

Tuesday, November 24, 2015
12 Kislev 5776

Advertised Tender no. 6/15

Re: Request for Proposals for the Provision of Consultation Services for Market Optimization & Best Available Practice During Electricity Market Reconstruction-

On behalf of the Public Utilities Authority – Electricity (Hereinafter: "**the Contracting Authority**" or "the PUA"), I hereby request bids for the provision of consultation services for Market Optimization & Best Available Practice during Electricity Market Reconstruction, as follows:

1. **Background**

Israel Electric Corporation (IEC) is a governmental owned, vertically integrated monopoly. Until early 2013, 98% of total energy consumed by electricity consumers, used to be manufactured by IEC. Since early 2013 new large and small Independent Power Producers (IPPs) introduced to the electricity market, reducing IEC's market share in the production segment to 75%. This course is due to continue until IPP's will produce about 40% of the annual national energy required.

IPP's can sell its produced energy directly to the grid, or through a Bilateral contract with large private consumers. Electricity and financial transactions are inspected and monitored by the System Operator which is in charge of the electricity market. It should be noted that the System Operator is currently a unit within IEC and not an independent entity as it is the case in countries which went through the process of electricity market reform.

Currently Israel's total energy production is about 60TWH produced from Installed capacity of about 16,000 MW. Peak load demand reached a level of 12,800MW in 2015 summer. There are 2.5 million consumers and the growth demand rate is about 2.5% annually. Israeli grid is an "Electricity Island" which means no back up is available from surrounding countries.

Since the Israeli electricity market is not competitive yet, but rather in an early stage of opening to market competition via introduction of new IPP's, most of the costs of produced electricity (by IEC and IPP's) are defined by the PUA either ex ante or ex post.

For the purpose of examining the recognized variable costs for IEC, for purchasing energy from private producers (IPPs) under the "PPA's commitments to buy electricity", the Contracting Authority desires to contract with an international consultant expert in the field of Electricity Market Optimization knowledgably in Best Market Practices with strong academic background on electricity markets who will assist the PUA in establishing good market practices.

Market changes, with constraints as described above, introduce significant challenges to the regulator during electricity market reform. Transforming the market from actual (physical) production loading to economical loading require the use of various techniques such as Central Unit Commitment, Counter Factual Simulation, Uniform Clearing Price, Counter Trading, Virtual Bidding, etc. These techniques may use mathematical and statistical models such as Monte Carlo simulation, Mixed Integer Programming etc. Such market construction may also need to accommodate other mechanisms such as, Financial Transmission Rights (FTR), Location Marginal Pricing (LMP), Market for Ancillary Services, including the examination of System Operator Charges, structure of grid charges, opening competition to small consumers etc. Hence, the Contracting Authority is seeking to engage with an expert whose actual experience and academic background is in the above mentioned fields and which is well familiarized and competent with various International Electricity Market Reconstruction, Market Monitoring and Market Optimization including Risk Management background.

1. Details of the Requested Work

The Consultant shall be required to draft a general report, in which it shall provide a list of activities that should be performed by governmental bodies in order to achieve adequate electricity market. In addition the report shall point out discrepancies between current practices and processes of the Israeli electricity market, as opposed to international well established reformed markets. The general report shall also include proposed detailed steps, methodologies and processes that the Israeli market should take in order to be as close as possible to international best known practices. The general report shall take into account a constraint that IEC will remain a vertical monopoly during the foreseeable future hence System Operator and Transmission Operator will not be independent and will remain within IEC. Proposed steps and processes shall be proven to be able to work around these constraints. Further, the consultant will be requested to list the concerns that are not according to best international common practice, if any, that may derive from current market structure. The consultant will have to use its international comparative experience as well as its academic background and support the work with relevant examples from at least 3 other countries. For your convenience, we should clarify that the general report drafted by the consultant shall include all relevant examination, including the following:

- A. Analysis of current processes and procedures that may result according to international experience in market failure to IEC and to IPPs, by their technology types and their operational regime (co-generators, renewable, IEC, IPP's selling directly to consumers, IPP's

selling to the system operator, and all according to the electricity regulations).

- B. Current analysis of processes and procedures that may impact the level of competition in the electricity market between IEC and IPP's by their type of technologies and operational regime.
- C. Proposed regulatory intervention including methodologies and tools, which may be required in aspects of regulatory-economic-operation that may be determined by the PUA, as a condition for cost recognition, by the PUA.
- D. Providing ample samples of market crises and market failures occurred in other countries, reasoning, and actions taken to fix the problems.
- E. Providing relevant recommendations to an industry specific regulator such as the PUA, as concluded from the examination made by the consultant. In particular, recommendations to ensure best electricity market development in the short (5 years) and medium term (up to 15 years).
- F. All of the aforesaid in the above paragraphs shall be examined in consideration with relevant international experience from similar markets in at least 3 other countries, taking into account the regulation of the energy market in Israel, and the fact that all of the costs of all players, including the IEC and IPPs are controlled and determined by the regulator, on the basis of normative costs and tariffs.
- G. The examinations requested in the previous tasks should also refer to possible transmission grid constraints in the coming years according to information supplied to the consultant.
- H. It should be clarified that the Successful Bidder shall be required to address any additional issue reasonably required in connection with

The PUA reserves the right to invite the Successful Bidder, once a year, for a period not exceeding five business days (Monday till Thursday), for the purpose of presenting the report to the professional staff at the PUA, the member of the PUA board or other bodies including in the State of Israel.

2. **Manner of Performance of the Services and Timetables**

- A. The work shall be carried out by one of the Bidders, who shall be selected by the Contracting Authority to perform the services (hereinafter: "**the Successful Bidder**"), with the accompaniment and

guidance of the PUA Director of Electricity and Regulation Division (DERD) and/or a person appointed by him.

- B. The work plan, the contents of the work, the distribution of the work and the allocation of inputs, required from the Successful Bidder, as well as the timetables, shall be approved by the DERD of the PUA or by a person acting on his behalf, and shall be coordinated with the Successful Bidder.
- C. Within three months from the date of the signing of the agreement, the abstract of the general report that shall be drafted on the subject shall be submitted for the approval of the DERD of the PUA. The abstract shall include a list of current processes and procedures applied in the Israeli market accompanied by potential impact on market competition for each of the processes.
- D. Nine months from the approval of the abstract, the final general report draft shall be submitted, in accordance with the requirements of the DRED of the PUA.
- E. During the month following the submission of the final general report draft, the Successful Bidder shall make changes and adjustments to the contents of the reports and to the manner of the submission, as per the instructions of the DERD of the PUA or of any person acting on his behalf.
- F. The work shall be carried out at the offices of the Successful Bidder. However, the Contracting Authority may invite the Successful Bidder to Israel for presentation to persons in the Contracting Authority as mentioned in previous clause.
- G. The final report shall be submitted one month after receipt of the notes of the DERD of the PUA.
- H. The final report shall include a detailed executive summary.

3. **Terms of the Provision of the Services by the Successful Bidder**

- A. The services shall be provided by the Successful Bidder personally, as per the needs of the Contracting Authority and to its satisfaction. The Successful Bidder, may not transfer or assign their rights under this bid, in whole or in part, to a third party, unless with the prior written consent of the Contracting Authority or of any person acting on its behalf.

- B. The timetables shall be approved by the Contracting Authority, and they shall be coordinated with the Successful Bidder.
- C. The Successful Bidder shall provide the services with expertise, professionalism and skills, in accordance with the professional standards and the accepted rules of professional ethics.
- D. It is hereby clarified that any material and information collected by the Successful Bidder in the course of his work shall be placed at the disposal of the Contracting Authority, unconditionally.
- E. The Successful Bidder shall begin to provide the services on the date of the signing of the contractual agreement by the authorized signatories on behalf of the Contracting Authority.
- F. The Successful Bidder is required to be available at any time during the time of the contract for questions, clarifications and requests by phone, mail and alike.

4. **Scope and Duration of the Contract**

- A. The period of the contract is one year, starting from the date of the signing of the contractual agreement with the Successful Bidder (hereinafter: "**the Period of the Contract**"), and an additional week at the discretion of the Authority that shall be scheduled at a reasonable time after the submission of the final report.
- B. The Contracting Authority may terminate the contract 10 days after prior written notice, for any reason whatsoever, and as per its sole discretion.

5. **The Consideration for the Contract**

- A. **Bidders in this procedure shall submit a global and uniform price quotation in the currency of USD.** The price quotation shall be for one year. Such price quotation shall include all of the components of the provision of the services **and will not exceed a global price of 120,000 USD.**
- B. It should be clarified that with the exception of the payment of the consideration specified in the winning price quotation, the Successful Bidder shall not be entitled to any payment or other benefit for the services, including expenses such as telephone charges, mail, photocopies, printing, fax, board and lodging, flight expenses etc.

- C. **Price quotations shall be submitted, in a separate and closed envelope, with no identification mark, and the words "Price quotation under the Request for Proposals for Provision of Consultation Services on Market Optimization & Best Practice of Electricity Market Reconstruction" shall be written on the envelope.**
- D. The consideration shall be paid upon completion of each stage of the general report as mentioned in sections 2(C), 2(D), 2(G), to the satisfaction of the DERD of the PUA as follows:
 - a. Upon completion of the first stage mentioned in section 2(C), a consideration of 20% of the price quotation shall be paid by the contracting authority.
 - b. Upon completion of the second stage mentioned in section 2(D), a consideration of additional 50% of the price quotation shall be paid by the contracting authority.
 - c. Upon completion of the third and final stage mentioned in section 2(G), a consideration of additional 30% of the price quotation shall be paid by the contracting authority.

6. **Threshold Conditions**

As a threshold condition for the submission of a bid, the Bidder must attach all of the following documents:

- A. A certification of a licensed clerk, accountant or tax advisor, which attests that the Bidder administers its accounting records in accordance with the law or that it is exempt from such administration, and that it customarily reports regarding its income and that it reports all taxable transactions in accordance with the State's tax laws.
- B. An affidavit, signed before an attorney, concerning the absence of convictions against the Bidder or its controlling party.
- C. An affidavit, signed before an attorney, according to which neither the Bidder nor any Interested Party therein are residents or nationals of Syria, Lebanon, Iran, Iraq and any other country which may be added to this list by the Government from time to time ("Hostile State").
- D. Bidders with economic activities in Israel shall sign the affidavits attached hereto as Appendix A1 and Appendix A2.
- E. The Bidder must show a personal relevant extensive international experience of no less than 3 countries, in the fields of electricity

markets and electricity regulation, relevant to the actual work requirements, during the past five years.

- F. For bidder's proven experience, a bidder must submit two works, as examples, in which, in its opinion, there is in-depth analysis of Market Optimization and Best Available Practice in electricity reformed market that the bidder was personally involved in reconstructing.
- G. The Bidder shall attach to its bid a list of relevant works it has carried out, the names of the clients for whom it carried out such works and the years in which they were carried out, the content of the works and any other detail that may assist in evaluating the relevant experience of the Bidder.
- H. The bidder must hold at least a master's degree in the field of economics or engineering.
- I. The Bidder must have personal academic background on electricity market optimization and shall be knowledgeable on methodologies of market power and market failure prevention. To that end the bidder shall attach to its bid two academic articles published by the bidder proving such academic knowledge.
- J. A bid submitted not in accordance with the provisions of this section shall be rejected outright. The Contracting Authority reserves the right to correct technical shortcomings in the bid, in order to adjust it to the requirements of the tender, or to request clarifications (but is not obligated to do so).

7. **Process of Selecting the Successful Bidder and Criteria in this Procedure:**

The applications shall be examined by the PUA, who may be assisted, for this purpose, by consultants and experts as it deems appropriate.

For the purpose of examining the applications, the PUA shall appoint a subcommittee on behalf of the tenders committee, for the opening of the bids and the analysis of the applications submitted under the framework of the request. The subcommittee shall examine the applications and the proof of the date attached to it, and shall recommend the scores of the applications to the tenders committee, in accordance with the criteria set out in this section.

The procedure of selecting the Successful Bidder pursuant to this request shall be carried out in the following four stages procedure:

At the first stage of the first step, all of the bids received by the last date for submission of offers shall be examined as to whether they meet the threshold

conditions set out in section 6 above. Only an application that meets all of the required threshold conditions shall be examined at the next stage.

At the second stage of the first step – 100% for quality mark - The quality of the bids shall be examined, in accordance with the weights and requirements set out in section 7(A) below. Only applications that meet at least 75% out of 100% quality score will be examined at the next stage.

At the third stage – 50% - Bids that past the second stage will be reweighted. The bid that achieved the highest score in the second stage shall be awarded a maximum of 50% score, and the other bids shall be awarded in a relative manner, in descending order.

