

Appendix A  
**Draft Agreement**

Made and signed in Jerusalem on the \_\_\_ day of \_\_\_, 202\_\_

**Between:**

**The State of Israel – Ministry of Communications (MOC)**  
Of 23 Jaffa St, Jerusalem, Israel 91999  
Represented by the Director-General of the MOC and Comptroller of the MOC  
(Hereinafter: “**the Contracting Authority**” or “**MOC**”)

**Of the first part**

And:

\_\_\_\_\_  
(Name of the company + address + I.D. No. (or registration number, as the case  
may be)  
(Hereinafter: “**the Consultant**”)

**Of the second part**

- WHEREAS** the Contracting Authority is interested in consultation services on Charges for Fixed Telecom Network Elements, and all as described below in this agreement (hereinafter: – “**the Services**”);
- WHEREAS** The Contracting Authority issued in order to receive services, the Public Tender No. 2021/021 (the “Tender”) which is attached hereto as **Appendix F** ;
- WHEREAS** The Tender Committee of the Contracting Authority at its meeting on \_\_\_\_\_ chose the consultant as the winner of the tender on the basis of his tender offer;
- WHEREAS** the Consultant declares that it has the skills, experience and available resources and personnel necessary for the performance of the services required in the agreement;

**IT IS THEREFORE AGREED AND STIPULATED 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 Consultant and the Contracting Authority.
- 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.
- 1.5. This agreement documents constituting an integral part of it are:  
Appendix A: Tender Offer by consultant (Bid / Price Offer)  
Appendix B: The service/ scope of work  
Appendix C: Undertaking to Maintain Confidentiality  
Appendix D: Undertaking Concerning Absence of Conflicts of Interests  
Appendix E: Insurance  
Appendix F: The Tender

## 2. **Definitions**

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

2.2

**“Consultant”** - Only the following persons:  
Sir / Ms. \_\_\_\_\_,  
Sir / Ms. \_\_\_\_\_,  
Sir / Ms. \_\_\_\_\_,

as proposed in the Tender Offer.

**“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.

**"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, which is not in the public domain.

**"The Services"/ "report"/"work"** - the Requested Work mentioned in the Scope of Work which is attached hereto as **Appendix B**.

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 24 months (after the signing of this agreement by the parties) to be scheduled in a reasonable time after the submission of the final report to the Contracting Authority (hereinafter: "the Contract Period").
- 3.2 The MOC shall be entitled to extend the agreement for up to 3 years under the terms of this agreement.
- 3.3 The Contracting Authority may, by 30 days written notice, and at its sole discretion, terminate the contract with the Consultant at any stage during the Contract Period. If MOC stops the agreement as mentioned, MOC will pay only for the deliverables commissioned and accepted, until the date of termination of the agreement stated. The consultant will not have any claim or demand in relation to the provisions under this section.

4. **The Consultant's Declarations and Undertakings**

The Consultant hereby declares that:

- 4.2 It has experience in providing the services and it is capable of meeting its obligations under this agreement.
- 4.3 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.
- 4.4 It has at its disposal, at any time, all of the equipment and means required for the provision of the services under this agreement.
- 4.5 The persons enumerated under the heading "consultant" will provide the services. In the event of a severing of relations between the bidder and any of the persons so enumerated, the bidder shall request the approval of the MOC to

replace an enumerated person with another, provided that person shall also meet the threshold conditions. Such approval will not be unreasonably withheld.

- 4.6 Consultant undertakes to participate in every meeting or discussion through telephone, internet or any other technological means necessary.
- 4.7 It shall provide the services to the satisfaction of the Contracting Authority, in accordance with the stipulations of the contract documents, 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.
- 4.8 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.
- 4.9 It shall notify the Contracting Authority, in writing, immediately orally and by electronic communications, 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 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.
- 4.11 Trips to Israel  
The consultant undertakes to be present in Israel for the professional activities set out in the project description, and to bear all costs of these trips.
- 4.12 For the avoidance of doubt, no further consideration will be paid adviser, beyond the provisions of section 15 below.
- 4.13 The Schedule  
The consultant undertakes to provide the services according to the MOC timetable, based on the project description
- 4.14 The work plan, the contents of the work, the distribution of the work and the allocation of inputs, required from the consultant, as well as the timetables, shall be approved by the MOC, and shall be coordinated with the consultant.
- 4.15 The work shall be carried out at premises of the consultant's choosing, with the exception of the activities which will be carried out in Israel, according to the project description.

## 5. **Confidentiality**

- 5.1 The Consultant hereby declares that it is aware that the Information received during the provision of the services by it and by any person acting on its behalf, is of special sensitivity, and it shall not be disclosed to any person who is not one of the persons enumerated under the heading "consultant" and who is 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 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 other than for the purpose of the provision of services under this contact. 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, 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 sign an undertaking to maintain confidentiality, in the format attached to this agreement. This signature is a condition for the provision of the services through the consultant. 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 is an offense under chapter G (National Security, Foreign Relations and Official Secrets) of the Penal Law, 5737-1977.
- 5.7 The Consultant undertakes to carry out any instructions it shall receive from the MOC's security officer or any other authorized body, in respect to maintenance of confidentiality, procedures for the secure handling and storage of information, and any other procedures the said security officer or authorized body may deem appropriate.
- 5.8 The provisions of this section shall not apply to Information:
- 5.8.1 Which is independently known to the consultant, otherwise than through any illegal act committed by it;
- 5.8.2 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 provision of the Conflict of Interests declaration (Appendix D) constitute an integral part of this contract.
- 6.2 The terms of the Conflicts of Interests declaration shall apply to any third party, retained by the Consultant, subject to the Ministry's approval, for the purpose of performing the Service.
- 6.3 The Contracting Authority may require, at its sole discretion, that the bidder and the consultants provide additional information, including through a "conflict of interest form", to facilitate checks of potential conflicts of interest.

## 7. **Proprietorship**

- 7.1 The Contracting Authority is the sole proprietor of the Information, and it has all the rights in the information and the elements of the provision of Services, including intellectual property rights
- 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. **Insurance and Liability for Damage**

- 8.1 The consultant shall undertake to arrange and maintain suitable insurance, in accordance with Appendix E, and to carry out the procedures contained therein.

9. **Offsetting and Lien**

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. **Termination and Remedies**

- 10.1 MOC, at its sole discretion, is entitled to terminate this Contract by giving the Consultant written notice at least thirty (30) days in advance. Without derogating from the aforesaid, MOC may terminate this Contract because of budgetary reasons or because it has been decided not to carry out the activity or the policy, in respect of which the Service has been ordered. In the event it terminates the Contract, the Ministry will pay Consultant a portion of the Consideration in proportion to the amount of work Consultant has performed relative to the entire Service until the date of termination.

- 10.2 In addition, in the event of a serious breach of contract, the Contracting Authority shall notify the consultant of the breach and provide a period of fourteen (14) days to remedy the breach. If the breach is not remedied within 14 days, the Contracting Authority shall have the authority to terminate the contract forthwith.

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 additionally 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 terminate the provision of the services by the Consultant as set out above and to perform the services itself and/or through others.

10.3.3 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 liable for any damage and/or loss caused due to the provision of the services to the Contracting Authority and/or property and/or any third party, including damage and loss caused by 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 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 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 declares 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's prior written consent for the foregoing. When the Contracting Authority's consent has been 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.

MOC payments shall be made after completion of deliverables as set out in the project description. 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, travel expenses etc.

- 15.2 No Consideration shall be paid to the Consultant unless the services were actually provided, to the full satisfaction of the Contracting Authority.
- 15.3 The Consultant shall not be entitled to any Consideration for services provided not by it.
- 15.4 The Consideration shall be paid to the Consultant on the "government payment dates", 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 services have been provided to the full satisfaction of the representative of the Contracting Authority. Payment will be carried out in accordance with the Israel Government's Regulations, Finances and Organization instructions ("takam").
- 15.5 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.
- 15.6 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.
- 15.7 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. **No Employment Relationship**

- 16.1 The relationship between the parties under this Contract and/or in consequence of its implementation is a relationship between an independent contractor and a client, and not an employment relationship.
- 16.2 The Consultant shall not have any of the rights, including the right to receive payments of any kind including severance pay, which an employee has vis-à-vis MOC. No right accorded to MOC under this Contract to supervise the Consultant or to issue it instructions shall be deemed as anything other than a means to assure the implementation of this Contract.

17. **Miscellaneous**

- 17.1 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.
- 17.2 Sections 5, 6, 7, 8, 9, 11 and 12 shall remain in effect after the end of the Period of the Contract.
- 17.3 No change in the terms of this agreement shall have any effect unless made with the agreement of the parties and in writing.

- 17.4 The exclusive jurisdiction in all matters concerning this agreement is accorded to the court of jurisdiction in Jerusalem.
- 17.5 The addresses of the parties are as specified in the preamble to this agreement.
- 17.6 Any notice sent by one party to the other shall be deemed received within 3 business days from the sending of an electronic mail message.
- 17.7 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**

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The Contracting Authority

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The Consultant