AGREEMENT FOR … … …

[Ref. # CITY BANK/……..Y25/00… …]

This **AGREEMENT FOR … … …** (the “Agreement”) is made on this the … … … Day of … … … … … … …, 20…… of the English calendar at Dhaka, Bangladesh.

# **BETWEEN**

**City Bank PLC**, a scheduled Bank incorporated under the relevant Act and carrying out its banking business licensed under the Bank Companies Act, 1991, having its Head Office at City Bank Center, 28, Gulshan Avenue, Gulshan - 1, Dhaka-1212, Bangladesh;(hereinafter referred to as the **“First Party”** or **“CITY BANK” or “Purchaser”**) represented by its **………………………,** **Mr. ……………………………**(which expression shall, unless excluded by or repugnant to the subject or context, mean and include its successors-in-interest, legal representatives, administrators and assigns) of the **ONE PART.**

# **AND**

**<<<Name of the Supplier>>>**, a company incorporated in Bangladesh under the Companies Act, 1994, having its Registered Office at <<<Address>>> (hereinafter referred to as the “**Supplier**”)**,** represented by its **………………………,** **Mr. ……………………………**(which expression unless otherwise repugnant to the context hereof, shall mean and include its successors-in-interest and assigns, nominees, administrator, officer and legal representatives), of the **OTHER PART**.

(Both CITY BANK and the Supplier are hereinafter collectively referred to as ‘Parties’ and individually as ‘Party’)

**WHEREAS**, CITY BANK, being licensed by the relevant Government authority, is engaged in the business of providing Banking & financial services and the Supplier is engaged in the business of … … …; and

**WHEREAS,** CITY BANK is desirous of purchasing a certain Solution (as defined below in Clause 1) and to have Implementation Services provided in relation to the Solution and subsequently have Maintenance Services (as defined below in Clause\_\_\_\_\_\_\_) provided by the Supplier in relation to the Solution in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, the Supplier has agreed to supply the Solution and provide Implementation Services for the Solution and subsequently provide Maintenance Services for the Solution subject to the terms and conditions of this Agreement.

Now, therefore, the Parties hereto agree by and between themselves as follows:

1. **DEFINITIONS OF TERMS**
   1. In this Agreement, the following expressions shall unless the context otherwise requires have the meanings respectively assigned to them:

**“Agreement”** shall mean this AGREEMENT FOR … … … including all annexes attached herewith and all amendments, supplemental or addendum to this Agreement to be made from time to time.

**“User Acceptance Test”** or “**UAT**” means such examination or tests to be undertaken by the Supplier upon completion of supply, delivery, installation, testing & commissioning of the Solution on site prior to handover to CITY BANK to ensure that the Solution is functional or operational as required under Acceptance Criteria.

**“Effective Date”** shall mean the coming into force of this Agreement as mentioned in Clause 9 (i) of this Agreement.

“**Agreement Period**” shall mean the period specified in Clause 9 (ii) of the Agreement whereby the Agreement is enforceable from the Effective Date of the Agreement till the date on which the Agreement expires.

**“Solution”** shall mean the Software as well as related Services, to be provided by the Supplier under this Agreement as listed in Annex 1.x of this Agreement.

**“Software”** shall mean and include all the software, the software license, information, programs, digital documentation and other intangibles including their respective features, conversions, upgrades, elements, or accessories, or any combination of them which form part of the Solution, including without prejudice, the platform, applications and the documentation, including any mandatory & optional software for implementation of Solution as listed in Annex1.x of this Agreement.

**“Services”** shall mean to provide Implementation Services and to supply the Solution provided by the Supplier under this Agreement;

“**Implementation Services**” shall mean all the obligations of the Supplier required to implement the Solution, such as supply, delivery, installation, testing, commissioning and integration of the Solution as detailed under Annex 01, and to be carried out by the Supplier as per the terms of this Agreement.

“**Maintenance Services**” shall mean all the obligations of the Supplier to be carried out for the maintenance and support of the Solution, as more specifically detailed under Annex 1.x (Service Level Agreement) and to be carried out by the Supplier as per the terms of this Agreement.

“**Confidential Information**” shall mean any information that has been exchanged between the Parties whether the information is related or not to the subject matter of this Agreement, either directly or indirectly, in writing, orally, or by inspection of tangible objects (including without limitation, any binders, documents, policies, procedures products, product development, financial information, technical data, design, pattern, formula, computer program, schematics, object code, manual, software source documents, product specification, plan for new, revised or existing products, business and marketing plan and strategy, prices and costs, order, lists and information in relation to the Party disclosing the said information, trade secrets, know how, Invention techniques, processes, research and development plans and activities, methods and systems and improvements developed, and documents, prototypes, samples, plant and equipment), whether or not designated as “Confidential”, “Proprietary” or some similar designation, including without limitation, the existence of this Agreement and the fact of discussions about the business relationship between the Parties.

“**Intellectual Property Rights**” or “**IPR**” shall include, without limitation, copyrights, trade secrets, trademarks, trade names, domain names, patents, know-how, formulation, designs, inventions, discoveries and all other intellectual or industrial property and like rights whether or not registered.

**“Day”** shall mean a calendar day.

**“Month”** shall mean a calendar month.

**“Year”** shall mean a calendar Year.

* 1. Words importing the singular shall also include the plural and vice versa where in context requires.
  2. The titles of these conditions are of convenience of reference only and shall not be deemed to be part of the Agreement or in any way affect the interpretation or construction thereof.

1. **SCOPE OF THE AGREEMENT**
   1. The Supplier shall provide the Solution and the Implementation Services in relation to the Solution as per the specifications detailed under Annex 1.x and also provide Maintenance Services within the warranty and after warranty period as described in Annex 1.x (Service Level Agreement) of this Agreement.
   2. This Agreement contains a frame agreement that does not bind CITY BANK unless any written Purchase Order (“PO”) is issued to the Supplier with reference to this Agreement. Any obligation of CITY BANK agreed under the Agreement shall not be enforceable unless and until such PO is issued. The Solution, Implementation Services and Maintenance Services shall be supplied in accordance with the PO issued by CITY BANK under this Agreement and subsequent acceptance given by the Supplier to CITY BANK’s respective PO.
2. **Standard of Performance**

The Supplier shall perform the service(s) and carry out its obligations under the Contract with due diligence, efficiency and economy, in accordance with generally accepted techniques and practices used in industry and with professional engineering standards recognized by the international professional bodies and shall observe sound management, technical and engineering practices. It shall employ appropriate advanced technologies, procedures and methods. The Supplier shall always act, in respect of any matter relating to the Contract, as faithful advisors to City Bank PLC and shall, at all times, support and safeguard City Bank PLC legitimate interests.

1. **LICENSES OF SOFTWARE**

* 1. CITY BANK is hereby granted a non-exclusive and restricted license to use the Software for CITY BANK’s own operation and maintenance of the Software or part thereof in accordance with this Agreement.
  2. CITY BANK and any successor to CITY BANK’s title of the Software or parts of the Software shall have the right without further consent of the Supplier to transfer this license to a third party which acquires the Software or part thereof, provided that any such third party agrees in writing to abide by all the terms and conditions of this license.
  3. For backup purposes, CITY BANK shall be allowed to make multiple copies of the Software for back-ups and maintenance, depending on operations procedures as back-up.

1. **METHOD OF ORDERING & DELIVERY PERIOD**
   1. The Solution, Implementation Services and Maintenance Services required by CITY BANK and to be supplied, delivered, installed, tested and commissioned by the Supplier and the delivery place shall be indicated by issuance of PO(s) in accordance with the terms of this Agreement.
   2. CITY BANK has the liberty to issue the PO for the post Warranty Period for Maintenance Services as per the rate as set out in the price schedule.
   3. The Supplier agrees and acknowledges that CITY BANK is not bound in any manner howsoever to issue PO for after Warranty Period for Maintenance Services.
   4. The Supplier shall complete its obligations relating to the Solution, Implementation Services and Maintenance Services (i.e. delivery, implementation, testing and UAT sign off, etc., as detailed under Annex 1.x) as mentioned in the PO.
2. **PRICE & PAYMENT TERMS**

The price of the Solution, Implementation Services and Maintenance Services to be supplied and the Services to be provided under this Agreement and the terms of payment thereof shall be as per Annex 2 (Price Schedule & Payment Terms).

