTIMATE CONSINGEE

- Director Development (North) NTC Islamabad

20 DECLARATION OF BENEFICIAL OWNERS' INFORMATION

- 20.1 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 Performa attached.

21 BIDDER'S DETAILS:

Name of Authorized Representative (with CNIC):

Organization's Name and Address:

Contact Number:
