



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

T# 12/22-23

Invitation to Bid

The Securities and Exchange Commission of Pakistan invites sealed bids from the authorized services providers/principal's authorized dealers/distributors/partners/resellers based in Pakistan and registered with Federal Board of Revenue/Respective Revenue Boards for Income Tax and Sales Tax and who are on Active Taxpayers List (Income and Sales tax) of the Federal Board of Revenue/Relevant Tax Authority for following requirements

S. No.	Requirements	Tender Ref No.
1.	Annual Support and Subscription Renewal for IBM software	T# 12 (i)/22-23
2.	Annual Maintenance & Support (AMS) for Manage Engine Products	T# 12 (ii)/22-23
3.	Software Subscription and Support renewal of IBM Guardium	T# 12 (iii)/22-23
4.	Annual Support and Subscription Renewal for VMware software	T# 12 (iv)/22-23
5.	Hosting of SECP Web Services	T# 12 (v)/22-23

Bidding document for each above mentioned requirement and conditions, method of procurement, procedure for submission of bids, bid security, bid validity, opening of bid, evaluation criteria, clarification/rejection of bids etc. against above requirement are available for the interested bidders from the undersigned and can also be downloaded from <https://www.secp.gov.pk/procurement/>

The bids prepared in accordance with the instructions in the bidding documents, must reach undersigned on or before **February 02, 2023 by 1100Hrs** and will be opened on the same day at 1130Hrs.

In case of any query, Admin Department may be contacted on Telephone No. 051-9195477/051-9195437 during office hours (Monday to Friday excluding Public Holidays)

Mr. M. Ubaidullah Khalid, Add. Joint Director (Admin)
NICL Building, 63 Jinnah Avenue, Blue Area Islamabad

Terms and Conditions for Bids and Bidders

1. **Tender Identification Number: TENDER # 12 (iii)/ 22-23**

2. The Procurement Agency is:

Securities and Exchange Commission of Pakistan
4th Floor, NICL Building, 63 Jinnah Avenue, Blue Area,
Islamabad.

3. The Securities and Exchange Commission of Pakistan invites sealed bids from the principal's authorized dealers/distributors/partners/resellers based in Pakistan and registered with Federal Board of Revenue/Respective Revenue Boards for Income Tax and Sales Tax and who are on Active Taxpayers List (Income and Sales tax) of the Federal Board of Revenue/Relevant Tax Authority for

SOFTWARE SUBSCRIPTION AND SUPPORT RENEWAL OF IBM GUARDIUM

through

SINGLE STAGE ONE ENVELOP METHOD.

4. Only registered service providers who are on Active Taxpayers List (Income and Sales Tax) of FBR are eligible to provide services to the Commission. Bids of all those bidders who are In-Active on ATL on the date of bid opening shall be rejected.
5. Relevant details plus terms and conditions of the invitation may be obtained from the undersigned personally or by visiting the SECP website: <https://www.secp.gov.pk/procurement/>
6. SECP reserves the right to cancel this invitation and reject all bids at any stage of the bidding process.
7. The bid validity period shall be 120 days.
8. The bids should be accompanied by bid security (refundable) for an amount equal to 2% of the total quoted price (inclusive GST, if applicable) in shape of either pay order, demand draft in favor of Securities and Exchange Commission of Pakistan. Bids not accompanied by bid bond/security or with less amount of bid security will be rejected.
9. The amount of the bid and bid security shall be in Pak rupees.
10. The prices quoted shall correspond to 100% of the requirements specified. The prices quoted by the bidder shall not be adjustable. Changes or revisions in rates after the opening of the bids will not be allowed and may disqualify the original offer.
11. The rates must be quoted strictly in accordance with our documents and Annex(s).
12. Discounts (if any) offered by the bidder shall be part of the bid and for taxation purposes will be treated in accordance with the applicable laws.
13. Detail of applicable taxes and whether taxes included or not in the quoted price and breakup of the quoted price shall be clearly mentioned.
14. In case applicable taxes have neither been included in the quoted price nor mentioned whether quoted amount is inclusive or exclusive of such taxes, then quoted amount will be considered inclusive of all taxes and selected service provider will have to provide the required

services/equipment, if selected and declared as best evaluated bidder.

15. In case selected bidder is unable to supply on quoted amount then bid security submitted with the bid will be forfeited in favor of the Commission.
16. In case any bidder submits more than one option against this invitation then bid security shall be submitted against highest quoted option.
17. If the bid is withdrawn before the expiry of its validity or the supply/services are not made/provided within due date, the bid security will be forfeited in favor of the SECP, Islamabad.
18. The language of the bid should be in English and alternative bids shall not be considered.
19. Amendments or alterations/cutting etc., in the bids must be attested in full by the person who has signed the bids.
20. Bidder must have regular place of business, telephone numbers and email address and must provide proof of their existence in the particular business. A brief profile of the bidder, along with list of major customers (corporate sector) along with their contact details is required.
21. Items included in Compulsory Certification Scheme of PSQCA shall be duly certified by an accredited laboratory and fulfill necessary conditions of PSQCA, as applicable.
22. **Bidder must submit the undertaking as per format prescribed in relevant Annexure, failing which the bid shall be rejected.**
23. Bids from any bidder who is found or purported to be engaged or under investigation for offences related to fraud, under-invoicing, tax evasion, concealment, money laundering etc. shall be rejected without assigning any reason.
24. Comprehensive warranty & onsite support for mentioned years shall be given for the equipment/software/renewal at Islamabad, Karachi, and Lahore offices (if applicable).
25. All software-based items contain installation and configuration and end user orientation which is responsibility of the supplier (if support is not provided by the Principal).
26. The equipment/software/renewals supplied must be duty paid in respect of all applied duties and taxes.
27. Required quantities may increase/decrease according to SECP requirement.
28. The end user License, end user warranties and end user support services will be in the name of SECP for all equipment and software loaded on the equipment delivered.
29. A copy of valid authorized agency/partnership/dealership/distributorship certificate from their principals is to be submitted with the bid.
30. After selection if any supplier is not available on ATL at the time of payment then his payment shall be stopped till he files his mandatory returns and appears on ATL of FBR.
31. Tax shall be deducted/withheld as per applicable sales tax and income tax law.
32. SECP shall purchase/get the renewal/support subscription from bidder found in compliance to the requirement mentioned in the bidding document, MUST requirements and lowest w.r.t each amongst all.