1. **RESPONSIBILITIES & OBLIGATIONS OF THE SUPPLIER**

The obligations of the Supplier shall be as follows:

* + 1. Ensure and be solely responsible for the supply and delivery of the Solution, Implementation Services and Maintenance Services in accordance with the terms of this Agreement and the PO(s).
    2. Upon completion of its obligations in relation to the Solution, Implementation Services and Maintenance Services, the Supplier shall submit the work completion certificate to CITY BANK and shall fill up the checklist provided by CITY BANK for the functionality and workmanship of the Solution.
    3. Keep accurate, systematic and up-to-date records in respect of the provision of the Solution, Implementation Services and Maintenance Services in such form and detail as is customary in the profession and as may be required by CITY BANK from time to time, to establish accurately the cost and expenditure that have been duly paid by CITY BANK.
    4. Ensure that the Solution supplied hereunder shall be of satisfactory quality and be fit for its intended purpose as per the agreed specifications.
    5. Furnish to CITY BANK such information relating to the Solution, Implementation Services and Maintenance Services as CITY BANK may require from time to time.
    6. Be responsible to give compensation as determined as per this this Agreement if any damage or loss occurs during installation or service due to the negligence of the Supplier.
    7. Be responsible for doing the Maintenance Services as well as emergency support service during and after the warranty period as per Service Level Agreement (“SLA”) as mentioned in Annex 1.x of this Agreement.
    8. Provide all necessary labor, technical know-how, and replacement of mechanical, electrical or electronic parts as required for the repair and maintenance work of the supplied Solutions.
    9. Ensure that its workers/employees are provided with a healthy and safe working environment with required safety equipment in accordance with internationally recognized standards.
    10. Comply with all applicable laws and regulations.
    11. Not allow any unauthorized person to carry out any part of its obligations under this Agreement.

1. **REPRESENTATIONS AND WARRANTIES**

* 1. The Supplier represents and warrants that it has obtained all necessary valid licenses, permits and consents from government and/or regulatory authorities necessary and required to carry out its business in Bangladesh and more specifically its obligations as specified under this Agreement and for remitting any revenue sharing with its parents or subsidiary company abroad (if applicable). Furthermore, the Supplier ensures that it shall keep all such licenses, permits and consents, updated and renewed (as and when required) during the Agreement Period and during any future extension of this Agreement.
  2. The Supplier represents and warrants that it shall abide by and comply with all relevant laws, rules and regulations which are applicable for the performance under this Agreement.
  3. The Supplier warrants that all equipment, materials or items supplied and installed are new and never used or utilized for any other purpose.
  4. The Supplier warrants that the Supplier is fully experienced in providing the Solution, Implementation Services and Maintenance Services as detailed under this Agreement and/or PO and that it possesses a high level of skill and expertise and experience which it will make available to CITY BANK in carrying out its obligations under this Agreement. In so doing, the Supplier recognizes and acknowledges that CITY BANK is relying on the provision by the Supplier of such skill and expertise in and about the Solution, Implementation Services and Maintenance Services to be performed by the Supplier pursuant to the Agreement and/or PO.
  5. The Supplier shall be fully responsible for the successful supply and delivery of the Solution, Implementation Services and Maintenance Services within the time frame specified and in accordance with the agreed functional, technical and performance specifications of the Agreement.
  6. The Supplier shall furnish to CITY BANK such information relating to the Solution, Implementation Services and Maintenance Services as CITY BANK may from time to time require.
  7. The Supplier warrants and undertakes to abide with CITY BANK that:

1. it has all the necessary power and authority to carry on its business as presently conducted;
2. it has all the necessary power and authority to execute, deliver and perform its obligations under this Agreement and each of the execution, delivery and performance by it of this Agreement has been duly authorized by all necessary action on its part and this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with its terms.
3. it possesses the necessary capabilities, item and suitable place of business to perform its obligations under this Agreement and
4. it utilizes its capabilities, item and suitable place of business to perform its obligations under this Agreement;
   1. The Supplier warrants and represents for the benefit of CITY BANK that at the date of this Agreement and throughout the Agreement Period and any extension thereof:
5. Any and all information, data, statistics, evaluation, assessment, framework and templates provided in relation to the Solutions do not and will not:
6. Infringe any third party intellectual property rights;
7. Infringe confidentiality obligations owed to any third party; or
8. Contain materially false or misleading statements.
9. It has the right and authority to disclose any such information and materials and also possesses the necessary rights and authorities to license the abovementioned (where applicable) to CITY BANK;
   1. The Supplier shall be solely responsible for any fines and penalties imposed on it arising from any noncompliance with the laws and regulations of Bangladesh and CITY BANK shall not be held responsible for such noncompliance.
   2. The Supplier hereby acknowledges and understands that the warranties and representations stated within this Agreement are to be strictly adhered to and therefore further acknowledges that in order to ensure the high standards of performance and conduct of this Agreement, CITY BANK reserves the right to request for, or on its own accord, inspect, examine (including but not limited to) all documents, correspondence, records, paperwork, computer software or accounts of the Supplier that relates to this Agreement at any time CITY BANK so wishes throughout the duration of this Agreement. In the event such measures are adopted, the Supplier shall offer its full cooperation and assistance to CITY BANK to facilitate such situations.
   3. The Supplier hereby acknowledges, understands and provides cooperation warrants that as per the Information and Communication Technology (ICT) guideline issued by the Bangladesh Bank (BB), the auditors (internal audit, external audit as may be appropriate) reserve the rights to access the Service Level Agreement, Procurement Agreement etc. executed by and between the Parties of this Agreement.
10. **Information security**
    1. The Supplier and its personnel shall not carry any written material, layout, diagrams, floppy diskettes, hard disk, flash / pen drives, storage tapes or any other media out of City Bank PLC 's premises without written permission from City Bank PLC
    2. The Supplier’s personnel shall follow City Bank PLC information security policy and instructions in this regard.
    3. The Supplier acknowledges that City Bank PLC business data and other proprietary information or materials, whether developed by City Bank PLC or being used by City Bank PLC pursuant to a license agreement with a third party (the foregoing collectively referred to herein as “proprietary information”) are confidential and proprietary to City Bank PLC; and the Supplier agrees to use the confidential information only for the purposes of the Contract/Agreement as permitted herein and take reasonable care to safeguard the proprietary information and to prevent the unauthorized use or disclosure thereof, which care shall not be less than that used by Supplier to protect its own proprietary information. The Supplier recognizes that the goodwill of City Bank PLC depends, among other things, upon the Supplier keeping such proprietary information confidential and that unauthorized disclosure of the same by the Supplier, could damage City Bank PLC By reason of Supplier’s duties and obligations hereunder, it may come into possession of such proprietary information, even though the the Supplier does not take any direct part in or furnish the Service(s) performed for the creation of said proprietary information and shall limit access thereto to employees with a need to such access to perform the Services required by the Contract/Agreement. The Supplier agrees to restrict access and disclosure of Confidential Information to such of their employees and agents strictly on a "need to know" basis, to maintain confidentiality of the confidential information disclosed to them in accordance with this clause.
    4. Supplier shall use such information only for the purpose of performing the Service(s) under the Contract/Agreement.Supplier shall, upon termination of the Contract/Agreement for any reason, or upon demand by City Bank PLC, whichever is earliest, return any and all information provided to Supplier by City Bank PLC, including any copies or reproductions, both hardcopy and electronic.
    5. Notwithstanding the foregoing, the Parties acknowledge that the nature of the Service(s) to be performed under this Contract/Agreement may require the Supplier’s personnel to be present on premises of City Bank PLC /City Bank PLC’s vendors or may require the Supplier’s personnel to have access to computer networks and databases of City Bank PLC while on or off premises of City Bank PLC It is understood that it would be impractical for City Bank PLC to monitor all information made available to the Supplier under such circumstances and to provide notice to the Supplier of the confidentiality of all such information. Therefore, the Supplier agrees that any technical or business or other information of City Bank PLC that the Supplier’s personnel, or agents acquire while on City Bank PLC premises, or through access to City Bank PLC computer systems or databases while on or off City Bank PLC 's premises, shall be deemed confidential information.
    6. Upon termination of the Contract/Agreement, confidential information shall be returned to the disclosing party or destroyed, if incapable of return. The destruction shall be witnessed and so recorded, in writing, by an authorized representative of each of the parties. Nothing contained herein shall in any manner impair rights of City Bank PLC in respect of the systems, service(s), and documents etc.
    7. The obligations of this Clause shall survive the expiration, cancellation or termination of this Contract / Agreement.
    8. In the event that any of the parties hereto becomes legally compelled to disclose any confidential information, such party shall give sufficient notice to the other party to enable the other party to prevent or minimize to the extent possible, such disclosure. Neither party shall disclose to a third party any Confidential Information or the contents of the Contract / Agreement without the prior written consent of the other Party.
    9. The Supplier shall execute the Non-Disclosure agreement simultaneously at the time of execution of the Contract.
11. **Data Ownership** By virtue of the Contract / Agreement, the Supplier’s team may have access to personal and business information of City Bank PLC and/or a third party or any taxpayer, any other person covered within the ambit of any Income tax legislation. City Bank PLC has the sole ownership of and the right to use, all such data in perpetuity including any data or other information pertaining to the subscriber / client / personnel that may be in the possession of the Supplier or Supplier ‘s team in the course of performing the Service(s) under the Contract/Agreement.
12. **GUARANTEE/WARRANTY**
13. The Supplier shall provide xxxx **Year** full warranty (from the date of acceptance as per acceptance certificate) for the Solution (covering all OS and all non-application layer Software) at Free of Cost (“FoC”). During these **xxxx Year** Warranty Period, the Supplier shall provide the annual maintenance support (24x7x365) for the Solution at FoC as per the detail SLA as mentioned in Annex 1.x After expiry of these **xxxx Year** FoC warranty and annual maintenance support period, the Supplier shall provide the annual maintenance support (24x7x365) for the Solution for another **xxxx Year** under the Maintenance and Support Service. The guarantee/warranty shall cover but not limited to:
14. Any fault in material or workmanship which results in non-conformity of the Software with the agreed specifications under this Agreement.
15. The Supplier warrants that the Software shall be in accordance with the specification and free from defects in material or workmanship. However, such warranty is not unconditional and subject to certain industry standard restrictions such as defects caused due to abuse by CITY BANK or combining Software and hardware with third party items not approved by the Supplier or unauthorized repair or replacement by CITY BANK.
16. If the Software or any part thereof and associated services fail to comply with the agreed specifications during the Warranty Period, the Supplier shall, without any charge to CITY BANK, repair or replace the same within the time-line mutually agreed between the Parties but not exceeding 30 Days.
17. If during the Warranty Period certain part or parts of the Solution are found or observed to breakdown repeatedly despite repairs, such part or parts shall be replaced by the Supplier at no cost to CITY BANK.
18. Any defective part repaired/replaced during the Warranty Period shall be warranted for reminder of the Warranty Period. The Parties shall conduct acceptance testing on the Solution which is repaired or rectified during the Warranty Period. The acceptance testing shall be conducted in accordance with the Acceptance Procedure.
19. The Supplier warrants that the Supplier has the legal right to supply the Solution to CITY BANK.
20. **Representations and Warranties**
    1. In order to induce City Bank PLC to enter into the Contract / Agreement, the Supplier hereby represents and warrants as of the date hereof, which representations and warranties shall survive the term and termination hereof, the following:
       1. That the Supplier is a company which has the requisite qualifications, skills, experience and expertise in providing Information and Communication Technology (ICT) and other Service(s) contemplated here under to third parties, the technical know-how and the financial where withal, the power and the authority to enter into the Contract / Agreement and provide the Service(s)/Systems sought by City Bank PLC
       2. That the Supplier is not involved in any major litigation, potential, threatened and existing, that may have an impact of affecting or compromising the performance and delivery of Service(s) /Systems under the Contract/Agreement.
       3. That the representations made by the Supplier in its bid are and shall continue to remain true and fulfill all the requirements as are necessary for executing the duties, obligations and responsibilities as laid down in the Contract/Agreement and the Bid Documents and unless City Bank PLC specifies to the contrary, the Supplier shall be bound by all the terms of the bid.
       4. That the Supplier has the professional skills, personnel and resources/authorizations that are necessary for providing all such services as are necessary to perform its obligations under the bid and this Contract/Agreement.
       5. That the Supplier shall ensure that all assets including but not limited to software’s, licenses, Databases, documents, etc. developed, procured, deployed and created during the term of the Contract/Agreement are duly maintained and suitably updated, upgraded, replaced with regard to contemporary and statutory requirements.
       6. That the Supplier shall use such assets of City Bank PLC, as City Bank PLC may permit for the sole purpose of execution of its obligations under the terms of the bid, Tender or the Contract/Agreement. The Supplier shall however, have no claim to any right, title, lien or other interest in any such property, and any possession of property for any duration whatsoever shall not create any right in equity or otherwise, merely by fact of such use or possession during or after the term hereof.
       7. That the Supplier shall procure all the necessary permissions and adequate approvals and licenses for use of various software and any copyrighted process/product free from all claims, titles, interests and liens thereon and shall keep City Bank PLC, its directors, officers, employees, representatives, consultants and agents indemnified in relation thereto.
       8. That all the representations and warranties as have been made by the Supplier with respect to its bid and Contract / Agreement, are true and correct, and shall continue to remain true and correct through the term of the Contract.
       9. That the execution of the Service(s) herein is and shall be in accordance and in compliance with all applicable laws.
       10. That there are – (a) no legal proceedings pending or threatened against Supplier or any third party or its team which adversely affects/may affect performance under this Contract/Agreement; and (b) no inquiries or investigations have been threatened, commenced or pending against the Supplier or any third party or its team members by any statutory or regulatory or investigative agencies.
       11. That the Supplier has the corporate power to execute, deliver and perform the terms and provisions of the Contract/Agreement and has taken all necessary corporate action to authorize the execution, delivery and performance by it of the Contract/Agreement.
       12. That all conditions precedent under the Contract/Agreement have been complied.
       13. That neither the execution and delivery by the Supplier of the Contract/Agreement nor the Supplier’s compliance with or performance of the terms and provisions of the Contract/Agreement (i) will contravene any provision of any applicable law or any order, writ, injunction or decree of any court or governmental authority binding on the Supplier (ii) will conflict or be inconsistent with or result in any breach of any or the terms, covenants, conditions or provisions of, or constitute a default under any agreement, contract or instrument to which the Supplier is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the Memorandum and Articles of Association/Constitutional documents of the Supplier.
       14. That the Supplier certifies that all registrations, recordings, filings and notarizations of the Contract/Agreement and all payments of any tax or duty, including without limitation, stamp duty, registration charges or similar amounts which are required to be effected or made by the Supplier which is necessary to ensure the legality, validity, enforceability or admissibility in evidence of the Contract/Agreement have been made.
       15. That the Supplier confirms that there has not and shall not occur any execution, amendment or modification of any agreement/contract without the prior written consent of City Bank PLC, which may directly or indirectly have a bearing on the Contract/Agreement or Service(s).
       16. That the Supplier owns, has license to use or otherwise has the right to use, free of any pending or threatened liens or other security or other interests all Intellectual Property Rights, which are required or desirable for the Service(s) and the Supplier does not, in carrying on its business and operations, infringe any Intellectual Property Rights of any person. None of the Intellectual Property or Intellectual Property Rights owned or enjoyed by the Supplier or which the Supplier is licensed to use, which are material in the context of the Supplier’s business and operations are being infringed nor, so far as the Supplier is aware, is there any infringement or threatened infringement of those Intellectual Property or Intellectual Property Rights licensed or provided to the Supplier by any person. All Intellectual Property Rights (owned by the Supplier or which the Supplier is licensed to use) are valid and subsisting. All actions (including registration, payment of all registration and renewal fees) required to maintain the same in full force and effect have been taken thereon.
21. **EFFECTIVE DATE, VALIDITY, RENEWAL & MODIFICATION**
22. This Agreement shall be retrospectively effective from **… … …** (“Effective Date”).
23. The Agreement shall remain valid for XXX Year from the Effective Date unless terminated earlier and may be renewed for a further period as mutually agreed in writing between the Parties.
24. The commencement date of the Maintenance Services under Annex 1.x shall be the date of UAT (User Acceptance Test) sign off.
25. At any time, during the validity of this Agreement, both the Parties may mutually agree to modify or amend the existing terms, conditions or requirements of this Agreement as circumstances demand, provided such modification or amendment is evidenced in writing between the Parties.
26. **REJECTION**
27. The Solution, Implementation Services and Maintenance Services or any part thereof being found to be not in compliance with the specifications in this Agreement may be rejected in part or in whole at the sole discretion of CITY BANK, provided always that Solution, Implementation Services and Maintenance Services or any part thereof with minor defects and shortcomings, in the opinion of CITY BANK, which do not affect the operational use of the Solution, Implementation Services and Maintenance Services, will not give rise to rejection of the Solution, Implementation Services and Maintenance Services concerned if such defect and shortcoming is rectified by the Supplier within seven (07) working Days or any other extended period at CITY BANK’s sole discretion.
28. The Solution, Implementation Services and Maintenance Services or any part thereof rejected due to non-compliance with the specifications or nonperformance as per specifications provided hereunder shall be removed by the Supplier from CITY BANK’s premises at the Supplier’s own expense upon providing the replacement.
29. The Supplier shall not claim any payment for the Solution, Implementation Services and Maintenance Services or any part thereof which has been rejected.
30. **PERFORMANCE GUAANTEE (PG)/BANK GUAANTEE (BG)**
31. Within 07 (seven) working Days upon accepting the PO, the Supplier shall submit a PG/BG in favour of CITY BANK which is amounting to 10% of Ordered value. For the period of ………………..from any schedule commercial bank in a prescribed format available with City Bank Limited. The Guarantee must be signed by 02 authorized signatories of the Guarantor-Bank who have PA and/ AS numbers. If the supplier fails to perform its obligation, PG/BG may be forfeited.
32. CITY BANK shall not be liable to pay or credit any interest on such submitted performance bond.
33. If the Supplier fails to perform as per the Agreement or any conditions therein or commits any breach of its obligations under the Agreement and/or fails to make payment in relation to any liquidated damages claimed by CITY BANK, CITY BANK, at its sole discretion, have the right from time to time to call in all or part of the amount represented by the PG/BG. The costs of obtaining the PG/BG shall be borne by the Supplier.
34. If the PG/BG required to be furnished pursuant to this Clause is not duly furnished by the Supplier at the time stipulated above, then notwithstanding anything else mentioned in this Agreement, CITY BANK may at its option, without prejudice to any rights or claims it may have against the Supplier, within seven (7) Days after the expiry of the said period, terminate the Agreement forthwith by notice in writing to the Supplier. CITY BANK shall thereupon not be liable for any claim or demand from the Supplier in respect of anything then already done or furnished or in respect of any other matter or thing whatsoever in connection with the Agreement. Without prejudice to its other rights and remedies, CITY BANK shall be entitled to be repaid by the Supplier all expenses incurred by CITY BANK incidental to the obtaining of new tenders.
35. **DAMAGES**

* 1. **Liquidated Damages for Delay in deliver/deployment:**   The supplier shall complete the entire work within the stipulated period as mentioned in PO, failure of which liquidated damage @ 02% of the PO value for per week delay subject to a maximum ceiling of 25% of the PO value shall be levied. It is to be noted that delays in HW/SW and/or implementation will be considered independently.
  2. For Maintenance Service, liquidated damages shall be charged as per Annexure 1.x ( Service level Agreement).
  3. Wherein Maintenance Services being provided on FOC basis penalty and/or liquidated damages shall be calculated based on Maintenance Services charge annually payable to the Supplier after the end of the warranty period.
  4. Alternatively, CITY BANK may resolve any problem/defect related to the Solution by itself or through any third party if the Supplier fails to resolve the problem/defect as per schedule stipulated in the SLA and any associated expenditure shall be charged to the Supplier. If the Supplier fails to make the payment of liquidated damages applied under the terms of this clause, CITY BANK shall have the right to obtain compensation by making deductions from any payments due or to become due to the Supplier and/or by recovering such sums as a debt.
  5. CITY BANK shall also be entitled to claim damages for any loss which results from breach of Agreement by the Supplier unless the Supplier can prove that the breach or the cause of breach was not due to the Supplier or the breach results from *force majeure*. CITY BANK shall have the right to make adjustment of the claims with any payments due to the Supplier under this Agreement and/or any other agreements with the Supplier.
  6. If the Supplier defaults in the payment of penalty applied under the terms of this clause, CITY BANK shall have the right to obtain compensation by making deductions from any payment due or to become due to the Supplier and/or by recovering such sums as a debt, as well as through partial and/or full encashment of the PG/BG.

1. **INTELLECTUAL PROPERTY RIGHTS**
2. That all Intellectual Property Rights vested in CITY BANK shall remain within CITY BANK’s exclusive rights and shall be CITY BANK’s property. The Supplier hereby undertakes, warrants and guarantees that there shall be no infringement of the Intellectual Property Rights of CITY BANK by any third party and shall not make any unauthorised use of CITY BANK’s IPR and shall indemnify and hold CITY BANK harmless against any claim for any IPR infringement so far it may relate to this Agreement and shall defend CITY BANK at its own expense from any claim, suit or court proceedings which CITY BANK may face.
3. CITY BANK grants the Supplier limited permission to use the ‘CITY BANK’ trademark(s) and copyright(s) of CITY BANK logo and artwork(s) solely to perform or carry out the obligations under this Agreement.
4. The Supplier shall not combine, distort or pass off City BANK trademark(s) or logo(s) or artwork(s) with any other trademark, trade name, other logo, word(s), graphics, photo(s), slogan(s), number(s), design feature(s) and/or symbol(s).
5. The Supplier shall not use City BANK trademark(s), logo(s) or artwork(s) in any manner that may disparage City BANK trademark(s) or impair the validity, scope, title or goodwill of CITY BANK. The Supplier acknowledges that use of City BANK logo, trademark(s) and/or CITY BANK graphics/artwork(s) in no way implies sponsorship or certification by CITY BANK in Supplier’s company, product(s) and/or service(s). The Supplier shall not use CITY BANK logo, trademark(s) and/or CITY BANK graphics/artwork(s) for their own marketing or advertising materials in any manner that implies CITY BANK sponsorship or certification of the Supplier’s company, product(s) and/or service(s).
6. **INSURANCE**
7. The Supplier shall arrange for necessary insurance coverage of the Solution. The Supplier shall ensure that such policy benefits CITY BANK and material/equipment installed in CITY BANK’s premises. Any loss or any damage whatsoever during transit shall be borne by the Supplier.
8. CITY BANK shall not be liable for or in respect of any damage or compensation payable under law in respect or in consequence of any accident or injury to any workman or other person in the employment of the Supplier save and except an accident or injury resulting from any act or default of CITY BANK
9. **TERMINATION OF THE AGREEMENT**
10. CITY BANK may terminate the Agreement, at any time, with immediate effect, subject to serving a written notice to the Supplier, in case of occurance of events specified below:
    * 1. Upon the Supplier’s failure to perform its obligations as detailed under this Agreement in a timely, diligent, or satisfactory manner, in CITY BANK’s reasonable opinion; or
      2. In the event the Supplier becomes bankrupt or insolvent, or order for appointment of receiver has been made against it or compounds its creditors, or carries on business under a receiver, trustee, or manager for the benefit of its creditors or goes into liquidation, or makes an assignment for the benefit of its creditors or becomes subject to any reorganization or bankruptcy proceeding; or
      3. For any breach of terms/conditions/warranties by the Supplier as detailed under this Agreement;
11. The Agreement is not terminable by the Supplier before expiry of the Agreement period unless there is a material breach on the part of CITY BANK in complying with any of the terms of this Agreement. If the Supplier is of the view that CITY BANK has committed a material breach of this Agreement, the Supplier shall provide CITY BANK with a written notice of such alleged material breach and shall provide CITY BANK with 60 (Sixty) Days’ time period to resolve or remedy such material breach. If CITY BANK fails to resolve or mitigate the issue within the 60 (Sixty) Days’ time, the Supplier shall have the right to terminate this Agreement with immediate effect by providing a written notification to CITY BANK.
12. Notwithstanding the above, CITY BANK may terminate this Agreement for any reason whatsoever, at any time by providing 30 (thirty) Days’ prior written notice to the Supplier.
13. **CONSEQUENCES OF TERMINATION OR EXPIRY OF AGREEMENT PERIOD**

Where this Agreement is terminated pursuant to this Clause, upon termination or expiry of Agreement Period:-

1. all documents containing Confidential Information and copies shall be returned to the respective Parties as soon as practicable; and
2. neither Party shall in any way exhibit any links or display any information that would lead any person to believe that CITY BANK and the Supplier are linked or related in any manner.
3. the termination of this Agreement shall not prejudice the rights of CITY BANK to sue for damages or to obtain any other relief in respect of any antecedent breach of the terms of this Agreement prior to such termination.
4. upon termination of this Agreement, no Party shall be relieved from any obligation already accrued prior to the date of such termination, nor from any liability for a breach of this Agreement occurring prior to the date of such termination.
5. **NOTICE**

All notices, requests or communications between the Parties under this Agreement shall be in the English language by letter signed by an authorized representative of the sending Party, or by email or fax immediately confirmed in writing. All notices shall be deemed as validly served if mailed in the form of pre-paid registered letter, with return receipt requested, to the addresses mentioned herein above.

