



Agreement

Made and signed in Jerusalem on the ___ day of ___, _____

Between:

The Public Utilities Authority – Electricity (PUA)

Of 1 Hasoreg St., Jerusalem 91012

Tel: 02-6217111; fax: 02-6217122

Represented by the Chairperson of the PUA and Comptroller of the PUA
(hereinafter: – “**the Contracting Authority**”)

of the first part

And:

(Name of the company + address + I.D. No. (licensed dealer/corporation reg.
number, as the case may be)
(hereinafter: “**the Consultant**”)

of the second part

WHEREAS the Contracting Authority desires the provision of consultation services, under the stipulations of the request for proposals published by the Contracting Authority, which constitutes an inseparable part of this contract (hereinafter: “**the Request**”). The Request is attached hereto as **Appendix A**;

WHEREAS the Consultant has submitted its bid pursuant to the Request (hereinafter: “**the Bid**”), attached hereto as **Appendix B**;

WHEREAS subject to its signing this agreement, and the fulfillment of the other requirements set out in the Request documents, the Contracting Authority’s tenders committee has selected the Consultant’s bid.

IT IS THEREFORE AGREED AND STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Interpretation and Appendices

The preamble to this agreement and its appendices constitute an inseparable part of the same.



- 1.1. This contract shall replace any prior agreements, arrangements and practices that existed between the Employer and the Employee.
- 1.2. Terms appearing in this agreement and in the Consultant's bid shall be interpreted within the meaning assigned to such terms in this agreement, and in the event of any conflict having appeared between the Consultant's bid and this agreement, the provisions of this agreement shall apply.
- 1.3. This agreement shall be interpreted in a manner most fully observant of the express and implied requirements of the required services.
- 1.4. The section headings of this agreement are used solely for the sake of convenience, and are not to be used for the interpretation of the terms of the agreement.

2. Definitions

2.1 In this agreement, the following terms shall have the meaning appearing opposite them:

2.2

"Team Members" - any person on behalf of the Consultant, employed for the purpose of the provision of the services.

"Information" - any information, know-how, knowledge, document, correspondence, plan, data, model, opinion, conclusion and any other such thing related to and/or concerning the provision of the services, whether written or oral and/or in any other form or manner of preserving knowledge electrically and/or electronically and/or optically and/or magnetically and/or otherwise, related to or concerning the provision of the services, which is not in the public domain.

"Professional Secrets" - any Information which shall have come to the possession of the Consultant or the Employee, in connection with the provision of the services, whether it was received during the provision of the services or thereafter, including, without derogating from the aforesaid: Information provided by the Contracting Authority and/or any other person and/or any person acting on its behalf.



"Employee" – any of the Consultant's employees, who takes part in the provision of the services on behalf of the Consultant.

3. Provision of the Services

- 3.1 *This agreement is for the provision of the services for the Contracting Authority for a total period of 36 days (31 days following the signature of this agreement and another 5 business day (Sunday till Thursday) to be scheduled in a reasonable time after the submission of the final report to the contracting authority- hereinafter: "the Period of the Contract").*
- 3.2 *The Contracting Authority may, by ten days written notice, and at its sole discretion, terminate the contract with the successful bidder, at any stage during the Period of the Contract.*

4. Declarations of the Consultant

The Consultant hereby declares that:

- 4.1 *It shall provide the services to the satisfaction of the Contracting Authority, in accordance with the stipulations of the contract documents, in accordance with its bid and the accompanying details, that it is aware that the services require a high standard of skill and professionalism, and it is solely responsible for the standard and content of the services.*
- 4.2 *It has received a detailed explanation of the requirements of the Contracting Authority, for the fulfillment of which its services were procured, it is capable of meeting them and intends to do so.*
- 4.3 *It has experience in providing the services and it is capable of meeting its obligations under this agreement.*
- 4.4 *It has read all of the terms and requirements of the contract, understood them, and it undertakes to provide the services and any part thereof in accordance with the terms and requirements set out in the contract documents, accurately, efficiently, expertly and skillfully, to the satisfaction of the Contracting Authority and by the dates required by the Contracting Authority, all of which subject to the provisions of this agreement.*
- 4.5 *All of the details given to the Contracting Authority in its bid, including details of the Contracting Authority's representative, the Information it possesses and its ability to perform the services are complete and correct.*
- 4.6 *It has at its disposal, at any time, all of the equipment and means required for the provision of the services under this agreement.*
- 4.7 *It shall cooperate with the Contracting Authority in all matters concerning the fulfillment of its obligations under the provisions of this agreement, and it shall place itself at the disposal of the Contracting Authority regularly and with a high level of availability, according to the needs of the Contracting Authority,*

- as required by the Contracting Authority or any person on its behalf.*
- 4.8 *It shall provide the services to the Contracting Authority through the representative of the Contracting Authority, and shall not provide the services through any other employer on its behalf in respect to which no prior written approval had been received.*
- 4.9 *It shall notify the Contracting Authority, in writing, immediately orally and by fax, and within 48 hours at the latest, of any change in its legal status and/or of any event in which it is incapable of providing the services and/or of any likely possibility of its not being able to meet its obligations under this agreement, in whole or in part, for any reason whatsoever, and/or any other matter which may affect the provision of the services.*
- 4.10 *It shall provide the services in their entirety, meeting the timetable and in accordance with the stages of the provision of the services as set out in the Request/bid, and in the annual work plan, and in accordance with the monthly timetables, or the milestones, and as instructed in writing, in respect to every matter, by the Contracting Authority, in coordination with the Consultant, as the case may be.*
- 4.11 *It undertakes to report the progress of its work and every stage of the provision of the services to the Contracting Authority. Further, it shall not progress to any of the stages of the provision of the services without the Contracting Authority's prior written approval.*
- 4.12 *No instruction in respect to the provision of the services, or expense made under this agreement, shall be valid for the purpose of this agreement unless it has been approved, in writing, by the Contracting Authority.*
- 4.13 *It shall attach to this agreement the declarations and undertakings of the Employees who will take part in the provision of the services, in respect of ensuring the absence of conflicts of interests and maintaining confidentiality, attached to this agreement.*

5. Confidentiality

- 5.1 The Consultant hereby declares that it is aware that the Information received during the provision of the services by it, by any person acting on its behalf or by the Members of the Team, is of special sensitivity, and it shall not be disclosed to any person who is not a Member of the professional Team providing the services on its behalf, or one of the representatives of the Contracting Authority. The Consultant declares that it is aware that the disclosure of such Information may cause substantial damage to the Contracting Authority, on various levels.
- 5.2 The Consultant declares that it is aware that any Information received by it or the Members of the Team and/or the employee during the provision of the services is considered Professional Secrets.

- 5.3 The Consultant undertakes to keep the Information and/or the Professional Secrets absolutely confidential, and not to use them in any way. For the avoidance of doubt, and without derogating from the generality of the above, the Consultant undertakes not to publish, disclose, inform of, deliver or bring to the knowledge of any person the Information and/or the Professional Secrets.
- 5.4 The Consultant shall not, during the Period of the Contract or thereafter, disclose to any person to whom it is related of with whom it is associated for the purpose of the provision of the services, any Information whatsoever concerning the services, unless it received the Contracting Authority's prior written approval for such disclosure, and on conditions stipulated by it.
- 5.5 The Consultant undertakes to ensure that the Team Members who will take part in the provision of the services and/or any Employee who is to provide the services, shall sign an undertaking to maintain confidentiality, in the format attached to this agreement. Such signature by such Team Member or Employee shall constitute a condition for the provision of the services through them. The said undertaking to maintain confidentiality is attached and marked **Appendix C** to this agreement, and constitutes an inseparable part thereof.
- 5.6 The Consultant declares that it is aware that failure to fulfill its obligations under this section constitutes an offense under chapter G (National Security, Foreign Relations and Official Secrets) of the Penal Law, 5737-1977.
- 5.7 The provisions of this section shall not apply to Information:
- 5.7.1 Which is independently known to the consultant, otherwise than through any illegal act committed by it;
 - 5.7.2 Has been exposed pursuant to the lawful requirement of an authority under law or the disclosure of which is mandatory under law.

6. Conflicts of Interests

- 6.1 The Consultant declares and undertakes that to the best of its knowledge it does not, as of the date of the contract, and shall not, during the Period of the Contract between the parties, have any conflict of interests of any kind, and/or business or other relationships in connection with the provision of the services.
- 6.2 Without derogating from the generality of the above, the Consultant shall inform the Contracting Authority or a representative on its behalf, in advance, of any intent on its part or on the part of any of its Employees, to contract with any person as stipulated in this section, and to act in accordance with its instructions in respect to this matter. The Contracting Authority may refrain from granting approval for such contract to the Consultant, or give other instruction to ensure the absence of conflicts of interests, and the consultant shall act in accordance with such instructions.



- 6.3 It is hereby clarified that the Consultant undertakes to ensure that its Team Members engaged in the provision of the services on its behalf, who will take part in the provision of the services, and/or any Employee who is to provide the services, shall sign an undertaking to ensure the absence of conflicts of interests including the Consultant's undertaking as aforesaid in section 6.1. Such signature by the Team Members who will take part in the provision of the services and/or of the Employees as aforesaid, shall constitute a condition for the provision of the services through them. The said undertaking concerning absence of conflicts of interests is attached and marked **Appendix D** to this agreement, and constitutes an inseparable part thereof.
- 6.4 The Consultant shall immediately inform the Contracting Authority or a representative on its behalf of any circumstance or situation due to which it, and/or any person acting on its behalf, may be in a situation of conflict of interests, immediately upon its becoming aware of such circumstance or situation.
- 6.5 If, in the opinion of the Contracting Authority, any person on behalf of the Consultant is in a situation involving or that may involve a conflict of interests on its part, the Contracting Authority may instruct that the Consultant's work be ceased and the contact with it be terminated, solely for this reason.

7. **Proprietorship**

- 7.1 The Contracting Authority is the sole proprietor of the Information.
- 7.2 At the conclusion of the provision of the services, the Consultant shall deliver to the Contracting Authority all of the Information in its possession.

8. **Indemnification**

- 8.1 The Consultant undertakes to pay any amount that Contracting Authority shall be charged with in connection with the provision of the services, including a breach of this agreement, if committed by the Consultant and/or any of its Employees, and also to pay for any damage and/or expense consequently incurred by the Contracting Authority.
- 8.2 The Consultant undertakes to indemnify the Contracting Authority for any amount paid by the Contracting Authority or that it may pay, deriving from acts and/or omissions of the Consultant, relating to this agreement, including payment to subcontractors, interest and other expenses involved in the forgoing.
- 8.3 The Consultant undertakes to indemnify the Contracting Authority for any amount that the Contracting Authority shall be required to pay if it is determined, notwithstanding the provisions of this agreement that an employer-employee relationship exists between the Contracting Authority and any of the Consultant's Employees.

9. **Offsetting and Lien**



- 9.1 The Contracting Authority may offset and/or retain payments due to the Consultant or any part thereof, against amounts due to the Contracting Authority from the Consultant or in any event of damage caused to the Contracting Authority by the Consultant and/or any of its Employees.

10. Remedies

- 10.1 **If the Consultant failed to meet any of its obligations under this agreement, for any reason, the Contracting Authority may, at its sole and absolute discretion, immediately terminate the provision of the services and perform the services itself and/or through others, all of which at the expense of the Consultant and without derogating from the right of the Contracting Authority to compensation and indemnification, and other rights available to the Contracting Authority under this agreement and under law.**

- 10.2 **In addition, the Contracting Authority shall be entitled to remedies in any event in which the Consultant fails to meet its obligations under this agreement or under the Request document, for any reason whatsoever, and it shall be entitled to any relief and legal remedy under the Contract Law (Remedies for Breach of Contract), 5731-1970, and under law.**

- 10.3 **Without derogating from the generality of the above, it is agreed between the parties that the right to remedies includes:**

10.3.1 The right to deduct from the consideration due to the Consultant an amount equivalent to the damage caused as a consequence of the services.

10.3.2 The right of the Contracting Authority to cancel this agreement, to immediately terminate the provision of the services by the Consultant and to perform the services itself and/or through others.

10.3.3 The right of the Contracting Authority to pre-estimated liquidated damages in an amount equal to USD 25,000. The compensation under this section is pre-estimated liquidated damages for damage caused to the Contracting Authority due to a late provision of the services or due to any other breach of the provisions of the agreement, and the collection of the amounts shall not require proof of damage. For the avoidance of doubt, the Consultant declares that it is aware of the importance of meeting the determined timetables, and of the quality of the services performed by it.

10.3.4 The remedies granted to the Contracting Authority are aggregate remedies, and nothing in this agreement shall deny the right of the Contracting Authority to offset, compensation, indemnification or any other additional relief by virtue of law and agreement.



11. Liability

11.1 The Consultant shall be exclusively and solely liable for any damage and/or loss caused due to and/or in consequence of the provision of the services to the Contracting Authority and/or property and/or any third party, including damage and loss caused by the Team Members and/or any person acting on behalf of the Consultant or authorized by it, all of which due to an act or omission of the Consultant or any person acting on its behalf, involving any one of the following:

11.1.1 Breach of a statutory duty, specifically concerning confidentiality obligations, or a violation of instructions given to the Consultant or any person on its behalf and/or any of the Team Members and/or any of its Employees by the Contracting Authority or any of its employees;

11.1.2 An act performed otherwise than in good faith and in the accepted manner;

11.1.3 An act performed negligently.

11.2 The Consultant shall be solely and exclusively liable for any tort claim made on behalf of Team Members, its Employees and/or any person acting on their behalf.

11.3 The Contracting Authority, its employees and any person acting on its behalf shall not be liable for any payment, expense, loss or damage of any kind caused to the Consultant and/or its Team Members and/or Employees and/or any person acting on its behalf.

12. Observance of the Provisions of Law

12.1 The Consultant undertakes to observe the provisions of any law applying in connection with performance of the agreement and the provision of the services pursuant thereto.

12.2 The Consultant declared that the exclusive and absolute liability for any claim and/or demand in respect to any lack of observance of laws on its part applies solely to it, and it hereby releases the Contracting Authority from any such claim and/or demand, whether the violation of a provision of law was committed by it or by and Employee or other person acting on its behalf.

13. Prohibition on Assignment and/or Transfer of the Provision of the Services to another Person

The Consultant may not assign this agreement, in whole or in part, or transfer or assign any right or obligation deriving from this agreement to another person, unless it has received the Contracting Authority' prior written consent for the foregoing. Where the Contracting Authority's consent was given as aforesaid, nothing in such consent shall release the

Consultant from any obligation, liability or duty under law and agreement.

14. **Waiver**

No waiver, indulgence, abstention from an act or extension of the Contracting Authority shall be deemed as a waiver by the Contracting Authority under this agreement or serve to prevent any claim on its part, unless such waiver was made explicitly and in writing.

15. **Consideration**

- 15.1 The Consultant shall be entitled to receive from the Contracting Authority, in accordance with the consideration specified in the Consultant's bid, which shall be the full, final and established consideration due to the Consultant (heretofore and hereinafter: "the Consideration").
- 15.2 It should be clarified that the total Consideration shall not exceed USD _____. The consideration shall be paid in three payments: the first payment shall be paid after the contractual agreement is signed with the Successful Bidder (15%); the second payment shall be paid after submission of "draft 'B'" (35%); the third payment shall be paid after submission of the final report (50%).
- 15.3 It should be clarified that with the exception of the payment of the Consideration, the Consultant shall not be entitled to any additional payment or other benefit for the provision of the services, including expenses such as telephone charges, mail, photocopies, printing, fax, board and lodging, flight expenses, etc.
- 15.4 No Consideration shall be paid to the Consultant unless the services were actually provided, to the full satisfaction of the Contracting Authority.
- 15.5 The Consultant shall not be entitled to any Consideration for services provided by a Team Member or Employee on behalf of the Consultant who did not sign the undertaking of confidentiality protection and the undertaking concerning the absence of conflicts of interests, attached hereto.
- 15.6 The Consultant shall not be entitled to any Consideration for services provided by an Employee or a Team Member who did not receive the approval of the Contracting Authority for the purpose of the provision of the services in accordance with the provisions of the Request and this agreement.
- 15.7 The Consideration shall be paid to the Consultant on the "government payment dates" [*between the 15th and 24th of each month, including the first and last of the said dates – the translator*], within 24-45 days from the receipt of a lawful tax invoice from the Consultant, subject to the confirmation of the representative of the Contracting Authority that the that the services have been provided to the full satisfaction of the representative of the Contracting Authority. The number of credit days shall be determined according

to the date of the submission of the invoice by the Successful Bidder in each month, as follows:

- 15.7.1 Invoices submitted to the Contracting Authority during the first half of each month (on the 1-15 of the month): shall be paid at the beginning of the "government payment dates" of the following month, that is, on the first business day following the 15th of the following month. In such case, the number of credit days shall be 30-45 days from the date of the submission of the invoice to the Contracting Authority.
 - 15.7.2 Invoices submitted to the Contracting Authority between the 16th and 24th of each month (including the first and last days): shall be paid between the 16th and 24th of the following month. In such case, the number of credit days shall be exactly 30 days from the date of the submission of the invoice to the Contracting Authority.
 - 15.7.3 Invoices submitted to the Contracting Authority between the 25th and 31st of each month (including the first and last days): shall be paid on the 24th of the following month. In such case, the number of credit days shall be approximately 24-29 credit days.
- 15.8 In order to avoid delays in the approval of the invoice, and in consequence thereof, in the payment, the Consultant shall ensure that each invoice submitted to the Contracting Authority shall be printed and shall include all of the required details and data as shall be agreed with the representative of the Contracting Authority.
 - 15.9 The Consultant shall have no demands or claims against the Contracting Authority due to delays in the payment deriving from its omissions, such as: lack of details in the invoice, incorrect details, a deficiency in the documents, the late submission of accounts, invoices and documents, etc.
 - 15.10 The stipulations in regard to the payment of the consideration as set out above are subject to the directives of the Accountant General in the Ministry of Finance, as published from time to time.

16. **Miscellaneous**

- 16.1 This agreement nullifies and cancels previous contracts, agreements, relationships and negotiations that had existed between the Contracting Authority on the one hand and the Consultant or any of its Employees on the other hand.
- 16.2 The Contracting Authority undertakes to meet all of the requirements of the security officer of the office or offices at which any work shall be carried out, under the provision of the services.
- 16.3 Sections 5 through 8, 11, 12, 16 and 18 shall remain in effect after the end of the Period of the Contract.
- 16.4 No change in the terms of this agreement shall have any effect unless made with the agreement of the parties and in writing.

- 16.5 The exclusive jurisdiction in all matters concerning this agreement is accorded to the court of jurisdiction in Jerusalem.
- 16.6 The addresses of the parties are as specified in the preamble to this agreement.
- 16.7 Any notice sent by one party to the other shall be deemed received within 72 hours from the date of posting by mail.
- 16.8 The representatives of the government signing this contract hereby declare that the expenses and authorizations to enter into binding commitments entailed in the performance of this contract will be budgeted for in the Annual Budget Law for the budget year.

AND IN WITNESS WHEREOF THE PARTIES HAVE SIGNED

The Contracting Authority

The Consultant

Appendix C to the Agreement

Undertaking to Maintain Confidentiality

Made and signed on __ __ . 20 __

By

I.D. No _____
Of _____ St.

WHEREAS the Public Utilities Authority ("The Contracting Authority") receives the services as defined herein;

WHEREAS I am employed in connection with the provision of the services;

WHEREAS I may be exposed to professional secrets which the State of Israel wishes to safeguard.

Therefore, I hereby undertake to the State of Israel as follows:

1. **Definitions**

In this undertaking, the following terms shall have the meaning appearing opposite them:

"The Services" or "Consultation Services" - consultation services for Consulting Services, under the stipulations of the Request published by the Contracting Authority.

"Information" - any information, know-how, knowledge, document, correspondence, plan, data, model, opinion, conclusion and any other such thing related to and/or concerning the provision of the services, whether written or oral and/or in any other form or manner of preserving knowledge electrically and/or electronically and/or optically and/or magnetically and/or otherwise, related to or concerning the provision of the services, which is not in the public domain.

"Professional Secrets" - any Information which shall have come to the possession of the Consultant or the Employee, in connection with the provision of the services, whether it was received during the provision of the services or thereafter, including, without

derogating from the aforesaid: Information provided by the Contracting Authority and/or any other person and/or any person acting on its behalf.

2. **Maintaining Confidentiality**

I hereby undertake to keep the Information and/or Professional Secrets absolutely confidential and to use them solely for the purpose of the provision of services. For the avoidance of doubt, and without derogating from the generality of the above, I hereby undertake not to publish, deliver, inform, disclose or bring to the knowledge of any person the Information and/or the Professional Secrets. I hereby declare that I am aware that failure to fulfill its obligations constitutes an offense under chapter G (National Security, Foreign Relations and Official Secrets) of the Penal Law, 5737-1977.

And in witness whereof I have signed:

Appendix D to the Agreement

Undertaking Concerning Absence of Conflicts of Interests Made and signed on ____. 20__

By

I.D. No _____
Of _____ St.

WHEREAS the Public Utilities Authority ("The Contracting Authority") receives the services as defined herein;

WHEREAS I am employed in connection with the provision of the services;

WHEREAS I may be in a situation of conflict of interests in the provision of the services and thereafter;

Therefore, I hereby undertake to the State of Israel as follows:

3. **Definitions**

In this undertaking, the following terms shall have the meaning appearing opposite them:

"The Services" or

"Consultation Services" - consultation services, under the stipulations of the Request published by the Contracting Authority.

1. I declare and undertake that I do not have and shall not have, during the period of the provision of the services, any conflict of interests, of any kind whatsoever, and/or business or other relationships in connection to the provision of the services.
2. Not to engage in and or contract with, during the Period of the Contract and for a period of six month after the termination of the validity of this agreement, directly or indirectly, whether through the Provider of the services and/or through others, including through a corporation controlled by the provider of the services, a business and/or work and/or any other relationship with the IEC and/or the Tamar partnership and/or private ventures in the field of the Israeli electricity sector, and/or with other licensees and/or applicants for licenses and/or ventures in the field of the Israeli gas sector and/or any "Other Interest" due to which the provider of the services may be in a situation of a conflict of interests, without receiving the prior written consent of the Chairperson of the Public Utilities Authority (PUA) for the foregoing. "Other Interest" shall include my interest, the interest of a member of my family or of a body of which I or a member of my family is a member, manager or senior employee, or a body in which I or a



member of my family hold any shares, rights to share in profits, right to appoint a director or voting rights, as well as the interest of a client who I or my employer/partner/employee who works with me or under my supervision represent/consult/ audit (hereinafter: "Other Interest").

3. The foregoing shall includes a declaration that I am aware of no existing conflict of interests, or a conflict of interests that I may be in, between the fulfillment of my duties or work in which I am engaged under the provision of the services to the PUA and any Other Interest or an interest of a member of my family or of a body of which I or a member of my family are members.
4. I hereby declare that I am aware that use of information not in accordance with this letter of undertaking, including its disclosure to another person, constitutes an offense under the Penal Law, 5737-1977, and under the Protection of Privacy Law, 5741, 1981.
5. This undertaking shall not be construed as creating a personal relationship of any kind whatsoever between the contracting authority and me.

And in witness whereof I have signed:
