

MAINTENANCE SUPPORT CONTRACT FOR DC UPS

This Maintenance support contract (the “**Agreement**”) is made and executed at Islamabad and it is effective from , till

BETWEEN

Security & Exchange Commission Of Pakistan, a financial regulatory body incorporated under the laws of Pakistan, having its registered/principal office at Blue Area Islamabad, Pakistan, (hereinafter referred to as the “**SECP**”, which term shall include its successors in interests, administrators and assigns), of the one part;

AND

XYZ, a company incorporated under the laws of the Islamic Republic of Pakistan and having it registered office at (hereinafter referred to as the “” which expression shall unless repugnant to the context include its successors-in-interest and permitted assigns) of the second part.

(is hereinafter collectively referred to as the “**Contractor**”).

(**Security & Exchange Commission Of Pakistan** and the Contractor shall hereinafter be individually referred to as a “**Party**” and collectively as the “**Parties**”).

WHEREAS the Contractor is in the business of providing support, repair maintenance and replacement services for Uninterrupted Power Supply Systems (the **UPS**”) and allied equipment together with all relative parts of all.

AND WHEREAS the Contractor has represented to and assured SECP that the Contractor is possessed of adequate and satisfactory know-how, expertise, skills, manpower, and resources to effectively undertake the tasks and fulfill responsibilities envisaged in this Agreement to the complete satisfaction of SECP and enjoys good reputation in this business;

AND WHEREAS SECP, relying upon the representations and assurances of the Contractor, is desirous of appointing the Contractor for the purpose of providing Services (as defined hereunder) relating to the Equipment (as defined hereunder and detailed in **Annex-A [List of Equipment]** attached hereto), to SECP’s complete satisfaction and in accordance with SECP’s specifications and requirements as elaborated in this Agreement and as modified by SECP from time to time.

AND WHEREAS the Parties, having agreed on the terms and conditions in accordance with which the Service Provider shall provide the Services in terms of the Agreement, are desirous of reducing such understanding(s) into writing.

NOW THEREFORE, in consideration of mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS:

In this Agreement, the following words and expressions shall have the meanings assigned to each of them as defined hereunder, except where the context otherwise requires:

“**Agreement**” means this Agreement and all the Annexes attached with it as amended or modified with mutual consent of the Parties.

“**Back-up Equipment**” includes equipment which is temporarily provided and installed by the Contractor as a standby arrangement, in place of the SECP out of order, faulty, defective or damaged Equipment, being at least of the same make, specifications, and capacity as that of the SECP out of order Equipment in order to fulfill its obligations herein contained and to ensure SECP interruption-free business operations. “**Commencement Date**” means the date of signing of this Agreement as mentioned herein above.

“**Equipment**” means UPS and all/any related parts listed in **Annex-A [List of Equipment]** attached hereto as modified by SECP from time to time;

“**Response Time**” means the time interval of maximum of [30] minutes between a Service Call from SECP and arrival of the Contractor’s technical staff at the relevant Site of SECP

“**Preventive Maintenance**” means the pre-scheduled check-up/inspection of the Equipment conducted by the Contractor to make sure that the Equipment is in sound working condition and in order to prevent any potential fault, breakdown, defect or problem as described in **Annex-B [Scheduled Preventive Maintenance]** hereto.

“Services” include repairs, restoration, maintenance, replacements, installations, Preventive Maintenance services in respect of the Equipment to be provided by the Contractor pursuant to the terms of this Agreement as specifically detailed in Clause 5 and **Annex-C [The Services]** hereto, in order to keep each of the Equipment, or any part(s) thereof, in a trouble-free, fully effective, smooth running and best operational condition by ensuring round-the-clock availability of qualified technicians, engineers and/or other technical personnel twenty four hours a day seven days a week during the term of this Agreement. Services shall also include all other relevant/allied services including refueling of Equipment required by **SECP** from time to time in order to ensure that the Equipment, or any part(s) thereof, is in a trouble-free operational condition.

“Service Call” means intimation/fault report/complaint from SECP to the Contractor under the terms of this Agreement, informing the Contractor about breakdown, non-functioning, defective performance or any other problem relating to the Equipment. “Site” & “Sites” means the places where the Equipment including the UPS is installed or lying as amended, modified and/or increased from time to time by SECP.

2. INTERPRETATIONS:

2.1 In this Agreement (except where the context otherwise requires):

- a) words in singular include plural and vice versa and words importing any gender include every genders;
- b) references to persons include individuals, firms, partnerships, companies, corporations, unincorporated associations, governments, authorities, agencies and trusts (in each case, whether or not having separate legal personality);
- c) any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- d) reference to clause(s) and Annexes are to clause(s) and Annexes of this Agreement;
- e) capitalized expressions used in this Agreement shall have the meanings respectively assigned to them elsewhere in this Agreement.
- f) headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement;
- g) the Annexes form integral part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Annexes;
- h) unless otherwise qualified, reference to days, months or years shall be read to mean calendar days, months or years; and
- i) words and phrases used herein shall have the meaning generally understood in the industry.

3. SCOPE OF THE CONTRACT

3.1 This Agreement, *inter alia*, sets forth the terms and conditions for the provisioning of the services by the company as herein described and subject to the terms of the Agreement.

3.2 The Company agrees and accepts that it shall provide the services in terms of this Agreement and shall comply with all its obligations under the same.

4. AGREEMENT DOCUMENTS

4.1 This Agreement shall consist of the following documents:

- a) Agreement.
- b) the following Annexes:
 - i) Annex-A: “List of Equipment”
 - ii) Annex-B: “Schedule of Preventive Maintenance”
 - iii) Annex-C: “Scope of Services”
- c) Any documents as are incorporated by reference.

4.2 The Agreement and the Annexes shall be read in conjunction and in case of any conflict therein the same shall be construed and interpreted in a manner which makes the performance of Services by the Contractor in a more effective and efficient manner for the intents and purposes herein contained.

5. SERVICES

During the term of this Agreement the Contractor shall provide the Services herein contained and also enumerated in Annex B and Annex C hereto on twenty four hours, seven days a week and 5 Years (SLA) including any/all public and gazette holidays (without any exception):

5.1 Immediate Replacement of Parts/Spares

The Contractor shall be responsible for intimate the immediate replacement and installation of all or any parts/spares of the Equipment which are or become defective, malfunction, or break-down. Such replacement of parts/spares shall be part of this contract. The Contractor shall only use genuine and best quality parts according to the approved specifications of manufacturer while replacing any parts/spares of any of the Equipment. The Contractor shall not be charged SECP for such replacement Services and any/all replaced parts/spares shall become the property of SECP

5.2 Maintenance of Backup Parts

In order to ensure efficient and timely replacement of parts/spares, the Contractor shall maintain an adequate and sufficient inventory/stock of parts/spares of the Equipment so as to ensure that such parts/spares may be replaced in urgent and emergency situations.

5.3 Immediate Replacement of the Equipment with Back-up & Standby Equipment

In case of emergency or otherwise, if any Equipment cannot be repaired at the Site, and there is a need to remove such defective Equipment to be taken to the Contractor's workshop for repairs, the Contractor shall immediately replace the defective Equipment with Back-up Equipment till the time the defective Equipment is repaired and reinstalled. The Contractor hereby represents, undertakes, assures and guarantees to SECP that it has sufficient number of temporary Back-up Equipment for the purposes of installation in place of the defective Equipment as and when required. The Contractor shall provide and install Back-up Equipment within the time-lines provided in Annex-C attached hereof.

5.4 Quarter Preventive Maintenance

In order to keep each of the Equipment in a trouble-free and good operating condition, the Contractor shall, on proactive basis, undertake Preventive Maintenance every Quarter in respect of each of the Equipment strictly in accordance with the manufacturer's specifications as also enumerated in **Annex B** hereto. The Preventive Maintenance for each of the Equipment shall be carried out on the Site where such Equipment is installed or is being used. The scope of Preventive Maintenance shall extend beyond normal business hours. It is hereby clarified for convenience of the Parties that the Preventive Maintenance by the Contractor every quarter shall not be affected by, and shall be in addition to, all or any emergency inspections/check-ups of the Equipment made by the Contractor.

5.5 Remedial Maintenance

The Contractor shall, in response to a Service Call from SECP and within the time-lines provided in Annex-C, repair and fix any defective Equipment identified and reported by SECP. The Contractor shall respond to a Service Call on a "best effort basis" and in any case strictly within the time-lines provided in **Annex-C**.

5.6 Quarterly Reports

The Contractor shall submit quarterly reports to SECP on approved format with respect to all/any Services provided under the terms of this Agreement. The Contractor shall also maintain a service card for each of the Equipment and shall record every service activity with date and time in respect of such Equipment together with the allocated resources.

5.7 Establishment Of Service Centre

within a period of ten (10) days from the Effective Date, the Contractor shall establish and maintain full fledged service center, with adequate man-power and personnel equipped with swift transport facilities(ies) and related equipment/gear to ensure timely and speedy provisioning of Services in case of urgencies and emergencies and as required in terms hereof. SECP shall only be required to inform the service centre for service calls and other communiqué to the Contractor under this Agreement. The service centre shall, inter alia, contain the following facilities:

- a) 24X7 On-Call support;
- b) Manpower (skilled and unskilled);
- c) Transportation;
- d) Spare Parts Included
- e) Equipment & Tools;
- f) Preventive maintenance.

6. **SERVICE CALLS AND RESPONSE TIMES:**

- 6.1 The Contractor shall respond to Service Calls on urgent and priority basis and strictly in accordance with the time-lines provided in **Annex-C** to this Agreement.

- 6.2 All visits by the technicians/personnel of the Contractor pursuant to Service Calls shall be unlimited and the Contractor shall not charge any extra amount for such visits other than the amount agreed to be paid to the Contractor by SECP under this Agreement.

7. REPRESENTATIONS & WARRANTIES OF THE CONTRACTOR

- 7.1 The Contractor warrants that the Services shall be executed and completed diligently, expeditiously and with due care, in a professional manner and in accordance with the terms of this Agreement and other agreed requirements and industry practice. The Contractor further warrants that the Services which are delivered to SECP shall be through skilled, qualified and expert resources and the Services shall not cause any defects and/or faults to the Equipment and the Equipment shall not malfunction in any manner whatsoever as a result of the Services to be rendered by the Contractor in terms hereof. The Contractor further warrants that all the parts/spares used shall be of best quality and shall conform to the specifications of the Equipment and shall approved by the manufacturer of the Equipment.
- 7.2 The Contractor undertakes to rectify all and any defects and/or shortcomings pointed out by SECP or otherwise, with regard to the Services, immediately and at its own cost.
- 7.3 If the Contractor fails to make repairs in response to a Service Call, SECP shall, at its own option and at the cost of the Contractor, have the right to carry out or caused to be carried out the required the services only, by a third party, and in case of any such repairs by a third party, SECP shall have the right, without prejudice to any other means of recovery, to deduct such cost from any sum which is due or may become due to the Contractor.

8. RESPONSIBILITIES OF SECP LIMITED:

- 8.1 So long as the Contractor duly fulfills its obligations contained herein and also duly responds to the Service Calls within the Response Time, SECP shall not permit anyone other than the Contractor to repair or perform maintenance on the Equipment.
- 8.2 SECP shall permit and provide the Contractor proper access to all the Equipment to be maintained under the terms of this Agreement.
- 8.3 SECP shall immediately notify the Contractor if the Equipment needs maintenance or is not operating correctly.
- 8.4 SECP shall not, during the term of this Agreement, unnecessarily undertake any alteration to the Equipment except without notice to the Contractor.
- 8.5 SECP's designated person/employee shall accompany the Contractor for entering into and leaving the Site in the course of provision of Services under this Agreement.
- 8.6 Throughout the Term of this Agreement, SECP shall keep all the Equipment within the prescribed environmental conditions stipulated by the manufacturer of the Equipment in documentation accompanying the Equipment.

9. RATES AND PAYMENTS

- 9.1 The total 5 Years price payable for Services provided by the Contractor under this Agreement is---. The Total Price shall be inclusive of all Services and things to be done by the Contractor in terms hereof and shall remain fixed for the duration of this Agreement and the Contractor shall not be entitled to any amounts whatsoever other than the Total Price for performance of all Services hereunder. Provided that the payment of Total Price to the Contractor under this Agreement shall be subject to all withholding taxes and/or other deductions applicable under the laws of Pakistan.

- 9.2 The Total Price shall be paid by SECP on half yearly advance basis.

- 9.3 For avoidance of any doubt, it is hereby clarified that the Total Price shall be inclusive of all costs, charges and expenses which the Contractor may incur in the course of providing and completion of the Services under this Agreement, including but not limited to traveling, logistic, or other allied matters and costs.

10. COMPLIANCE WITH POLICIES, LAWS AND REGULATIONS:

- 10.1 The Contractor shall ensure that its personnel abide by all relevant SECP policies and procedures, as well as all relevant SECP instructions valid for SECP's personnel.
- 10.2 The Contractor shall comply with the provisions of all applicable laws and regulations (including procurement of all licenses, permits, certificates or other approvals) and the requirements of different industry standards applicable to performance of the Services. All the Services shall be performed by the Contractor in accordance with SECP's normal standards and requirements. Such standards and requirements may at any time be amended or changed by SECP, of which the

Contractor shall be informed within reasonable time before such amendments or changes take effect.

11. PERSONNEL:

11.1 The Contractor shall engage and hire skilled, trained and expert personnel required to perform its obligations under this Agreement and such personnel shall at all times remain in the employment, and under the administrative control, of the Contractor.

11.2 SECP shall not, during the Term of this Agreement, solicit the employees of the Contractor or otherwise offer permanent or temporary employment to the Contractor's employees.

12. SAFETY, HEALTH, ENVIRONMENT, ALCOHOL AND DRUG POLICY ETC.:

12.1 The Contractor shall be responsible for safety of persons and property during the performance of Services at the Site/premises where the Equipment is installed or being used, and shall take reasonable measures to ensure that it provides and maintains a safe working environment and properly protect (i) all persons at the Site from risk of injury and danger to health, and (ii) property from damage or loss.

12.2 The Contractor shall not permit a hazardous, unsafe, or environmentally unsound condition or activity over which it has control to be conducted at the Site where the Services are being provided. If the Contractor becomes aware of any such hazardous, unsafe, or environmentally unsound condition or activity at the Site, it shall promptly take reasonable steps to eliminate, terminate, abate or rectify the condition or activity and notify SECP of the same. If SECP becomes aware of any such condition or activity prior to notice from the Contractor regarding the same, it shall promptly notify the Contractor of the said condition and/or activity.

12.3 The Contractor shall ensure that tools, equipment, temporary facilities and other items used during the performance of the Services, which are provided by the Contractor, are safe and capable of safely performing the functions for which they are ordinarily employed.

12.4 The Contractor shall keep the Site clear of scrap materials and rubbish caused by the Contractor's performance of the work and promptly after completing the task shall remove all remaining materials (packaging etc.) from the premises and shall leave the Site clean and ready for use.

12.5 SECP shall have the right, but not the obligation, to inspect at reasonable times the provision of the Services and appropriate work records to ascertain the Contractor's compliance with the safety, health and environmental requirements of this Agreement; however, neither the existence nor exercise of such right shall relieve the Contractor of its responsibility for monitoring its own compliance with the safety, health and environmental requirements of this Agreement.

12.6 The Contractor shall ensure that its employees/personnel do not perform any work while under the influence of alcohol or any contraband substance. The Contractor shall also ensure that its employees/personnel do not use, possess, distribute or sell alcoholic beverages, illicit or un-prescribed controlled drugs, drug paraphernalia, or misuse legitimate prescription drugs while on SECP's premises or while performing the Services at the Site.

12.7 The Contractor shall remove any of its employees/personnel from performing their work any time there is reasonable suspicion of alcohol or drug use, possession, or any time an incident occurs where drug or alcohol use could have been a contributing factor.

13. CONFIDENTIALITY:

13.1 The Contractor shall keep confidential and not, without SECP's prior written consent, disclose to any third party any know-how, documentation and any information of a confidential nature ("**Confidential Information**"), whether of a commercial or technical character furnished by SECP pursuant to this Agreement, or found by the Contractor at any premises of SECP during the performance of this Agreement, and undertakes not to misuse such information or disclose it to any third party under any circumstances whatsoever.

13.2 The Contractor agrees to treat the Confidential Information as strictly confidential and shall not divulge, directly or indirectly, to any other person, firm, corporation, association or entity, for any purpose whatsoever, Confidential Information so received, and shall not make use of or copy such Confidential Information, except for the purpose of this Agreement. Such Confidential Information may be disclosed only to such of the employees/personnel of the Contractor who reasonably require access to such Confidential Information for the purpose for which it was disclosed.

13.3 The Contractor shall promptly notify SECP upon discovery of any unauthorized use or disclosure of the Confidential Information and take all reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breaches of this Agreement. Provided however, that notification and prevention of further unauthorized use and/or

disclosure of Confidential Information shall not absolve the Contractor from liability arising out of any breach under this Agreement.

- 13.4 The obligations of the Contractor under this clause shall continue to be valid after termination or expiration of this Agreement.

14. REPRESENTATIONS OF THE CONTRACTOR:

- 14.1 The Contractor hereby represents that the objective of the Services under this Agreement is to ensure round-the-clock, smooth, trouble-free, complete, effective and continuous operation of the Equipment in accordance with the requirements of SECP and hereby represents, warrants, assures and undertakes to SECP that it has the requisite experience, know-how, and expertise with respect to provision of the Services and, notwithstanding anything else contained herein, that the Services shall include all services necessary and required in order to achieve this objective.

- 14.2 The Contractor further represents that:

- a) It has the legal right and capacity to enter into this Agreement; and
- b) It shall comply with all laws, rules and regulations, whether local, regional or national which are applicable to any work and performance under this Agreement.

- 14.3 The Contractor hereby further represents to SECP that:

- a) The Contractor has sufficient experience, technical know how, manpower, and resources, etc., necessary for the provision of Services and performance of its obligations under this Agreement.
- b) The Services shall be executed and completed diligently, efficiently, expeditiously and responsibly with the greatest possible care, in a professional manner and in accordance with this Agreement and according to the requirements of SECP. The Contractor further warrants that the Services which are delivered to SECP shall be free from defects in skills, expertise, material and workmanship.
- c) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby have been duly and validly authorized and no other proceedings on part of any person are necessary to authorize this Agreement or to consummate the transactions contemplated hereby.
- d) The Contractor is in compliance with all permits/licenses/permissions, including temporary permits/licenses required for performance of this Agreement, and is in substantial compliance with all laws, rules and regulations of federal, state or local entities which may have jurisdiction over the Contractor, and that any failure of compliance on the part of the Contractor will not have an adverse effect on the Contractor's ability to enter, execute, deliver or consummate this Agreement.
- e) There are no proceedings pending, or threatened (i) for the Contractor's insolvency or bankruptcy or (ii) that could adversely affect the performance of the Contractor's obligations under this Agreement or the transaction contemplated hereby.
- f) The execution, delivery and performance of this Agreement and the transactions contemplated herein do not constitute a violation of any applicable law of Pakistan and/or any of the agreement/understandings to which any or each of the Parties are bound.

15. LIABILITY AND GENERAL INDEMNITY:

- 15.1 Notwithstanding anything else contained in this Contract:

- a) If the Contractor fails to provide the Services in terms hereof and:
 - i) in the manner required by SECP, or
 - ii) in the manner warranted by Company; and,
- b) SECP suffers any loss, damage, loss of profits, loss of reputation, loss of business, or becomes liable to pay any fines or penalties as a consequence of such failure;

The Contractor shall reimburse SECP for the full extent of such losses, damages, fines or penalties.

- 15.2 Each Party's total liability under or in connection with the breach of this Contract, including breach due to failure in performance of respective obligations hereunder and actions in bad faith whether in contract, tort or otherwise shall be limited as follows:

- a) In the case of SECP, to twenty percent (10%) of the Total Price; and,
 - b) In the case of Company, to one hundred percent (100%) of the Total Price.
- 15.3 A Party suffering loss or damages as a result of the breach of this Agreement by the other Party shall take reasonable measures to limit such loss or damage.
- 15.4 Notwithstanding anything contained in this Agreement, the Contractor shall fully indemnify and shall always keep indemnified SECP, its directors, officers, management, employees, agents and representatives on account of any violation, breach of any terms hereof or absence of any approvals, licenses, consents by the Contractor, with respect to all or any Services to be provided or performed by the Contractor under this Agreement and/or any claims of any third party. In case any penalty is imposed on SECP by any regulatory or government authority due to any act or omission by the Contractor and/or its employees, agents, officers, representatives then the Contractor shall be fully responsible for indemnifying SECP with respect to such penalty.
- 16. TAXATION:**
- 16.1 Notwithstanding anything contained hereof, all or any payment to be made by SECP to the Contractor shall be made after deducting all applicable taxes which SECP under the law is liable to deduct from any such payments.
- 16.2 The Total Price is inclusive of all taxes and the Contractor shall be responsible for payment of all applicable taxes, duties, levies, surcharges payable by it including but not limited to sales tax, the making of any withholding of direct or indirect taxes and payment of any income tax on applicable thereon and that no grossing up shall be allowed.
- 17. DISPUTE RESOLUTION AND GOVERNING LAW:**
- 17.1 This Agreement shall be governed, construed, and enforced in accordance with the laws of Pakistan, and the courts at Lahore shall have jurisdiction to adjudicate a dispute under this Agreement.
- 17.2 All disputes, differences or questions with respect to any matter arising out of or relating to this Agreement (“**Dispute**”) shall be resolved by both the Parties through mutual negotiations in good faith. Either party may inform the other Party about any such dispute through a notice in writing specifying the issue in dispute or the matter of difference. Within fifteen (15) days following receipt of such a notice the Parties shall endeavor to settle the issue through amicable negotiations. In case the issue raised through the notice cannot be settled within the period of fifteen (15) days from the date of issuance of notice with respect there to, the issue or matter shall be referred to Arbitration as provided hereunder.
- 17.3 Where the Parties are unable to resolve the Dispute within fifteen (15) days of it so arising, the same shall be referred to arbitration to be conducted under the Arbitration Act, 1940 or any amendment thereto. The arbitration proceedings shall be conducted by a panel of two (2) arbitrators and an umpire, whereby one (1) arbitrator shall be appointed by each Party and the umpire shall be appointed by mutual consent of both arbitrators. The decision of the arbitration panel shall be final and binding on each Party. The venue for arbitration shall be Lahore, Pakistan and the language for arbitration proceedings shall be English. Each Party shall bear its own arbitration costs.
- 18. TERM AND TERMINATION**
- 18.1 This Agreement shall take effect on the date of execution of this Agreement by both the Parties and shall continue for a term of unless otherwise terminated in accordance with the terms of this Agreement.
- 18.2 Without prejudice to any other rights or remedies to which it may be entitled, SECP may terminate this Agreement at any point by giving ten (10) days notice on the occurrence of any of the following events;
- a) A material breach of the Agreement by Contractor;
 - b) The failure of the Contractor to provide Services in terms hereof in the opinion of SECP;
 - c) The institution of bankruptcy or insolvency proceedings against Contractor, provided further that SECP shall not be entitled to terminate if such proceedings are dismissed within ninety (90) days from the date of institution of proceedings in favor of the Contractor;
 - d) Any assignment by Company for the benefit of its creditors in connection with any bankruptcy or insolvency proceedings;

- e) The invalidation of the representations and warranties contained herein; or,
- 18.3 If this Agreement is terminated by SECP, Contractor shall be entitled to receive the outstanding amount or portion thereof with respect to the Total Price.
- 18.4 Any payments due from SECP shall take into account any amount already paid by SECP under the Agreement.
- 18.5 In addition to the foregoing, SECP shall have the right to terminate this Agreement without cause by giving thirty (30) days' notice to the Contractor and such termination by SECP shall not be challenged by the Contractor before any court, tribunal, or government authority.
- 18.6 Upon termination of this Agreement as aforesaid:
- (i) each Party shall be entitled to immediately cease performance of its obligations under this Agreement;
 - (ii) all charges due from either Party to the other Party shall become immediately due and payable subject to reconciliation of accounts if required and after discounts and deductions described herein;
 - (iii) each Party shall, upon request, return to the other all copies of any Confidential Information of the other Party which is in its possession;
 - (iv) the Parties shall ensure that the other Party or its agents have prompt access to any relevant site to remove their equipment and that all necessary consents to do so are obtained;

19. NOTICES

- 19.1 All notices required by this Agreement shall be furnished in writing by hand delivery, certified post, telex, or telefax to the following addresses:

SECP.

Blue Area Islamabad.
Tel: 92 [051] 111 117 327

All notices shall only be effective on receipt.

- 19.2 Either Party may change its address by a notice to the other Party in the manner set forth above.

20. COMMENCEMENT AND DURATION:

This Agreement shall commence on the Commencement Date and shall continue to be effective for a period of Nine (9) Moths from the Commencement Date (the “**Term**”), unless terminated earlier by either Party as provided herein. In case the Contractor desires to extend the Term of this Agreement, the Contractor shall not later than one (1) month before the expiry of this Agreement send a written request to SECP for extension in the Term stating the period for which such extension is desired (“**Extension Request**”). In case SECP accepts Extension Request, it shall inform the Contractor of the same in writing (“**Acceptance Letter**”) stating the period for which extension shall be effective. In case of any difference between the extension periods mentioned in Extension Request and Acceptance letter, the extension period mentioned in Acceptance Letter shall prevail and this Agreement shall be deemed to be extended only for a further period as mentioned in the Acceptance Letter. Provided that, in absence of anything to the contrary in the Acceptance Letter, the extension shall be on the same terms and rates as herein contained. In case SECP does not issue the Acceptance Letter within one (1) month from the date of receipt of Extension Request or does not accept the Contractor's request for extension of this Agreement, this Agreement shall be deemed to have come to an end after 5 Years from the Commencement Date.

21. FORCE MAJEURE

- 21.1 Either Party shall be excused from the performance or punctual performance of any of its obligations under this Agreement and such obligations shall be extended by a period reasonable under the circumstances if the performance thereof is prevented or delayed by any cause or event (hereinafter, a “**Force Majeure Event**”):

- a) which is beyond the affected Party's reasonable control; and,
- b) which could not have been prevented by the affected Party through reasonable and prudent foresight.

- 21.2 Force Majeure Events shall include acts of God, riots, wars, accidents, embargo or requisition

through act of government.

- 21.3 A Party affected by a Force Majeure Event shall only be entitled to relief if it has promptly notified the other Party in writing of the occurrence of a Force Majeure event and has furnished all relevant information thereto.
- 21.4 If a Force Majeure Event only partially prevents or affects the performance of a Party's obligations under this Agreement, such Party shall remain liable for the performance of the remainder of its obligations to the extent that such obligations are not affected by the Force Majeure Event.
- 21.5 In the event that Company is unable to perform its obligations under this Agreement for a period of more than four (4) months because of a Force Majeure Event, SECP may then terminate this Agreement in which case, SECP shall be liable to make payment to Company in accordance with the provisions of Clause 21.4.

22. ENTIRE AGREEMENT

This Agreement sets forth and shall constitute the entire agreement between SECP and Company with respect to the subject matter hereof, and shall supersede any and all prior agreements, understandings, promises and representations made by one Party to the other concerning the subject matter.

23. ASSIGNMENT

- 23.1 Company shall not have the right to assign or transfer this Agreement, or any right under it without the prior written consent of SECP.
- 23.2 SECP shall be entitled to assign and/or transfer the rights and obligations under this Agreement to any of its associated companies or Affiliates without seeking any prior written permission from Company.
- 23.3 Company shall not sub-Agreement to, engage Settlement or otherwise, any third party(ies) or allow any other person to carry out the agreement or any part thereof, except if expressly authorized by SECP in writing.
- 23.4 This Agreement shall accrue to the benefit of and be binding upon the Parties hereto and any successor entity into which either Party shall have been merged or consolidated or to which either Party shall have sold or transferred all or substantially all of its assets.

24. GENERAL

- 24.1 The English language shall be the language to be used in all documents and correspondence related to the execution of this Agreement.
- 24.2 All Clauses in this Agreement which are either expressed to survive or which are by implication intended to survive termination or expiry of this agreement will continue to survive notwithstanding termination or expiry of this Agreement.
- 24.3 Any terms, conditions, stipulations, provisions, covenants, or undertaking of this Agreement which are illegal, prohibited, or unenforceable shall be effective to the extent of such illegality, prohibition, or unenforceability without invalidating the remaining provisions hereof.
- 24.4 Each party shall bear its own solicitor's/attorney's/lawyer's costs to this Agreement, provided however that all costs of engrossing, execution and stamping of this Agreement shall be borne and paid by SECP and Company jointly.
- 24.5 The construction, performance, validity and all matters relating to the interpretation of this Agreement shall be governed by Pakistan Law.
- 24.6 This Agreement has been duly signed by the Parties in two originals and the Parties have taken one each.

25. STATUS OF BOTH PARTIES

- 25.1 Nothing contained herein shall be taken to have created a relationship between the Parties of being partners, joint ventures, agents, representatives, employers or employees of each other.
- 25.2 Either of the Parties or their employees, agents or representatives shall not act or attempt to act, or represent itself, directly or by implication, as agent, joint venture, partner or representative of the other Party, or in any manner assume or attempt to assume or create any obligation or liability of any kind, nature or sort, express or implied, on behalf of or in the name of the other Party.

26. WAIVER AND CUMULATIVE RIGHTS AND REMEDIES

- 26.1 A waiver of any right or remedy under this Agreement shall only be effective if it is in writing and any such waiver shall (unless the terms of the waiver expressly state otherwise) apply only to

the Party to whom the waiver is addressed and with respect to the circumstances for which it is given.

- 26.2 The failure by a Party to exercise any right or remedy permitted or authorized under this agreement, or by operation of law, or any delay by a Party in so doing, shall not operate as a waiver by that Party of such right or remedy, or other rights or remedies. No single or partial exercise of any right or remedy by a Party will preclude or restrict the further exercise or enforcement by that Party of any such right or remedy.
- 26.3 Except where this Agreement provides otherwise, the rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date, place and year mentioned hereof.

For SECP

Name:
Title:

Name:
Title:

Witness:

Name:
Title:

Witness:

Name:
Title:

ANNEX-A

LIST OF EQUIPMENT AND FINANCIALS

Maintenance Contract included following equipment & charges with parts without Batteries.

Sept-2023 to Aug-2028

ANNEX-B SCHEDULE OF PREVENTIVE MAINTENANCE

Preventive Maintenance	Date	Status Update
1 st Quarter		
2 nd Quarter		
3 rd Quarter		
4 th Quarter		

ANNEX-C

SCOPE OF WORK/SERVICES

1. Service Management

Effective support of in-scope services is a result of maintaining consistent service levels. The following sections provide detail on service monitoring, measurement, reporting and maintenance of in-scope services and related components.

1.1. *Total UPS Availability:*

Required Total UPS Availability = 99.999%

1.2. *Problem Resolution Control table*

Severity	Response Time (hrs)	Target Resolution Time (hrs)	Status Update Call
All Levels	60 Minutes	04 Hour	Every 8 Hours

These times are cumulative for incidents that are routed to the Helpdesk. Status call is made to inform Helpdesk about the current situation of the problem. This will be communicated to the affected User(s).

1.3. Problem Management/Escalation

All UPS and its related issues will be supported by Team.

- Problem description.
- Problem originator.
- Problem location.
- Problem logging time.
- Contact Person

All problems should be routed to:

Email: and copy to
NOC Hotline

1.4. Contacts

contact personnel are listed for immediate and effective resolution of identified issues.

No	People to Contact	Phone	Email

1.5. Escalation Contacts

Resolution Time Exceeds	Problem Severity	People to Contact	Phone	Email
2 hour	High			
1 hour	Low			
½ hour	Low			

1.6. Typical Measurements

1. Number of Escalations per quarter
2. Average resolution time of each problem level type
3. Number of times resolution time-frame target exceeded.
4. Percentage of incidents resolved by resolution time-frame target
5. Tickets escalated according to service type.
6. Quantity of tickets currently open

A quarterly report should be generated containing all of the above parameters. This should be mailed to all key stakeholders.

1.7. Service Provider Responsibilities

- Four Routine préventive maintenance in a year
- Provide services & parts replacement to the equipment in the event of failure.
- Supply of spare parts included.
- Routine Preventive Maintenance.
- Batteries not part of this contract.

Routine Preventive maintenance will consist of:

- Cleaning of equipment, and logging of all measurements taken.
- Checking the mechanical soundness of all U P S components.
- Simulation of operation and, if necessary, making adjustments to the electronic control circuits etc.
- Checking and adjustment of all electronic supervisory and alarm circuits.
- Control checks on all transistors, diodes, transformers and filter elements.
- Replacement of any parts found defective.
- Checking of internal batteries.
- Compile comprehensive maintenance report.
- Repairs of the equipment in the event of failure will be the part of this contract.

- In response to a call by the customer to Service Department, Company will within 15 minutes of receipt of the said call, be in contact with the customer.
- Review the quarterly report and try to eliminate the most frequent errors/problems by applying permanent fixes.
- Should educate/authorize IT Helpdesk team to resolve frequently occurring problems themselves.
- Past incidents must be examined to determine if there are underlying problems that need to be fixed for effective management of problems. Incidents that are closed without being matched to a known problem are also examined for potential underlying problems.
- Determines the root cause of problems and identifies workarounds or permanent fixes. They engage and manage other resources as necessary to determine the root cause. They escalate problem resolution to Tier 3 support when the root cause is an architectural or technical issue that exceeds their skill-set.

2.0 Penalty Clause:

2.1 Upon failure of committed UPS uptime availability time frame as mentioned in 1.1 clause, penalty will be imposed as:

(Half yearly Service Charge) Multiplied by (4x No. of hours of non-availability of service) Divided by (No. of hours of committed availability during the half yearly period)

OR

10% of the total half yearly payment, whichever is less

2.2 Upon failure of committed resolution time as mentioned in 1.2 clause, penalty will be imposed as:

(Half yearly Service Charge) Multiplied by (4x No. of hours exceeding the committed resolution time) Divided by (No. of hours of committed resolution time during the half yearly period)

OR

05% of the total half yearly payment, whichever is less