1. **FORCE MAJEURE**

**Force Majeure**

* 1. Notwithstanding the provisions of this RFP, the Supplier shall not be liable for failure to perform its obligations under the Contract/Agreement as a result of an event of Force Majeure.
  2. For purpose of this Clause “Force Majeure” means war or revolution, terrorist act, fire, floods, earthquakes, epidemics, quarantine restriction and freight embargoes.
  3. If a Force Majeure situation arises, the Supplier shall promptly notify City Bank PLC in writing of such conditions and the cause thereof. Unless otherwise directed by City Bank PLC in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. City Bank PLC may terminate the Contract/Agreement, by giving a written notice of minimum 30 days to the Supplier, if as a result of Force Majeure the Supplier is unable to perform a material portion of the Service(s) for a period of more than 30 days.
  4. If the performance of either Party’s obligations under the Agreement is materially and adversely affected as a result of riots, wars, declared or undeclared, insurrections, rebellions, terrorism, or civil commotion; or actions, inactions, dispositions, or orders of the Government; or fires, floods, storms, or other acts of God (except as set forth in Clause 17.ii) or because of any other cause or event reasonably beyond the control of such Party (such events collectively referred to herein as (“*Force Majeure*”), then, upon the occurrence of an event of *Force Majeure*, such Party shall be excused from performing its obligations hereunder during the existence of such *Force Majeure* and for such period of time as such event of *Force Majeure* continues.
  5. Notwithstanding the foregoing, the following events shall not constitute *Force Majeure* under the Agreement:

1. Late performance of the Services for any reason related to a shortage of equipment, supervisors or labor, inefficiencies, or similar such occurrences;
2. Seasonal rains in Bangladesh;
3. Labor disturbances, labor shortages, or work stoppages.
4. “Hartals”(i.e. political strikes), “Oborodhs” (i.e. blockades) and any other political activities of a similar nature.
   1. Any Party relying on *Force Majeure* for suspending performance hereunder shall give to the other Party immediate notice thereof and, as soon thereafter as possible, shall give formal written notice specifying in detail the event of *Force Majeure* relied upon and the effective date of suspension.
   2. Upon the occurrence of any circumstances of *Force Majeure*, the Supplier shall endeavor to continue to perform its obligations under the Agreement so far as reasonably practicable. The Supplier shall notify CITY BANK of the steps it proposes to take, including any mitigation measures and reasonable alternative means for remedy and/or performance which is not prevented by *Force Majeure.*
   3. If such condition of *Force Majeure* continues for a period of seven (7) Days, or more, CITY BANK may, at its option, terminate the Agreement without any further obligations or liabilities hereunder, except payment for Services already provided to Supplier under the Agreement.
5. **GOVERNING LAW**

The Contract/Agreement shall be governed in accordance with the laws of People’s Republic of Bangladesh. These provisions shall survive the Contract/Agreement.

1. **Suspension of Payment to the Supplier**

City Bank PLC may by a written notice of suspension, suspend all payments to the Supplier under the Contract/Agreement, if the Supplier fails to perform any of its obligations under the Contract/Agreement, (including the carrying out of the service(s)) provided that such notice of suspension:

* 1. Shall specify the nature of the failure and
  2. Shall request the Supplier to remedy such failure within a specified period from the date of issue of such notice of suspension.

1. **DISPUTE SETTLEMENT**

Any dispute(s) relating to the terms and conditions of this Agreement or performance under this Agreement shall be settled amicably between the both Parties within 30 (thirty) Days’ of receipt of written notice of such dispute. In the event of failure to settle, either Party may refer the matter to Bangladesh International Arbitration Centre (BIAC) for settlement through mediation in accordance with BIAC Mediation Rules as under Arbitration Act, 2001. If a settlement cannot be reached within sixty (60) days following the appointment of the Mediator(s), such dispute shall be referred to arbitration in accordance with the provisions of the Arbitration Act, 2001 of Bangladesh. Each Party shall appoint its own arbitrator and the arbitrator of the Parties so appointed shall appoint a third arbitrator who shall be the chairman of the Arbitral Tribunal. The place of the Arbitration shall be Dhaka. The decision of the Arbitration shall be final and binding on the Parties hereto.

The Supplier shall not be entitled to suspend the service(s), pending resolution of any disputes between the Parties and shall continue to render the Service(s) in accordance with the provisions of the Contract/Agreement notwithstanding the existence of any dispute between the Parties or the subsistence of any arbitration or other proceedings.

1. **INDEMNITY**

The Supplier shall execute and furnish to City Bank PLC, a deed of indemnity in favor of City Bank PLC in a form and manner as specified by City Bank PLC, indemnifying City Bank PLC its directors, employees, agents and representatives from and against any costs, loss, damages, expense, claims, litigations, suits, actions, judgments, and or otherwise including but not limited to those from third parties or liabilities of any kind howsoever suffered, arising out of or incurred inter alia during and after the contract period including but not limited to third-party claims due to infringement of patent, trademark, Intellectual Property Rights, copy-rights or industrial drawings and designs arising from use of the services or any part thereof and/or otherwise.

* 1. Each Party agrees to indemnify, defend and hold the other Party harmless and keep it indemnified from and against all direct losses, damages, penalties, costs, expenses and charges imposed on or incurred by the other Party as a result of any claims, demands, litigations, law suits and/or legal proceedings by a third party arising out of any act(s), omission(s), non-compliance or breach by the defaulting Party, including its officers or employees, of this Agreement or of directives, rules, regulations, instructions, or orders of any statutory, regulatory or municipal authority or any other applicable laws or third-party agreements, in the running, operation, maintenance and conduct of activities pursuant to this Agreement.
  2. In addition to the above, if Supplier is in breach of its warranties, representations, covenants and obligations as detailed under this Agreement, then Supplier understands and agrees that CITY BANK shall be entitled to receive, from the Supplier, indemnification and/or compensation for any costs, expenses, losses or damages, penalty/fine, etc. caused to CITY BANK thereby, which naturally arose in the usual course of things from such breach, or which the Parties knew, when they entered in to this Agreement, to be likely to result from the breach of it. In this regard, the Supplier specifically states that it is aware, knows and understands that any breaches by the Supplier under this Agreement may result in, directly and/or in the natural course of things:
  3. Imposition of fine, penalty and/or claims, against CITY BANK, by any competent authority, including but not limited to Bangladesh Bank as well as any competent court of law;
  4. Claims by CITY BANK corporate clients/subscribers;
  5. Loss of business, profit and revenue for CITY BANK, as this Agreement is a critical and a vital part of CITY BANK’s business;
  6. Notwithstanding anything contrary to the Agreement, CITY BANK shall not be liable for indirect damages arising out of, or related to, the performance of or subject matter of this Agreement, regardless of the cause, including but not limited to the sole, joint or concurrent negligence, or strict liability of either Party.  The foregoing release of liability shall also extend to CITY BANK’s parent, subsidiary, affiliated and related companies and its respective officers, directors, and employees.

1. **ASSIGNMENT AND TRANSFER OF RIGHTS & OBLIGATIONS**
2. The Supplier shall not assign any of its rights, obligations and/or interests in whole or part to any other Party without prior written consent of CITY BANK, which CITY BANK may provide at its sole discretion. In all cases, the Supplier will remain liable for the acts of third party if the Supplier engages any third party to conclude the mentioned work/services or carry out performances under this Agreement.
3. Notwithstanding anything stated in this Agreement, the Parties agree that CITY BANK shall have the right to assign all of CITY BANK’s rights, liabilities and obligations and any payment receivable by CITY BANK as provided under this Agreement, to any of CITY BANK’s subsidiaries, affiliates, etc., upon providing the Supplier with 7 (Seven) Days’ written notification. The Parties further agree that any such assignment shall not require any amendment of this Agreement and/or work order.
4. An assignment of this Agreement requested by either Party shall in no case entail increased costs to the other Party to fulfill its obligations under this Agreement. The assigning Party shall reimburse the other Party any documented cost suffered by the other Party due to the assignment.
5. **SUBCONTRACTING**
6. The Supplier shall not sub-contract any of it duties, rights and obligations under this Agreement without prior written consent of CITY BANK, which CITY BANK may provide at its sole discretion. The Supplier must provide all information related to the subcontractor to CITY BANK (to full satisfaction of CITY BANK) and CITY BANK shall have the right to reject any such subcontractor if CITY BANK is not satisfied with any credentials of such subcontractor. Any subcontracting under this Agreement by the Supplier, whether or not done with written consent of CITY BANK, shall not absolve the Supplier of any of its obligations under this Agreement. The Supplier shall at all times remain fully liable for any breach, negligence, default, act or omission of any subcontractor.
7. If any subcontracting takes place, the subcontracting Party shall remain fully responsible towards the other Party for the proper fulfillment of its obligations under this Agreement and any PO placed under this Agreement before and/or after the date of subcontracting. Subcontracting of any obligations under this Agreement shall in no case entail increased costs to the other Party to fulfill its obligations under this Agreement. The subcontracting Party shall reimburse the other Party any documented cost suffered by the other Party due to the assignment.
8. **RELATIONSHIP OF THE PARTIES**
   1. Nothing in the Contract/Agreement constitutes any fiduciary relationship between City Bank PLC and the Supplier or any relationship of employer - employee, principal and agent, or partnership, between City Bank PLC and Supplier.
   2. No party has any authority to bind the other Party in any manner whatsoever except as agreed under the terms of the Contract/Agreement.
   3. City Bank PLC has no obligations to the Supplier’s team except as agreed under the terms of the Contract/Agreement. except as expressly authorized under this Agreement neither party has authority to pledge the credit of or make any representation or give any authority to contract on behalf of another party.
9. **COSTS**

Each Party shall bear its own costs for, and incidental to, the execution of this Agreement including legal costs.

1. **SURVIVAL OF AGREEMENT**
   * + 1. Subject to any provision to the contrary, this Agreement shall endure to the benefit of and be binding upon the Parties and their successors, trustees, permitted assigns or receivers.
       2. Any provision of the Agreement which, either expressly or by implication, survives the termination or expiration of the Agreement, shall be complied with by the Parties including that of the provisions of indemnity, confidentiality, non-disclosure in the same manner as if the present Contract/Agreement is valid and in force and effect.
       3. The provisions of the clauses of the Agreement in relation to Documents, data, processes, property, Intellectual Property Rights, indemnity, publicity and confidentiality and ownership shall survive the expiry or termination of the Contract/Agreement and in relation to confidentiality, the obligations continue to apply unless City Bank PLC notifies the Supplier of its release from those obligations.
2. **AUDIT**
   1. **MAINTAINING RECORDS**
3. The Supplier must keep accurate and complete records within necessary and related scope along with supporting documentation, both in hard copy and soft copy to:
4. demonstrate that it is in compliance with this Agreement; and
5. enable CITY BANK to verify the accuracy of the information contained in any report(s) provided.
6. Subject to any applicable laws, the Supplier must preserve the records and supporting documentation referred to preceding clauses in this Agreement for a period of 6 (six) years from the date of transaction.
   1. **AUDIT INSPECTION**
7. Upon CITY BANK’s written request, Supplier shall allow CITY BANK (or its nominee) to inspect and audit the records and supporting documentation maintaining necessary confidentiality and guidelines referred in this Agreement for the purpose of verifying whether the Supplier is complying with the terms and conditions of this Agreement or is otherwise complying with all applicable laws.
8. The Supplier must, at its own cost, provide CITY BANK (or its nominee) all reasonable assistance requested by CITY BANK (or its nominee) in connection with an inspection or audit of all resources including but not limited to equipment, soft and hard data. For avoidance of doubt, the Supplier shall bear the cost of providing soft copies of necessary documentation.
9. **SEVERABILITY**

If any part of this Agreement is determined to be illegal, invalid, frustrated or unenforceable, for any reason, then, insofar as is practical and feasible, the remaining portions of the Agreement shall be deemed to be in full force and effect as if such invalid portions were not contained herein.

1. **WAIVER**

Any delay, neglect or forbearance on the part of CITY BANK in enforcing the Agreement against the Supplier shall not be deemed to be a waiver and shall not prejudice the right of CITY BANK to enforce the Agreement.

1. **LANGUAGE**

This Agreement has been executed in English language, which shall be binding and controlling language for all matters relating to the meaning or interpretation of this Agreement. All correspondence concerning the content of this Agreement shall be in English language.

1. **‘No Claim’ Certificate:** The Supplier shall not be entitled to make any claim(s) whatsoever, against City Bank PLC, under or by virtue of or arising out of, the Agreement, nor shall City Bank PLC entertain or consider any such claim, if made by the Supplier after he has signed a ‘No Claim’ Certificate in favor of City Bank PLC in such form as shall be required by City Bank PLC after the works are finally accepted.
2. **No set-off, counter-claim and cross claims**

In case the Supplier has any other business relationship(s) with City Bank PLC, no right of set off, counter-claim and cross-claim and or otherwise will be available under this Agreement to the Supplier for any payments receivable under and in accordance with that business.

1. **Statutory requirements**

During the tenure of the Agreement nothing shall be done by the Supplier in contravention of any law, act and/ or rules/regulations, there under or any amendment thereof governing inter-alia customs, foreign exchange, etc., and the Supplier shall keep City Bank PLC, its directors, officers, employees, representatives, agents and consultants indemnified in this regard.

1. **NON EXCLUSIVITY**

The Supplier shall perform its obligations under this Agreement on a non-exclusive basis. CITY BANK may enter into similar agreements with any other party at its sole discretion.

1. **ENTIRE AGREEMENT**

This Agreement including the Annexure attached herewith embodies the entire understanding between the Parties and there are no promises, terms, conditions or obligation, oral or written expressed or implied orally or in writing other than those contained herein. The Agreement can be amended only by a subsequent agreement in writing signed by the Parties. The following documents shall be deemed to form one Agreement (“Agreement Documents”) and shall be complementary to each other:

1. Annex -1; SCOPE OF SOLUTION, TECHNICAL SPECIFICATION OF SOLUTION & SERVICE LEVEL AGREEMENT (SLA)
2. Annex -2; PRICE SCHEDULE AND PAYMENT TERMS
3. Annex -3; SERVICE PROVIDERS’ CODE OF CONDUCT
4. Annex -4; CONFLICT OF INTEREST, ETC.

In the event of there being any conflict between the terms of these documents, the terms that shall take precedence would be in accordance to the order in which they appear.

## If any provision of this Agreement would at any time be in conflict with any law or regulation compulsorily applicable to this Agreement, the Parties shall amend such provision, so that the intent of this Agreement may be carried out to the extent legally possible.

IN WITNESSES WHEREOF THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED AS OF THE DAY AND THE YEAR FIRST ABOVE WRITTEN.

|  |  |
| --- | --- |
| **Signed for and On behalf of**  **City Bank Limited** | **Signed for and On behalf of**  XXXXXX |
| Signature: | Signature: |
| Name: | Name: |
| Title: | Title: |
|  |  |
| Witness 01 | Witness 01 |
| Signature: | Signature: |
| Name: | Name: |
| Title: | Title: |
|  |  |
| Witness 02 | Witness 02 |
| Signature: | Signature: |
| Name: | Name: |
| Title: | Title: |

**ANNEX 1**

**SCOPE OF SOLUTION, TECHNICAL SPECIFICATIONS OF SOLUTION & SERVICE LEVEL AGREEMENT (SLA)**

**(Insert all technical annex under Annex 1)**

**(Example)**

**Annex 1.1 - Scope**

**Annex 1.2 technical spec**

**[Note: Annex 1.1 & 1.2 as per Functional & Technical requirements of the solution]**

**Annex 1.3 Service Level Agreement (SLA)**

# **Service Level Scopes**

This SLA will be adopted for providing maintenance and support services/replace the Items/Equipment within the warranty period (the warranty period more specifically mentioned/will be mentioned in respective POs). The Supplier/Service Provider shall provide Maintenance Services [maintain, repair and replace] for all the Items/Equipment supplied to City BANK during the warranty period at free of cost. Fees/charges may be applicable after the warranty period of the Items/Equipment for which before execution of such chargeable supply/service, it is mandatory of obtaining CITY BANK management approval and a formal order which may be PO and/or Agreement/AMC is required to be signoff by the Parties.

# **Authorized Sites**

The Authorized Sites will mean City Bank Limited premises wherever located as decided by City BANK. The Supplier/Service Provider shall be obliged to provide maintenance services at those sites.

# **Services**

## The Supplier/Service Provider has to correct any fault, defect, irregularity or failure in the Items/Equipment through maintenance or repair or replacement or add or remove or as may be necessary to fix/solve the problem. The Supplier/Service Provider has to ensure workability, smooth and continuous service of hardware and software. In case of software, the Supplier/Service Provider also has to provide safe and workable software, software enhancements, version upgrades, new releases, patches and manuals and corresponding licenses for any upgraded software as and when available. In regard to installation of the same, CITY BANK will decide if and when to install. The Supplier/Service Provider shall be responsible to provide expert, skilled, experienced personal and service in this regard.

## At any point of time if any Items/Equipment need to be taken to the Service Center for repair or replacement, the Supplier/Service Provider must provide a suitable replacement for the Items/Equipment as temporary support for continuing the work until and unless the repaired or replaced items/equipment is returned and reinstalled fully operational. As the service provided by the Supplier/Service Provider is very important and time necessary for CITY BANK, so the Supplier/Service Provider shall be always prompt, effective and expeditious in providing service to CITY BANK.

## The Supplier/Service Provider will maintain at CITY BANK's site, a written maintenance and service log and will record therein each event, incident and accident of Items/Equipment’s/Software and successive completion of repair performed on the Items/Equipment’s/Software together with a description of the cause for work, either by description of the malfunction or as a regular scheduled Preventive Maintenance. The Supplier/Service Provider can record the signature of any authorized personal/officer of CITY BANK in the record book certifying the work done for CITY BANK.

## The Supplier/Service Provider also must maintain at CITY BANK’s Site a list of Items/Equipment/Software repair and/or replacement history. A list of scheduled jobs/task to be performed on each Items/ Equipment/ Software also needs to be maintained by the Supplier/Service Provider.

## The Supplier/Service Provider will track each service request made either by CITY BANK through call, email or any other means. This service request tracking information should regularly be reported to CITY BANK and the Supplier/Service Provider should take job completion sign-off for each job completed/resolved.

# **Maintenance of Spare Parts**

The Supplier/Service Provider at all-time must maintain a adequate stock of all possible spare parts and necessary supports exclusively for CITY BANK, necessary to provide committed ‘up time’, 99.99%. City BANK in no circumstances will accept delay in supply of spare parts.

# **Service Standards**

## The Supplier/Service Provider should follow ISO 9001:2000 norms in maintenance services.

## The Supplier/Service Provider warrants that only qualified maintenance Engineers and properly trained Technicians totally familiar with the Items/Equipment shall perform all repair and maintenance services described herein.

# **Service Hours**

## The Supplier/Service Provider must be at all-time ready to provide 24\*7 round the clock service.

## The Supplier/Service Provider should be ready to provide exclusive support on holidays as hardware system related activities will mostly be performed on those days. However, at the time of call for work by CITY BANK in any day including working days the Supplier/Service Provider shall be endeavor to render prompt, effective and timely service to CITY BANK.

## The Supplier/Service Provider cannot keep any service calls unattended any time of a day or week.

# **Communication media:** SMS/Phone/Email.

# **Problem, Response and Resolution**

## Following are the severity levels for categorizing various problems:

* **Severity Level 1**: The problems which will disrupt regular business operations and will result in ‘Down Time’, is defined as severity level 1 problem. Generally, this will mean that the complete system is not usable which impact business operation.
* **Severity Level 2**: The problems which will cause disruption in rendering services or may result in ‘Down Time’ at any point, i.e., the usability of the System is severely limited, is defined as severity level 2 problem. Generally this will mean that sub-systems are not stable or usable.
* **Severity Level 3**: The problems which will hamper System performance or will create difficulty in rendering services, i.e., the usability of the System has regarded but not severe, is defined as severity level 3 problem. Generally this will mean that the system or subsystem can be used but with degraded performance.
* **Severity Level 4**: The problems which will have no immediate effect on the Business operations or continuity will fall under this category. This will generally mean that this will cause minor inconveniences and not impact the system performance in any way.

## Response and Resolution Time for each severity level

|  |  |  |
| --- | --- | --- |
| **Severity Level** | **Response Time** | **Resolution Time** |
| 1 | 15 min | Max 2 Hour |
| 2 | 30 min | Max 4 Hour |
| 3 | 2 hour | Max 12 Hour |
| 4 | 6 hour | Max 36 Hour |

Please note: the above response & resolution time frames are considering central service station at Dhaka. If the Service Provider’s need to move outside the base station “Dhaka”, travel time shall be added with the resolution time.

## Penalty Clause

In case the Supplier/Service Provider fails to provide response and resolution within the stipulated time frame as mention according to the severity level following penalty clause will apply per instance. Percentage (%) of penalty will be on the amount of the respective Items/Equipment/Software/Systems.

|  |  |  |
| --- | --- | --- |
| Severity Level | Penalty Rate | Highest Liability (Per instance) |
| 1 | For additional hour @ 0.25% of Items/Equipment/Software/Systems value | 20% of the Items/Equipment/Software/Systems value |
| 2 | For additional hour @ 0.25% of Items/Equipment/Software/Systems value | 20% of the Items/Equipment/Software/Systems value |
| 3 | For additional hour @ 0.25% of Items/Equipment/Software/Systems value | 20% of the Items/Equipment/Software/Systems value |
| 4 | For additional hour @ 0.25% of Items/Equipment/Software/Systems value | 20% of the Items/Equipment/Software/Systems value |

# **Contact**

Both parties will provide the contact numbers for communication/Support/escalation matrix.

**For the Supplier/Service Provider:**

**Technical Support Escalation List:**

|  |  |  |
| --- | --- | --- |
| **Name & Designation** | **Phone & Mobile Number** | **Email Address** |
|  |  |  |
|  |  |  |
|  |  |  |

**Management Escalation List:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name & Designation** | **Phone & Mobile Number** | | **Email Address** |
|  | |  |  |
|  | |  |  |
|  | |  |  |

**For City Bank Limited:**

**Technical/Business/Support Team:**

|  |  |  |
| --- | --- | --- |
| **Name & Designation** | **Phone & Mobile Number** | **Email Address** |
|  |  |  |
|  |  |  |
|  |  |  |

**ANNEX 02**

**(INVOICE, FEES, PRICE AND COMMERCIAL TERMS)**

## INVOICING

The Supplier shall submit corrective invoice after successful execution of the entire job as stipulated in the PO along with all supporting documents. Any other expenses incurred by the Supplier must get prior approval from concern person(s) of CITY BANK at the time of clearance. CITY BANK reserves the rights to challenge these expenses at any time and any discrepancy found will be deducted from the invoice(s). If any loss is incurred due to inaccurate/ incomplete invoicing, Service Provider shall be held liable for that loss.

The Supplier shall submit invoices to:

City Bank Limited

City Bank Center

136, Gulshan South Avenue, Gulshan-2, Dhaka-1212

Bangladesh

Each invoice shall contain (as applicable):

* Agreement Reference No: CITY BANK-……………..… …
* Purchase Order Ref. No.
* Copy of the Price Annex of the Agreement
* Acceptance Certificate
* Any other relevant documents as per the requirement ~~r~~reference to the documentation by CITY BANK for individual case.

CITY BANK reserves the right to return invoices that are not according to the above requirements.

CITY BANK may deduct from invoices received any advance payments made, disputed amounts, insufficiently documented amounts and amounts owed to CITY BANK by the Supplier .

## SERVICE FEES

## PAYMENT TERMS & METHOD

... ... ...

**[END OF THIS ANNEX]**

**ANNEX 03**

**( SUPPLIER”S CODE OF CONDUCT)**

**INTRODUCTION**

City Bank Limited (“CITY BANK”) is strongly committed to observing the highest ethical standards in all its procurement activities. As such, this Supplier’s Code of Conduct has been prepared to provide a clear statement of CITY BANK’s expectation from Supplier in all procurement dealings, ensuring that internationally recognized procurement ethics are followed. Transparency and accountability should be strictly adhered to in all procurement activities. This Supplier’s Code of Conduct ("SCOC")\_establishes the standards required for conducting business with CITY BANK. Our goal is to work with our Supplier to ensure full compliance with these principles. These requirements set out the minimum levels of compliance required of CITY BANK’s Suppliers. As a Supplier, you are encouraged to exceed the requirements wherever possible. We will consider these principles in our selection of Supplier and will actively monitor Supplier’s compliance with this SCOC.

1. **Laws, Including Regulations and Other Legal Requirements**

Our Suppliers shall comply with all applicable laws and regulations in all locations and jurisdiction where they conduct business.

1. **Policy on Corruption and Position on Conflict of Interest**

We expect all our Supplier to sell goods and/or services and to conduct their business in accordance with the highest ethical standards. Our Suppliers shall never offer a bribe and/or kickback in any form to CITY BANK employees, their families or nominees, or engage in unethical and/or unacceptable business practices in order to obtain and/or maintain CITY BANK’s business. Suppliers must report to us if any CITY BANK employees and/or business associates request any such incentive which may include, offers made directly and/or indirectly, promising to pay, and/or authorizing any kind of payment or provision of money and/or anything of value to the government officials, political parties, and/or candidates for political office for the purposes of influencing their acts or decisions. During a bid or evaluation process, Supplier should not entertain CITY BANK employees involved in the bid and/or evaluation and/or their families by, for example, providing hospitality to special events and/or other functions.

Any gifts given and/or received shall be in compliance with the law and shall not violate CITY BANK’s policies. It is understandable that the giving of promotional items of nominal value are part of normal business practice and it is CITY BANK’s policy that employees declare any gifts received.

Accordingly, our Supplier shall undertake to-

* comply fully with all anti-bribery laws, including the Prevention of Corruption Act, 1947 and Prevention of Money Laundering Act, 2002 and Money Laundering Prohibition Regulations of 2008;
* only use sub-contractors that do not violate ethical standards through bribes, kickbacks or other similar, improper or unlawful payments and who shall in turn comply with all requirements as provided under this SCOC; and
* never engage in any illegal activities which include, but is not limited to, any improper work, money laundering or actions related to terrorism.

1. **Forced or Involuntary Labour**

Our Supplier shall not use forced or involuntary labour of any type (e.g., forced, bonded, indentured or involuntary prison labour); employment shall be voluntary. Further, we also expect our Supplier to respect the personal dignity, privacy and basic human rights of employees as defined in the International Conventions of the United Nations (UN), the International Labour Organization (ILO), the Organization for Economic Cooperation and Development (OECD) and the UN Global Compact Initiative. We fully support International Labour Organization’s declaration of Elimination of forced labour, Ban on discrimination, Freedom of association and Right to collective negotiation and we expect that our Suppliers abide by the same.

1. **Child Labour Avoidance**

We strongly support ILO Declaration on Fundamental Principles and Rights at work (1998) and do not tolerate any kind of Child Labour in any form of employment. We also fully support Government’s National Child Labour Elimination Policy 2010 and expect that our Suppliers also comply with all the recommendations including initiative to eliminate Child Labour in any form. The term “child” refers to any person employed under the age of 15 (or such other age where the law of the country permits), or under the age for completing compulsory education, or under the minimum age for employment in the country, whichever is the lowest. The use of legitimate workplace apprenticeship programs, which comply with all laws and regulations, is supported. Workers under the age of 18 shall not perform work that is likely to jeopardise the health or safety of young workers. In exceptional cases only, we will accept a minimum age of 14 provided that such activities are carried strictly in compliance with applicable laws and/or rules and furthermore, provided that work does not impede his/ her education and will not jeopardise the health and/or safety of such workers.

1. **Wages and Benefits**

Compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours, legally mandated benefits and other benefits including, but not limited to, pension benefits, annual leave, holidays, etc. The basis on which each worker is being paid is to be provided to each such worker in a timely manner via pay stub or similar documentation.

1. **Working Hours**

CITY BANK expects its Suppliers to comply with industry norms and applicable local laws on working hour requirements as stipulated in the country’s governing labour laws. Suppliers shall ensure that all overtime work is voluntary and compensated at the prevailing overtime rates. Employees should be allowed at least one day off per seven-day week.

1. **Respect and Dignity**

Our Suppliers shall treat all its employees with respect and shall not use corporal punishment, threats of violence and/or other forms of physical coercion or harassment.

1. **Non-discrimination**

Our Suppliers shall not discriminate in its hiring and employment practices on grounds of race, religion, age, nationality, social or ethnic origin, sexual orientation, gender, gender identity or expression, marital status, pregnancy, political affiliation, or disability.

1. **Freedom of Association**

Suppliers shall recognize their employees’ rights to join or refuse to join labour unions and/or associations and to bargain collectively as permitted by law. Suppliers have the right to establish favorable employment conditions and to maintain open communication and direct engagement between workers and management as a means to resolve workplace and compensation issues and promoting positive employee relations that make employees view third-party representation as unnecessary.

1. **Health and Safety**

Suppliers shall provide their employees with a safe and healthy workplace in compliance with all applicable laws and regulations. Consistent with these obligations, our Suppliers shall have and implement effective programmes that include effective safety programmes covering such areas as: human safety, emergency preparedness, chemical, physical and biological agent exposure, ergonomics, and incident reporting and investigation.

Our Suppliers undertake to control hazards and take the best reasonably possible precautionary measures against accidents and occupational diseases.

1. **Protection of the Environment**

Our Suppliers shall operate in a manner that is protective of the environment and conserves natural resources and accordingly, shall comply with all applicable environmental laws, regulations and standards, such as requirements regarding chemical and waste management and disposal, recycling, industrial wastewater treatment and discharge, air emissions controls, environmental permits and environmental reporting. Suppliers shall also comply with any additional environmental requirements specific to the products or services being provided to CITY BANK as called for in design and product specifications and contract documents. Suppliers should strive to implement management systems to meet these requirements.

1. **Applicability of the** SCOC

This SCOC shall apply to all of CITY BANK’s Suppliers including all of CITY BANK’s approved Suppliers including such sub-contractors (if any) shall make this SCOC and other relevant information available to their respective employees in the native language(s) of the employees and supervisors.

1. **Monitoring compliance to the Code of Conduct**

To facilitate the monitoring of Suppliers compliance with this SCOC, CITY BANK expects Suppliers to:

1. develop and maintain all necessary documentation to support compliance with the described standards; such documentation shall be accurate and complete;
2. provide CITY BANK.’s representatives with access to all relevant records, upon CITY BANK’s request;
3. allow CITY BANK’s representatives to conduct interviews with the Suppliers’ employees and management separately;
4. allow CITY BANK’s representatives to conduct announced and unannounced site visits of Supplier’s locations;
5. to implement remedial measures for improvement in case of any deviations or malpractices within a strict time frame; and
6. respond promptly to reasonable inquiries from CITY BANK’s representatives in relation to the implementation of this SCOC.
7. **Raising Concerns**

If a Supplier wishes to report a questionable act or possible violation of this SCOC, the Supplier is encouraged to engage with their primary CITY BANK’s contact to resolve the concern. CITY BANK will carefully evaluate and respond to concerns received. The outcome of any investigations or any follow-up actions is confidential and anonymous and will be shared as and when CITY BANK deems appropriate. We will not tolerate any retribution or retaliation taken against any S Supplier who has, in good faith and with reasonable basis sought advice or reported a questionable act or possible violation.

1. **Sanctions**

A breach of the SCOC may result in actions being invoked against that Supplier , in addition to any contractual or legal remedies. The actions applied will depend on the nature and seriousness of the breach and on the degree of commitment shown by the Supplier in breach of its obligations under the SCOC. The range of actions available to be imposed on the Supplier includes, but is not restricted to, the following:

1. Formal warnings – that the continued non-compliance will lead to more severe actions.
2. Disclosure of nature of breach to all CITY BANK subsidiaries and associate companies.
3. Immediate termination of contract and/or Purchase Order, without recourse.

**ANNEX 04**

**(CONFLICT OF INTEREST, ETC.)**

The Supplier represents warrants and covenants that Supplier has no knowledge, information, or belief of:

1. The ownership of any legal or beneficial interest in of the Supplier and their respective Affiliated Companies by any employee or dependent or close relation in blood or marriage of any employee of CITY BANK (Purchaser). If Supplier has such knowledge, information or belief, it shall disclose to Purchaser; or
2. Any gift or payment, or promise to give or pay by Supplier , its Service Providers, and their respective Affiliated Companies, and the employees, agents, and representatives of all of them including, without limitation, Supplier’s Personnel, of anything of value whatsoever to any servant, agent, or employee of Purchaser or any dependent of the same as an inducement to such employee to influence the obtaining of the Agreement or any payment provided for or contemplated by the Agreement.
3. The Supplier shall immediately notify to Purchaser in writing of any conflict of interest or of any improper or illegal inducement given to (or requested by) any employee, servant or agent of Purchaser of which Supplier may become aware before, during or following the performance of the Services under the Agreement.
4. Purchaser may request, and Supplier agrees to allow, an examination of Supplier records relative to an investigation concerning any possible conflict of interest or improper or illegal inducement. Such examination may be conducted by an independent auditor at the cost of Purchaser.
5. Purchaser has provided Supplier with a copy of the Code. Supplier acknowledges that it has received, read and understood the Code. Supplier agrees to comply with the Code in spirit and in substance.
6. Supplier’s failure to comply with the Code or to comply with applicable laws will be deemed to be a material breach of the Agreement which shall result in the right of Purchaser to immediately terminate the Agreement, without prejudice to other rights or remedies available to Purchaser under the Agreement or otherwise.
7. Purchaser has selected Supplier to perform the Services under the Agreement based upon various factors, including the reputation of Supplier and the belief that Supplier has not and shall not violate any applicable laws, rules or regulations, or the substance of the Bangladesh.

In no instance shall Supplier be authorized to commit Purchaser or act on its behalf, except as expressly provided in the Agreement.

**End**