33. In case 1st lowest bidder is unable to supply ordered items then the Commission reserve the right to award the contract to 2nd lowest evaluated bidder. In case 2nd lowest evaluated bidder is unable to supply ordered items then the Commission reserve the right to award the contract to 3rd lowest evaluated bidder.
34. Price inclusive of quoted tax, quoted by the bidder shall be considered for evaluation irrespective of the tax rate. The lowest evaluated bidder shall be responsible of the quoted tax in its bid and any demand from tax authorities shall be payable by that bidder.
35. Payment shall be made after delivery, installation and commissioning of complete equipment/services/renewals. All payments shall be made after deduction of taxes and all payments shall be made through cross cheque in Pak Rupees. The expense for renewal of the same will be paid from the annual budget for FY 2022- 23. Taxes will be deducted at source as per Government Rules at the time of payment.
36. In case nature of required license/support renewal is perpetual then WHT @ 15% shall be withheld from the gross amount of the invoice (inclusive of sales tax). Any bidder who has not quoted its financial proposal keeping in view the above mentioned tax treatment, his proposal shall not be considered and rejected without assigning any reason. Any change in future with respect to aforementioned tax treatment shall be dealt and applied as per law.
37. The bidders do not have the option of submitting their bids electronically. Telegraphic and conditional bids will not be accepted.
38. Unsealed bids will not be accepted.
39. Renewal of Licenses is required before expiry dates mentioned in TORs.
40. **Sealed bids may be dropped in the tender drop box placed at Ground Floor of the NIC Building, 63 Jinnah Avenue, Islamabad.**
41. Clarification if any on the requirements may be obtained from ubaidullah.khalid@secp.gov.pk
42. The bid security of successful bidder will be retained until renewal of licenses/support and returned after renewal of licenses/support is confirmed. However, bid security of unsuccessful bidders will be returned after award of contract to successful bidder.
43. During the retention period the bid security no interest / markup will be paid on this amount by Commission to bidder at the time of refund/release of bid security.
44. Successful bidders shall be bound to provide the required services/renewal within the delivery period/before expiry.
45. In case of late delivery, late delivery (LD) charges equivalent to 1% (of the PO/contract Value) per week shall be imposed and deducted from the payment. However, imposed penalty shall not exceed 10% of the PO/contract value.
46. **Bid(s) received after the due date and time i.e. bid submission, will be rejected.**
47. It is of utmost importance that bids should be submitted very carefully and the instructions set forth above, scrupulously complied with, failing which the offer will be ignored.
48. The place of bid destination is:

**Securities and Exchange Commission of Pakistan,
NICL Building, 63 Jinnah Avenue, Blue Area, Islamabad.**

49. The envelopes shall bear the following additional identification marks:

Bid for: Software Subscription and Support renewal of IBM Guardium

Bidder Name: XYZ

Attention: **M. Ubaidullah Khalid**
Add. Joint Director, Admin,
4th Floor, NICL Building, 63 Jinnah Avenue Blue Area,
Islamabad

50. The deadline for the submission of bids is:

Date: February 02, 2023

Time: 1100 Hrs

51. The bid opening shall take place at:

Securities and Exchange Commission of Pakistan
4th Floor, NICL Building, 63 Jinnah Avenue, Blue Area,
Islamabad

Date: February 02, 2023

Time: 1130 Hrs

A statement “Not to be opened before 1130Hrs on February 02, 2023” shall be clearly mentioned on the top of the sealed bid.

Note: Attachment Details are as under:

- | | |
|------------------------------------|------------------|
| 1. TORs and Evaluation Criteria | Annex “A” |
| 2. Documentary Evidence Form | Annex “B” |
| 3. Format of Affidavit/Undertaking | Annex “C” |
| 4. Sample Agreement | Annex “D” |

If the above terms and conditions are acceptable then bids must be submitted well in time and according to the requirements.

Terms of Reference

Customer Number **502845**
Account Name **SECP - Securities and Exchange Commission of Pakistan**

Contract Details:**IBM Agreement**

Number: **143421**

Expiry Date: **30-June-2023**

Product Details	Quantity
IBM Security Guardium Data Protection for Databases Resource Value Unit (MVS) License + SW Subscription & Support 12 Months	16
IBM Security Guardium Vulnerability Assessment for Databases Resource Value Unit (MVS) License + SW Subscription & Support 12 Months	16
IBM Security Guardium Collector Software Appliance Install License + SW Subscription & Support 12 Months	06
IBM Security Guardium Aggregator Software Appliance Install License + SW Subscription & Support 12 Months	02

Note: Local support from the partner should be quoted separately; SLA will be signed for support from local partner; payment terms for local support will be defined in the SLA.

Technical Evaluation Criteria

Sr. No.	Attributes	Details	Weightage
1.	SW Subscription & Support	01 Year for mentioned quantities	MUST
2.	Partnership	Valid Principal Partnership Letter	MUST
3.	Local support	SLA will be signed for support from local partner; payment terms for local support will be defined in the SLA.	MUST
TOTAL			--

- Bids NOT in compliance with the any MUST requirement (s) in the evaluation criteria will NOT be evaluated.
- Bids Found in compliance with all the MUST requirement (s) and quoted lowest price shall be selected.

DOCUMENTARY EVIDENCE

Name of the Bidder: _____

Bid against Reference No: _____

Date of opening of Bid: _____

Documentary evidence for determining eligibility of the bidders & evaluation of bids. Bidders should only initial against those requirements that they are attaching with the form. **Bidders are required to mark page number on each page of the bid and mention the exact page number of relevant documents in the table below.** Bidders are advised to attach all supporting documents with this form in the order of the requirement.

S#	Required Documentation	Signature of Bidder	Supporting Document's Name	Page Number in the Bid.
1	NTN Certificate			
2	GST Certificate			
3	Availability on Active Tax Payers List of FBR			
4	Registration/Incorporation/Business Certificate			
5	Affidavit(s)			
6	Bid Bond/Security (As applicable)			
7	Bid Validity period of 120 days (As applicable)			
8	Bidding documents duly signed/stamped			
9	Authorized Contact Number and Email Address.			

Note: Submission of bid against this invitation shall be considered acceptance of all terms and conditions

Format of Affidavit/Undertaking

Bidder must submit following undertaking (on stamp paper of Rs.100), failing which the bid shall be rejected

- a) I, Mr. S/o..... holding CNIC # from M/s Having Its business office at, do hereby solemnly affirm and declare as under;
- b) That M/s is not engaged, under investigation or offences or no proceedings are pending before FBR, Customs, NAB, any Judicial form, FIA or any other Govt. authority with respect to fraud, terror financing, money laundering etc.
- c) We also confirm that our firm has not been black listed by any National/International organization or forum and its entitled to carry out its business activities to the standard business ethics.
- d) That the Partner(s) / Officers of M/s..... have not been subject to financial crime. Nor they every compounded with their creditors in any capacity.
- e) The above statement is true to the best of my knowledge and belief and nothing has been concealed or is false.

Note: In case bidder is found in the list of “Blacklisted Firms-Pakistan” or related links at <https://www.ppra.org.pk/> then its bid shall be rejected

Name:

Signature

Stamp:

Agreement for Maintenance and Support Services for the IBM Guardium Solution deployed at SECP

SERVICE LEVEL AGREEMENT

This Service Level Agreement is made at Islamabad, on _____ 2023 (“Effective Date”) by and between:

Securities & Exchange Commission of Pakistan, a statutory body established in pursuance of the Securities and Exchange Commission of Pakistan Act, 1997 with its head office located at NICL Building, 63 –Jinnah Avenue Islamabad, Pakistan, (hereinafter referred to as “SECP” which expression shall, wherever the context so permits, mean and include its successors-in-interest, nominees, legal representatives, and permitted assigns) of the **ONE PART**;

AND

SUCCESSFULL BIDDER, a, (hereinafter referred to as “-----” which expression shall, wherever the context so permits, mean and include its successors-in-interest, nominees, legal representatives, and permitted assigns) of the **OTHER PART**.

SECP and SUCCESSFULL BIDDER may hereinafter collectively be referred to as the “**Parties**” and singly as “**Party**”.

RECITALS

WHEREAS:

- A. SECP requires services for maintenance and support services for the IBM Guardium Solution deployed at SECP (defined in Annexure A);
- B. SUCCESSFULL BIDDER represented that it has the requisite resources, necessary infrastructure, approvals, and skills to provide the Services to SECP as detailed herein; and
- C. Based on the representation of SUCCESSFULL BIDDER, SECP has agreed to avail the Services from SUCCESSFULL BIDDER on the terms and conditions as set out in this Agreement.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH and in consideration of the mutual covenants contained herein, the Parties do hereby agree, undertake and declare as under:

1. INTERPRETATION AND DEFINITIONS

1.1. In this Agreement, unless the context otherwise requires:

1.1.1. References to Clauses and Appendices are made to those of this Agreement;

- 1.1.2. Words importing one gender include the other gender;
- 1.1.3. References to persons include bodies corporate, firms, and unincorporated associations;
- 1.1.4. The singular includes the plural and *vice versa*;
- 1.1.5. References to all or any part of any statute or statutory instrument include any statutory amendment, modification, or re-enactment in force from time to time and references to any statute include any statutory instrument or regulations made under it;
- 1.1.6. The recitals to this Agreement shall form an integral part hereof;
- 1.1.7. The headings in this Agreement are for the purpose of reference only and shall be ignored in the interpretation of this Agreement; and
- 1.1.8. The following documents shall form and be read as an integral part of this Agreement:
 - ANNEXURE – A: Services/ Obligations
 - ANNEXURE – B: Payment Schedule
 - ANNEXURE – C: Escalation Matrix
- 1.2. In this Agreement, unless the context otherwise requires, the following terms shall have the following meaning:
 - 1.2.1. **“Agreement”** shall mean this agreement duly executed by the Parties, together with any other document(s) or Annexure(s) forming part of this agreement by mutual written consent of the Parties.
 - 1.2.2. **“Confidential Information”** means all proprietary and confidential information or Personal Data of the parties and those of their customers, clients or suppliers whether commercial, financial, technical, or otherwise (whether oral, in writing, machine readable or in any other form) and material (whether electronically recorded, in writing or otherwise) which by its very nature should obviously be treated as secret and confidential, and which the Parties desire to protect against unrestricted disclosure.
 - 1.2.3. Any information provided by SECP to execute the project or identified by either party during the project shall be treated as secret and confidential and SUCCESSFULL BIDDER shall be bound to not to disclose any such information at any time in future.
 - 1.2.4. **“Force Majeure Event”** is defined in Clause 8.
 - 1.2.5. **“Charges”** shall mean the charges payable by SECP to SUCCESSFULL BIDDER in consideration of the Services as specified in ANNEXURE “A”.
 - 1.2.6. **“Payment Schedule”** means the aggregate charges for the Services calculated in accordance and set out in ANNEXURE “B”.

- 1.2.7. **“Services”** means the services to be provided by SUCCESSFULL BIDDER to SECP under this Agreement as set out in detail under ANNEXURE “A”.
- 1.2.8. **“Service Levels”** means the levels of service to be delivered by SUCCESSFULL BIDDER.
- 1.2.9. **“Holidays”** means any day recognized locally as a public holiday.
- 1.2.10. **“Business Hours”** 08:00 AM – 05:30 PM (Pakistan Time).
- 1.2.11. **“Business Days”** Monday to Saturday except public holidays announced by the federal government of Pakistan.

2. TERM AND TERMINATION

- 2.1 This Agreement shall be deemed to be effective from the <starting date>, and shall remain in force and effect until <ending date>, unless terminated earlier by either Party in terms of Clause 2.2 below.
- 2.2 This Agreement may be terminated by either Party by giving fifteen (15) days prior written notice to the other Party. However, SECP may forthwith terminate this Agreement with / without assigning any reason(s) or / and upon the occurrence of any one of the following events, without prejudice to any of its rights under this Agreement or any applicable laws:
- 2.2.1 Any petition being presented or a resolution being passed for liquidation (whether compulsory or voluntary, not being merely a voluntary liquidation, for the purposes of amalgamation or reconstruction) or insolvency or appointment of receiver of the assets or undertaking or any part thereof of SUCCESSFULL BIDDER; or
- 2.2.2 SUCCESSFULL BIDDER suspends its business or loses the right to undertake the Services business; or
- 2.2.3 SUCCESSFULL BIDDER engages in any conduct prejudicial to the image and goodwill of SECP;
- 2.2.4 SUCCESSFULL BIDDER is found to be in violation of the non-disclosure agreement executed between the Parties on ___ day of __XX, XXXX__;
- 2.2.5 SUCCESSFULL BIDDER fails to deliver the services under this Agreement effectively.
- 2.3 In the event of any material breach by either Party of its obligations hereunder, the breaching Party shall have fifteen (15) days from receipt of notice from the non-breaching Party to rectify the breach after which time this Agreement shall stand terminated, and the Party affected by the breach shall have a right to claim damages in terms of Clause 7.
- 2.4 Upon termination, neither Party shall have any rights nor obligations to the other Party except as stated in this Agreement and accrued prior to the date of termination notice served by either Party. However, all rights and obligations of the confidentiality clause accruing prior to the date of termination shall continue to subsist.

- 2.5 Further in case of termination with or without cause, SECP shall make payment to SUCCESSFULL BIDDER as per payment milestone mentioned in ANNEXURE “B”, and in case the milestone is not clearly met by SUCCESSFULL BIDDER then, SECP will make payment to SUCCESSFULL BIDDER for services rendered to SECP on pro-rata basis until date of termination.

3. SERVICES / OBLIGATIONS OF SUCCESSFULL BIDDER

SUCCESSFULL BIDDER shall provide the Services as set out under ANNEXURE “A”.

4. OBLIGATION OF SECP:

- 4.1 SECP will release full payment of order in accordance with below criteria:

4.1.1 SUCCESSFULL BIDDER shall raise quarterly invoices for the support services as mentioned in ANNEXURE “B”. From the date of receiving invoice, SECP shall have 30 days to make a payment, failing which shall lead to non-availability of services from SUCCESSFULL BIDDER.

5. PAYMENT TERMS

- 5.1 In consideration of the covenants and agreements to be kept and performed by SUCCESSFULL BIDDER and for the faithful performance of this Agreement, SECP shall pay and SUCCESSFULL BIDDER shall receive and accept (as full and final compensation for the Services furnished by SUCCESSFULL BIDDER under this Agreement) the payments as per ANNEXURE “B” attached hereto.
- 5.2 It is expressly agreed between the Parties that the payment to be made by SECP to SUCCESSFULL BIDDER for the Services rendered shall be fixed price during the entire duration of this Agreement without any revisions or negotiations in the price during the tenure of this Agreement.
- 5.3 All or any payment(s) to be made by SECP to SUCCESSFULL BIDDER shall be made subject to deduction of applicable taxes and levies.
- 5.4 The payments to be made to SUCCESSFULL BIDDER in terms of this Clause 4 shall constitute the entire remuneration to SUCCESSFULL BIDDER in connection with the Services provided under this Agreement, and neither SUCCESSFULL BIDDER nor its personnel shall accept any trade commission, discount, allowance, or indirect payment or other consideration in connection with or in relation to this Agreement or to the discharge of the Services hereunder.
- 5.5 In case any invoice is disputed by the SECP. The amount in dispute shall be settled by mutual consultation between the Parties and payment terms will be applied after resolution of dispute.

6. CONFIDENTIALITY

- 6.1 Any / All information concerning SECP which is provided to execute the project or identified by either Party during the project to SUCCESSFULL BIDDER and *vice versa* in connection with this Agreement (“Confidential Information”), shall be kept confidential by either Party,

its affiliates, agents, advisors, directors, officers, or employees, and, without the prior written consent of the other, each shall not:

- 6.1.1 distribute or disclose any of the Confidential Information in any manner whatsoever; or
- 6.1.2 permit any third-party access to the Confidential Information; or
- 6.1.3 use the Confidential Information for any purpose other than as agreed in prior writing by the Party providing the information.

6.2 In the event that the either Party received a request to disclose all or any part of the Confidential Information under the terms of a valid and effective subpoena or order issued by a Court of competent jurisdiction or by a government body, such Party agrees to promptly notify the other Party of the existence, terms, and circumstances surrounding such a report prior to disclosing any such information, so that the either Party may seek an appropriate injunctive relief to safeguard the Confidential Information. If the Party is compelled to disclose any of the Confidential Information, it will disclose only that portion thereof which it is compelled to disclose and shall use its best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to the Confidential Information so disclosed. Confidential Information shall not include any information which:

- 6.2.1 even if it has become generally available to the public through no fault or action of the receiving Party; or
- 6.2.2 is in the possession of the receiving Party prior to the date hereof, provided that such information is not known by the receiving Party to be subject to another non-disclosing agreement and further provided that such information was obtained independently and without the assistance of the sending Party; or
- 6.2.3 is or becomes available to the receiving Party on a non-confidential basis from any third party, the disclosure of which to the receiving Party does not violate any contractual, legal or fiduciary obligation such third party has to the sending Party.

6.3 Without limiting the generality of the foregoing, neither Party will publicly disclose the existence of or the terms of this Agreement without the prior written consent of the other. Furthermore, neither of the Parties will make any use of Confidential Information of the other Party except as contemplated by this Agreement; acquire any right in or assert any lien against the disclosing Party's Confidential Information except as contemplated by this Agreement; or refuse to promptly return, provide a copy of or destroy such Confidential Information upon the request of the disclosing Party, save for when destruction of such information would result in an impediment in the receiving Party's performance of this Agreement. In such an event, the receiving Party shall promptly inform the disclosing Party in writing of its inability to do so, state clearly the reasons thereof and the time period in which the request will be complied with. The obligations of confidentiality herein shall remain in full force and effect during the life of this Agreement and shall survive the termination of this Agreement.

7. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 7.1 In the event of any breach by SUCCESSFULL BIDDER of its obligations, warranties and / or responsibilities under this Agreement, SUCCESSFULL BIDDER shall hold SECP, its subsidiaries, affiliates, officers, directors, employees and representatives harmless and indemnified from and against any and all losses (including without limitation any personal injury or death of any person), damages, claims, costs, liabilities, payments and obligations and all expenses (including without limitation reasonable legal fees) incurred, suffered, sustained or required to be paid, directly by or sought to be imposed upon SECP or its subsidiaries, affiliates, officers, directors, employees and representatives.
- 7.2 SUCCESSFULL BIDDER shall maintain the highest professional code of conduct in its dealings. SUCCESSFULL BIDDER, its partners, employees, contractual staff etc. shall be responsible for any loss, delay, or inconvenience caused to SECP by an act, omission, or negligence with respect to the Services and disclosure of Confidential Information or breach of any of the terms of this Agreement. This is without prejudice to any other rights available to SECP under this Agreement or any other applicable laws.
- 7.3 Without prejudice to the generality of the other provisions hereof, SECP shall not be liable or responsible in any manner whatsoever in the event of any personal injury, including death caused to, due to the provision of SUCCESSFULL BIDDER's Services or for losses, claims, damages whatsoever or howsoever caused, legal proceedings (if any), arising directly or indirectly in connection with the Services. Notwithstanding the generality of the above, SECP expressly excludes liability for claimed consequential loss or damage or loss of profit, business, revenue, goodwill or anticipated savings.

8. FORCE MAJEURE

- 8.1 Parties shall not be liable nor responsible for any non-performance of any obligation or losses arising out of any delay in or interruption of the performance of its obligations under this Agreement caused by any cause which is beyond the affected Party's reasonable control, including but not limited to, acts of God, act of governmental authority, act of the public enemy or due to war or terrorism, the outbreak or escalation of hostilities, riot, civil commotion, insurrection, (including without limitation, any strike or other work stoppage or slow down), severe or adverse weather conditions, communications line failure, or other similar cause ("**Force Majeure Event**").
- 8.2 Upon the happening of a Force Majeure Event which continues for more than fourteen (14) days, SECP may elect to terminate this Agreement with immediate effect or suspend the performance of this Agreement in whole or in part for the duration of the Force Majeure Event. In the event of termination, the Parties shall settle all outstanding amounts owing to the other immediately prior to the occurrence of such Force Majeure Event.

In the event that the Services or any part thereof is suspended on account of any Force Majeure Event, no fee shall be payable pursuant to this Agreement for the Services or any part thereof throughout the duration of such event but SECP shall continue to pay in accordance with Clause 4 for all outstanding amounts and all other charges billed for the Services preceding the effective date of suspension.

9. MEDIATION / ARBITRATION / DISPUTE RESOLUTION

- 9.1 This Agreement shall be governed by the laws of the Islamic Republic of Pakistan.
- 9.2 If at any time, any differences or disputes arise between the Parties which cannot be resolved by informal negotiation in a shorter time as reasonably possible, then either Party may give the other Party notice in writing of the existence of dispute, specifying the nature and extent of the disputed points at issue, and the Parties shall then proceed expeditiously and in good faith to resolve such matters by formal consultation and negotiation.
- 9.3 If the Parties are unable to resolve the matters in dispute within a period of fifteen (15) days immediately commencing from the date of original notice of the dispute(s), then all such dispute(s) shall be finally settled through arbitration by a sole Arbitrator mutually appointed by the Parties, or appointed by the Court in case of dispute as to the appointment of Arbitrator who shall act under the provisions of the Arbitration Act 1940. The arbitration shall be in accordance with Pakistani laws and place will be Islamabad, Pakistan and the language of the proceeding shall be English

10. SEVERABILITY

- 10.1 If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. In such case, the Parties shall make every effort to replace the ineffective provision with a new provision which has the same effect, or as approximate an effect as possible as the said provision.

11. THIRD PARTY RIGHTS

- 11.1 A person who is not a party to this Agreement has no right to enforce any term of this Agreement.

12. NOTICES

- 12.1 Any notice or other communication given or made or in connection with the matters contemplated by this Agreement shall be in writing and served to a Party at its address as specified in this Clause 12 (or any other address it has notified to the other Party in accordance with this Clause 12) as follows: by hand; by registered post; or by other electronic method of communication agreed in writing from time to time between the Parties.
- 12.2 Notices or communications sent by registered post will be deemed to have been served on the date that such mail is delivered. Notices or communications sent by fax will be deemed to have been served on the day of transmission if transmitted before 3.00pm in working days in the time zone of receipt but otherwise on the next day. In all other cases, notices and communications will be deemed to have been served on the day when they are actually received.
- 12.3 Notices to SUCCESSFULL BIDDER will be sent to:

Attention:

Address:

Fax:

Notices to SECP will be sent to:

Attention:

Address: 63 NIC Building, Blue Area, Jinnah Avenue Islamabad

Fax:

AMENDMENTS

12.4 This Agreement may only be amended / modified in prior writing and signed by both Parties.

13. SUCCESSFULL BIDDER UNDERTAKINGS

13.1 SUCCESSFULL BIDDER agrees and undertakes that,

13.1.1 It shall supervise and direct the performance of Services competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Services in accordance with this Agreement. SUCCESSFULL BIDDER shall be solely responsible for the means, methods, techniques, sequences, and procedures used, and to see that the Services, when completed or finished complies accurately with the terms of this Agreement;

13.1.2 It shall exercise all reasonable skill, care, and diligence in the discharge of the Services agreed to be performed by it under this Agreement. If in the performance of the Services, SUCCESSFULL BIDDER has a discretion exercisable as between SECP and any third party concerned, SUCCESSFULL BIDDER shall exercise its discretion fairly;

13.1.3 It shall in all professional matters act as a faithful adviser to SECP;

13.1.4 It shall retain full responsibility for all the Services which it is committed to render under this Agreement;

13.1.5 It shall give all notices and comply with all the laws and regulations applicable to furnishing and performance of the Services. SECP shall not be responsible for monitoring SUCCESSFULL BIDDER' compliance with any laws or regulations;

13.1.6 The Services will be carried out by professionals qualified to perform in a timely and efficient manner and with all reasonable skill and care;

13.1.7 It will employ such number of persons as may be required for carrying out and discharging obligations, duties, and responsibilities, and for providing adequate, effective, and efficient Services. All such persons shall be directly employed by SUCCESSFULL BIDDER, who shall as employer be directly and solely responsible for all such employees and personnel and for the payment of their wages, salaries, and other benefits; and

13.1.8 SUCCESSFULL BIDDER and its employees shall respect the laws and customs of Pakistan.

14. WARRANTIES AND REPRESENTATIONS

- 14.1 Both Parties warrant to each other that they have duly obtained all necessary consents and regulatory approvals from their respective competent authorities to enter into this Agreement.
- 14.2 Each Party represents and warrants to the other Party that neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated herein, will violate or conflict with:
 - 14.2.1 its constitutional documentation;
 - 14.2.2 any material provision of any agreement or any other material restriction of any kind to which it is a party or by which it is bound;
 - 14.2.3 any material statute, law, decree, regulation, or order of any governmental authority; or
 - 14.2.4 any arrangement whereby it has not paid any collateral amounts to the other Party or any of its officer with regard to the award of contract hereunder or its performance.
- 14.3 SUCCESSFULL BIDDER will use all reasonable care, skill and diligence in carrying out their obligations, duties, and responsibilities under this Agreement.
- 14.4 Any and all intellectual property rights (legal and beneficial) accruing and attributable to a Party during the course of performance of its respective obligations under this Agreement shall vest in and with that Party.
- 14.5 Each Party represents and warrants to the other Party that there are no material actions, legal or administrative which adversely affects its ability to execute and perform its obligations under this Agreement.
- 14.6 SUCCESSFULL BIDDER acknowledges that SECP has entered into this Agreement on the basis of the representations and undertakings made by SUCCESSFULL BIDDER throughout this Agreement.

15. USE OF NAMES, LOGOS AND REPORTS

- 15.1 Unless otherwise required by this Agreement, none of the Parties shall use or disclose to third parties the names, logos, or reports of each other without the prior written consent of the concerned Party.

16. INTELLECTUAL PROPERTY

- 16.1 SUCCESSFULL BIDDER agrees it shall not use any of SECP's names, logos, trademarks, trade secrets, copyrights, patents, designs, and other intellectual property rights without the prior express written consent of SECP.
- 16.2 Without prejudice to the other provisions of this Agreement, any infringement of intellectual property rights by SUCCESSFULL BIDDER in respect of any such items shall be deemed to be a material breach of a condition of this Agreement, and shall entitle SECP to terminate this Agreement forthwith upon prior written notice to SUCCESSFULL BIDDER.

17. DAMAGE TO PERSONS AND PROPERTY

- 17.1 SUCCESSFULL BIDDER shall indemnify, defend, and hold harmless SECP, all personnel in the service of SECP, and its directors and shareholders against all losses, expenses, liabilities, and claims for any injuries suffered by any SUCCESSFULL BIDDER employee at the SECP premises or personal injury including death of any SUCCESSFULL BIDDER employee, or damage to any SECP property whatsoever, which may arise out of or in consequence of the operation of the Services, as well as against all claims, demands, costs, charges, and expenses, whatsoever in respect of or in relation thereto.
- 17.2 SECP or any personnel in the service of SECP and its directors and shareholders shall not be liable for or in respect of any damages or compensation whatsoever payable at law or otherwise in respect of or in consequence of any accident or personal injury including death of any workmen or other person in the employment of SUCCESSFULL BIDDER.
- 17.3 Notwithstanding anything contrary to the aforesaid provisions, if the designated personnel of SUCCESSFULL BIDDER are unable to provide the Services to SECP for more than three (03) consecutive days for any reason whatsoever, SUCCESSFULL BIDDER will have to immediately depute other designated personnel with same expertise and knowledge to provide such Services to SECP and such designated personnel shall continue providing such Services on the terms and conditions mentioned in this Agreement.

18. COMPLIANCE WITH LAWS

- 18.1 SUCCESSFULL BIDDER shall comply with all applicable laws, ordinances, regulations, and codes concerning SUCCESSFULL BIDDER's obligations as an employer with regard to the health, safety, and payment of its employees, and identification and procurement of required permits, certificates, approvals, and inspections during the performance of this Agreement.

19. PROHIBITION/RESTRICTION TO SUBCONTRACTING:

- 19.1 Neither the Agreement, nor any of the rights and obligations under it may be sub-contracted or assigned for any reason whatsoever.

20. PENALTY CLAUSE:

- 20.1 SUCCESSFULL BIDDER will be responsible to pay SECP 1 % of the project value excluding taxes per week subject to a maximum of 5%, in case any completion period of any activity is delayed for more than one week as indicated in project plan (if applicable).
- 22.2. However, following exceptions applies to penalties clauses mentioned above
- 22.2.1. Where delay attributes to a situation of Forced Majeure;
- 22.2.2. Pre-requisites to ensure timely services are not met by SECP; and/or
- 22.2.3. An exclusive extension granted by SECP or its representative to SUCCESSFULL BIDDER.

21. ESCALATION MATRIX:

- 21.1 Refer to **ANNEXURE C** for detailed escalation matrix.

22. FINANCIAL INTEGRITY

22.1 SUCCESSFULL BIDDER hereby undertakes and affirmed on oath against SLA (Service Level Agreement) dated <date> on below mentioned points;

22.1.1 have not been adjudged an insolvent;

22.1.2 There is no execution of decree of any court remains unsatisfied against SUCCESSFULL BIDDER;

22.1.3 not compounded with the creditors;

22.1.4 never been convicted of a financial crime

23. UNAUTHORISED SOLICITATION OF EMPLOYEES

23.1 During the term of this Agreement neither Party shall without the prior written consent of the other Party solicit any person who at the commencement of this Agreement is a fulltime employee of such Party

24. NON-AGENCY

24.1 In the conduct and performance of this Agreement, the Parties shall always be regarded as independent entities, and not as partners, agents, or employees of the other Party.

25. TIME IS ESSENCE

25.1 TISS understands that time is of the essence of this Agreement and it shall take all necessary steps to commence (and cause and ensure continuance of) the provision of the Services to SECP, immediately commencing from the date of signing of this Agreement, and in case timelines not met by SUCCESSFULL BIDDER as quantified by SECP, it shall invoke clause 21 of this agreement.

26. WAIVER

26.1 No waiver by either Party of any default by the other in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorized representative of the Party, and no such waiver shall operate or be construed as a waiver of any other or further whether of alike or of a different character.

27. ENTIRE AGREEMENT

27.1 These terms and conditions constitute the entire agreement between the Parties and supersede all prior communications, proposals, understandings, and agreements, written or oral between the Parties with respect to the subject matter of this Agreement.

28. RIGHT TO AUDIT & INSPECTION

28.1 Both Parties agree, upon reasonable prior notice, to allow the requesting Party, its auditors and / or regulators (including SUCCESSFULL BIDDER's regulator), to inspect, examine, and audit

any operational and business records of the other Party, which are directly relevant to the Services as set forth in this Agreement

29. BUSINESS CONTINUITY MANAGEMENT

- 29.1 The services/scope of engagement outlined in this Agreement is essentially Human Resource dependent. To ensure uninterrupted services, we have teams and offices present across Lahore, Karachi, & Islamabad/Regions so, in case there is any issue with one team/office, immediately the team from other region can take over to ensure uninterrupted services for SECP.
- 29.2 Further, for continuous provision of quality/tailored security experts to cater the evolving requirements and ensure backups, SUCCESSFULL BIDDER continuously onboard, train, and then select/hire security experts throughout the year under its “Trainee Program”.

30. RENEWAL

- 30.1 The Agreement is only limited to the activities as mentioned in the **Annexure ‘A’**.

IN WITNESS WHEREOF the Parties, acting through their duly authorized representatives, have put their respective hands on this Agreement on the day month and year hereinabove mentioned.

For and on behalf of

**SUCCESSFULL BIDDER
Pakistan**

Name:

Designation:

Date:

Seal:

Witness 1

Witness 2

For and on behalf of

Securities & Exchange Commission of

Name:

Designation:

Date:

Witness 1

XXXXXX

XXXXXX

Witness 2

XXXXXX

XXXXXX

ANNEXURE A

SERVICES / OBLIGATIONS

1. Scope of Work:

Key Features	Standard
Software downloads, updates, and maintenance + Hardware Warranty/Support (PR+DR)	As per concerned principal policy, details mentioned below
Technical support via email	Included
Technical support via phone	Included
Technical support via remote session	Included
Onsite support availability	Included

* Onsite Support Availability Limited to Islamabad/Rawalpindi, Lahore & Karachi

Definitions

“Business Hours” 08:00 AM – 05:30 PM (Pakistan Time) during Business Days only

“Business Days” Monday to Saturday except public holidays announced federal or provincial governments of Pakistan

“Support/Reports Language” English

“After Office Hours Contact” Mentioned below

1.1 Technical Support via Email:

If you have an issue with deploying, managing, or troubleshooting IBM products, our experts are just an email away. Your email would be promptly responded by SUCCESSFULL BIDDER Professionals through our Ticketing System. The support via email would continue till the problem scope is resolved positively and effectively.

1.2 Technical Support via Phone:

If you require a quick resolution to your issue, our experts are ready to help you via phone call. Our Certified Professionals are equipped and skillful enough to resolve your issues through calls. A call registered to our experts and provided support is documented through our Ticketing System, which helps in establishing proper and accurate support level at all times.

1.3 Technical Support via Remote Session:

Want us to remotely access your network and help you with your deployment, management, and troubleshooting. No problem, our experts would readily help you through a remote session. Our Certified Professionals would assist, guide, and train you during the resolution of your support query. In order to keep our support level standards, we would register all remote session support requests on our Ticketing System.

1.4 Per Month Support Cases:

Based on the Support Service Subscription, you can register support cases. The support case is defined as any issue or support request registered with our Experts. Per month support cases include support provided via Email, Phone, Remote Session and onsite visit.

1.5 Principal Support Services Software Downloads, Updates and Maintenance etc.:

For reference please see

IBM: <ftp://ftp.software.ibm.com/software/server/handbook/webhndbk.pdf>

https://www-01.ibm.com/software/passportadvantage/software_subscription_support_ov.html

1.6 Onsite Support Availability:

In case you want the presence of our Certified Professional in your premises, based on your Support Service Subscription, our experts would duly provide support onsite. Our experts would assist and train you along with the resolution of issue, ensuring full knowledge transfer and high support standards. In order to maintain further the effectiveness of support provided, all onsite support requests would be logged, registered and communicated through SUCCESSFULL BIDDER' Ticketing System.

2. **Service Limitations:**

SUCCESSFULL BIDDER would not be liable and would not take responsibility in following possible scenarios, if:

- A. The product in use itself needs a tweak on software level.
 - a. The product renewal is not in place with the principal.
- B. The environment in which the product is being used do not conform the standard norms.
 - a. Using altered or obsolete operating systems, for example.
- C. A well-defined scope and probable resolution are not being followed by the customer.
 - a. Scope creep would not be entertained with existing support case.
 - b. A new support case needs to be registered to accommodate new issues.
- D. Customer does not fully cooperate with the Support Engineer.
 - a. A nominated resource should be with the Support Engineer at all times during the onsite

visits and remote sessions.

- E. A problem has been accepted by the principal with resolution pending till new release / patch.

3. Support Procedure:

- 3.1. Customer requests for support on the email: <email@address> or through telephone call.
- 3.2. The support request is registered in SUCCESSFULL BIDDER's helpdesk system and a ticket is generated. All further communication related to the support request is carried out on this ticket. A ticket assigns a unique identifier (a unique number) to each support request.
- 3.3. After successful ticket generation, a ticket email is sent to the customer. The ticket email assures customer that the support request has been registered and guides on how to use the ticket further. Similarly, the ticket is assigned to one of support engineer, who becomes the owner of the ticket.
- 3.4. The support engineer after successfully analyzing and diagnosing the problem communicates the relevant solutions to the customer till the problem is solved and support request is fulfilled. The support is provided through email, telephone or remote sessions.
- 3.5. Once the problem is solved successfully, ticket closing request is sent to the customer along with the feedback form.

After the ticket closing request is accepted by the customer, the ticket is closed successfully.

ANNEXURE B

Payment Schedule

ANNEXURE C

Escalation Matrix

Support Escalation:

S.N	Contact Name	Designation	Contact Email	Level
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

- **Level 3** – Complex Level Support
- **Level 2** – Intermediate Level Support
- **Level 1** – Basic Level Support

Support Response Time:

S. N.	Severity	Response Time
1.	High	02 business hours
2.	Moderate	04 business hours
3.	Low	06 business hours

- **High Severity** means a critical issue which affects business continuity and causes the Product(s) or OS crash, insecure default settings, and security issues and there is no workaround available.
- **Moderate Severity** means a moderate issue which affects product functionality but does not cause data corruption / loss or software crash.
- **Low Severity** means a non-critical issue or feature request which does not affect main product functionality

If support team is not able to resolve the issue within stipulated time lines then following escalation matrix will be applicable.

Note: Attached agreement is a sample agreement and terms and conditions may change at the time of signing off by both parties with mutual agreement.