At the Fourth stage -50% - after the bids were scored, at the second stage, the price quotation envelopes shall be opened, and the price quotations shall be examined, and all of the stages shall be weighted together. The bid with the highest final score shall win the first place.

A. The Second Stage – Examination of the Quality of the Bids – 100% before reweighting (50% after reweighting.)

- a. A bidder who meets the threshold conditions shall be examined with respect to the quality of its bid, its experience, skill, and quality, in a manner most advantageous to the holder of the request for proposals procedure.
- b. The examination of the quality parameter shall be carried out in accordance with the following weights:

Quality Parameter	Weight
International extensive experience which includes a variety of consultation projects in electricity field to government bodies. Quality parameter may take into consideration, number of countries the consultant was involved in, size of electricity market in those countries, depth of market reform in those countries.	20%
Methodology of the presented professional works mentioned in paragraph 6(E). Each of the two submitted works will be tested and separately. The score will be a combination of both of them.	20%
The scope and depth of the analysis and the suggested correction steps presented in the	20%

works.	
Usage of advanced mathematical and statistical models in the works.	20%
Implementation the works of the relevant experience skills, as stated in the bid, in the field of energy.	20%

B. The Fourth Stage – Price quotations – 50%

After the scoring of the bids at the second and third stages, the **price quotations shall be opened**, and the price quotations of the various bidders shall be examined.

The most inexpensive weighted price quotation shall be awarded the maximum score, and the other price quotations shall be awarded in a relative manner, in descending order.

- C. For the removal of doubt it should be clarified that the Contracting Authority reserves the right to contact an additional bidder (who is ranked in the second place), according to its ranking at the fourth stage as aforesaid, for the purpose of the provision of the services as aforesaid.

8. Additional Details that the Bidder Must Attach to its Application

- A. The structure of the bidder's organization, including the positions of the team member in the organization.
- B. A contractual agreement in the attached formulation, signed, it having been initialed on each individual page, and signed by an authorized signatory on behalf of the bidder's organization with a full signature and a stamp, placed in the designated space at the end of the agreement.
- C. Bank confirmation of the details of the account to which the payments shall be transferred.
- D. The furnishing of certificates, valid as of the date of the submission of bids in this procedure: a licensed dealer certificate **or** the appropriate certificates of registration as a corporation, as the case may be. If the bidder is a corporation, its participation in this procedure is conditioned on the furnishing of certificate of its registration as a corporation under the law of the state, and of an attorney-certified affidavit listing its authorized signatories and stating their names and their authority to bind the corporation by their signature. In this

section "corporation" means a juristic person competent in respect of obligation, rights and legal acts.

- E. All of the certifications and documents required as proof of meeting the aforesaid threshold conditions.

9. **Conflicts of Interests/Confidentiality/Proprietorship**

- A. The Successful Bidder shall declare and undertake that to the best of its knowledge, it does not have, as of the date of the contract between the parties, and shall not have, during the Period of the Contract between the parties and for six months from the end of the Period of the Contract, any conflict of interests, of any kind whatsoever. Without derogating from the generality of the above, during the Period of the Contract, the Successful Bidder shall not represent any person for whom the Successful Bidder's work with the Contracting Authority may be relevant, and shall not act on behalf of such person.
- B. The Successful Bidder shall be required to sign an unqualified undertaking of confidentiality protection, and to undertake that all of the discussions in which it will take part, as well as all of the findings and data concerning the service provided by it, including the products of its work, shall be kept confidential throughout the Period of the Contract and thereafter, unless it has received the Contracting Authority's prior written approval for the disclosure of the such findings or data.
- C. Any document prepared by the bidder as part of the provision of the services shall be solely the property of the State, and the bidder or any person acting on its behalf shall have no claim or suit regarding this matter. Further, the Successful Bidder or any person acting on its behalf shall not use information that has come to their knowledge as part of the services.
- D. The Successful Bidder shall not use any information that has come to its knowledge during the Period of the Contract, except for the purpose of fulfilling its duties.
- E. The Successful Bidder shall undertake that it shall not present to any person, other than a representative of the Contracting Authority, the results of the said work, during the Period of the Contract and thereafter, including any document prepared by it as part of the provision of the services, unless he has received the Contracting Authority's prior written approval for such presentation.

10. **Expenses of Participation in the Procedure**

- A. The bidder shall solely bear the expenses of its participation in the procedure, and it shall not be entitled to any reimbursement from the PUA of such expenses.

11. **General Terms**

- A. The agreement with the successful bidder is subject to available budget.**
- B. The order issuer may, at its sole discretion, select more than one bid, and it may also split the winning bid between two bidders, as needed, and request additional bids.
- C. The Contracting Authority may, at any time during the Period of the Contract, contact the bidder ranked next after the Successful Bidder/s, and offer it the opportunity of providing the services for the remaining period of the contract under this request or the amount of the remaining hours of work pursuant to this request, in circumstance in which it has become evident that the Successful Bidder/s in this tender is not/are not meeting the requirements specified in this request.
- D. The Contracting Authority may contact all or any of the bidders in order to obtain clarification of or supplements to their bids.
- E. The Contracting Authority may at any time by notice that shall be forwarded in writing, bring forward or defer the last date for the submission of bids and may also change the dates and other conditions relating to this request for proposals, at its absolute discretion.
- F. The Contracting Authority does not undertake to choose any bid, including the cheapest bid, and it may contact additional bidders at any time that it deems appropriate, or decide not to contract at all, for budgetary or other reasons.
- G. It should be clarified that the required work under this RFQ must be carried out only by the bidder. Third party involvement will not be accepted unless prior approval is made by the Contracting Authority.
- H. For the avoidance of doubt it is clarified that nothing in a notification of a Successful Bidder in this request shall terminate the selection process or create a contractual relationship between the Contracting Authority and the Successful Bidder and that pending the signature of authorized signatories on behalf of the Contracting Authority, of a

contract between the parties, the Contracting Authority may revoke or vary its decision at its exclusive and absolute discretion.

- I. Nothing in the foregoing shall derogate from the rights of the Contracting Authority and/or of the tenders committee under the Mandatory Tenders Law, 5753-1993, or the regulations made pursuant thereto.

12. **Manner of Submission of the Bids**

- A. The last date for submission of bids is on December the 14th, 2015 at 14:00 (Israel time).
- B. A bid that arrives after the last date and time of submission of the bids shall not be considered and shall be disqualified outright.
- C. Questions to the Contractual Authority regarding any aspect of this Request of Proposal shall be submitted in writing by December 1th, 2015 to the following email address: mosheb@pua.gov.il
- D. Bids are to be submitted by placing them in the tenders box at the offices of the PUA, at 1 Hasoreg St., Jerusalem, in closed and sealed envelopes with no identification mark of the bidder. The words "**Bid for the Provision of Consultation Services for Electricity Market Optimization & Best Market Available Practices**" shall be written on the envelope.
- E. The **Price** quotations shall be submitted as specified in sub paragraph 5B.
- F. The bids shall be submitted in two copies, together with all of the relevant documents attached thereto.
- G. The bidder shall attach to its bid any document required under the documents of the request for proposals.
- H. For the avoidance of doubt, it should be clarified that the contents of this request are confidential, and that the receiver of this request undertakes not to publish, copy or use the information included in this request, in whole or in part, for any purpose other than responding to the said request.

Appendix A1**תצהיר העדר הרשעות בגין העסקת עובדים זרים ותשלום שכר מינימום כדון**

אני הח"מ _____ ת.ז. _____ . לאחר שהוזהרתי כי עלי לומר את האמת וכי אהיה צפוי לעונשים הקבועים בחוק אם לא אעשה כן, מצהיר/ה בזה כדלקמן:

הנני נותן תצהיר זה בשם _____ שהוא המציע המבקש להתקשר עם המזמין למתן שירותי ייעוץ אופטימיזציה לסחר בחשמל (להלן: "המציע"). אני מצהיר/ה כי הנני מוסמך/ת לתת תצהיר זה בשם המציע.

1. בתצהירי זה, משמעותו של המונח "בעל זיקה" כהגדרתו בחוק עסקאות גופים ציבוריים תשל"ו-1976 (להלן: "חוק עסקאות גופים ציבוריים"). אני מאשר/ת כי הוסברה לי משמעותו של מונח זה וכי אני מבין/ה את תוכנו.

2. המציע הינו תאגיד הרשום בישראל.

3. (למילוי ולסימון X בעיגול הנכון, והכול בכפוף לחוק עסקאות גופים ציבוריים).

○ המציע ו"בעל זיקה" אליו לא הורשעו ביותר משתי עבירות לפי חוק עובדים זרים, התשנ"א-1991 (להלן: "חוק עובדים זרים") וחוק שכר מינימום, התשמ"ז-1987 (להלן: "חוק שכר מינימום") עד למועד האחרון להגשת ההצעות במכרז זה (להלן: "מועד ההגשה").

○ הגוף או "בעל זיקה" אליו הורשעו בפסק דין ביותר משתי עבירות לפי חוק עובדים זרים ו/או חוק שכר מינימום וחלפה שנה אחת לפחות ממועד ההרשעה האחרונה ועד למועד ההגשה.

○ הגוף או "בעל זיקה" אליו הורשעו בפסק דין ביותר משתי עבירות לפי חוק עובדים זרים ו/או חוק שכר מינימום ולא חלפה שנה אחת לפחות ממועד ההרשעה האחרונה ועד למועד ההגשה.

4. זה שמי, להלן חתימתי ותוכן תצהירי אמת.

חתימה וחותמת _____ שם _____ תאריך _____

אישור

אני הח"מ, _____ עו"ד (מ.ר. _____) מרחוב _____, מאשר/ת כי ביום _____ בחודש _____ שנת _____ הופיע בפני במשרדי _____ מר/גב' _____ שזיהה עצמו על-ידי ת.ז. מס' _____ / המוכר לי אישית וחתם על תצהיר זה לאחר שהוזהרתי אותו, כי עליו להצהיר את האמת, וכי יהא צפוי לכל העונשים הקבועים בחוק, אם לא יעשה כן, אישר את נכונות הצהרתו וחתם עליה בפני.

Appendix A2**אישור תשלום תנאים סוציאליים**

אני הח"מ _____ ת.ז. _____ לאחר שהוזהרתי כי עלי לומר את האמת וכי אהיה צפוי לעונשים הקבועים בחוק אם לא אעשה כן, מצהיר/ה בזה כדלקמן:
 הנני נותן תצהיר זה בשם _____ שהוא המציע המבקש להתקשר עם המזמין למתן שירותי ייעוץ אופטימיזציה למשק חשמל (להלן: "המציע"). אני מצהיר/ה כי הנני מוסמך/ת לתת תצהיר זה בשם המציע.
 התחייבות לקיום החקיקה בתחום העסקת עובדים
 אני הח"מ מתחייב בזאת לקיים בכל תקופת ההסכם שיחתם בעקבות זכייתי במכרז, לגבי העובדים שיועסקו על ידי את האמור בחוקי העבודה המפורטים להלן:

- חוק שירות התעסוקה, התשי"ט-1959
- חוק שעות העבודה והמנוחה, התשי"א-1951
- חוק דמי מחלה, התשל"ו-1976
- חוק חופשה שנתית, התשי"א-1951
- חוק עבודת נשים, התשי"ד-1954
- חוק שכר שווה לעובדת ולעבוד, התשנ"ו-1996
- חוק עבודת הנוער, התשי"ג-1952
- חוק החניכות, התשי"ג-1953
- חוק החיילים המשוחררים (החזרה לעבודה), התש"ט-1949
- חוק הגנת השכר, התשי"ח-1958
- חוק פיצויי הפיטורין, התשכ"ג-1963
- חוק שכר מינימום, התשמ"ז-1987
- חוק הביטוח הלאומי (נוסח משולב), התשנ"ה-1985

שם מלא של נציב המציע

חתימה וחותמת המציע

תאריך

אישור

אני הח"מ, _____ עו"ד (מ.ר. _____) מרחוב _____, מאשר/ת כי ביום _____ בחודש _____ שנת _____ הופיע בפני במשרדי _____ מר/גב' _____ שזיהה עצמו על-ידי ת.ז. מס' _____ / המוכר לי אישית וחתם על תצהיר זה לאחר שהוזהרתי אותו, כי עליו להצהיר את האמת, וכי יהא צפוי לכל העונשים הקבועים בחוק, אם לא יעשה כן, אישר את נכונות הצהרתו וחתם עליה בפני.

 עו"ד ,

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 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 or 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 (20%) shall be paid after submission abstract of the general report; the second payment (50%) shall be paid after the submission of the report; and the third payment (30%) shall be paid after making changes and adjustments to the contents of the report, per instructions provided by the PUA DRED or of any person acting on his behalf.

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, except payments for flight expenses.

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 the examination of the gas agreements, 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 for the examination of the gas agreements, 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:
