



Framework Agreement (five year) for supply of 170 KV, SF6, Gas Insulated Switchgears (GIS) for Substations and Switch stations

THE ISRAEL ELECTRIC CORPORATION LTD.
ANNEXURE "A16" - GENERAL CONDITIONS FOR THE PURCHASE OF
EQUIPMENT AND RELATED SERVICES
version July 09, 2020, updated 03.03.2025 ([revised 4.2026](#))

1. DEFINITIONS

The terms detailed herein below shall mean the following:

- 1.1. All terms contained herein which are defined in Incoterms 2020 issued by the International Chamber of Commerce. - shall have the meaning specified therein subject to the applicable provisions of Annexure "R";
- 1.2. "Approval", "as approved", "acceptable", "satisfactory", "or equal" or other similar term - unless expressly stated otherwise, shall mean "as approved" etc., by the Purchaser or its duly appointed representative, such approval not to be unreasonably withheld;
- 1.3. "Assembly/Unit" or "Unit" - as defined in the Agreement;
- 1.4. "Basic Contract Price" - as defined in the Agreement;
- 1.5. "Invoice" - Any request for payment, invoice, commercial or certified invoice, document whose purpose is for payment;
- 1.6. "Change Order" - as defined in Article 4 below
- 1.7. "Contractor" - as defined in the Agreement;
- 1.8. "Contract/Order" - shall mean the order/contract issued or a framework contract comprising of Draw Orders, including any options exercised under any of them, including this annexure and any other attachments or annexures thereto, by which the Purchaser purchases the Goods/Equipment/On Site Services/special services from the Contractor.
- 1.9. "Contract Price" - as defined in the Agreement;
- 1.10. Reserved.

- 1.11. “Critical Documents” - such documents as the Parties have agreed upon as being critical to the Purchaser in the performance of any work related to or affected by the Contractor’s scope of Work. The Critical Documents are those specifically listed in the Documentation Submission Schedule (if any) in the Specification as well as those specifically listed in Sub-article 2.7 below, and each may consist of several drawings/sheets/documents etc. as further detailed therein;
- 1.12. “Date of Starting the Trial Run” of an Equipment Package forming part of the related Assembly/Unit - a calendar date notified by the Purchaser to the Contractor after completion of installation and commissioning of an Equipment Package, upon which the Purchaser is ready and intends to start the trial run of said Equipment Package forming part of the related Assembly/Unit;
- 1.13. “Deliverable” or “Deliverable Item” - a component of a larger piece of the Equipment, or a complete item of Equipment, or a package containing several pieces of the Equipment and/or components, or it may be services payable in a lump sum, services payable at an hourly or per diem rate, or portions of Work as defined by milestones, etc.
- 1.14. “Documentation” - all technical information, drawings, commercial documents or other documentation required in the Contract including but not limited to, drawings, analyses, materials certifications, radiographs, data sheets, inspection test reports, non-destructive test records, quality plan, installation, operation, maintenance and storage instructions, inspection and test plan and all other reports specified in the Contract;
- 1.15. Draw Order - shall mean the draw order issued under the Contract/Order, including this annexure and any other attachments or annexures thereto, by which the Purchaser purchases part of the Goods/Equipment/On Site Services/special services from the Contractor;
- 1.16. Reserved

- 1.17. “Equipment” or “Equipment Package” or Goods - the Equipment / Equipment package / Goods described in Clause 2 of the Agreement; with all the related machinery, apparatus, materials and articles specified in Annexure “B”;
- 1.17A "Equipment Price" - as defined in the Agreement;
- 1.18. “Signature of the Contract” - Signature of the Contract by all Parties thereto;
- 1.19. “Financing Institution” - the first class bank or other financing institution providing financing to the Purchaser by a separate agreement, if applicable;
- 1.20. “Good Engineering Practice” - any of the practices, methods, specifications, standards of safety and performance employed by experienced international contractors or operators in the electricity utility industry, engaged in a similar type of undertaking under similar circumstances and conditions which, in the exercise of reasonable judgment in the light of the facts which should have been reasonably known at the time the decision was made, would have been expected to accomplish the desired result and are considered good, safe and prudent practice consistent with cost-effectiveness, reliability, and safety – all in a timely manner.
- 1.21. “In his discretion”, or “as may be determined”, or “in his opinion”, or other similar term - unless expressly stated otherwise, such discretion, determination or opinion being exercised reasonably and in good faith;
- 1.22. “On Site Services” - services performed by Contractor’s or it’s subcontractor’s personnel at the Site or such other place in Israel as indicated by the Purchaser and as required by the Work as further detailed in Annexure “N”;
- 1.23. “Party” or “Parties” - as defined in the Agreement;
- 1.24. “Price for On Site Services” - as defined in the Agreement;
- 1.25. “Acceptance” of an Equipment Package - successful completion of the installation/ assembly, trial run (a period of 4 weeks of continuous operation), and testing of an Equipment Package in conjunction with other equipment, all forming part of an Assembly/Unit, whereupon said Equipment

Package is accepted for normal unrestricted safe and reliable operation, all as further detailed in Annexure “B”;

Acceptance shall be deemed to have occurred in the case of i) 4 weeks of continuous operation of the Equipment, or ii) delayed testing over a reasonable period without Contractor’s fault (excluding Force Majeure events under clause 10);

- 1.26. “Acceptance Certificate” - a certificate (in the form of Form 2) that the Purchaser provides to the Contractor upon Acceptance of an Equipment Package forming part of an Assembly/Unit as defined in the Agreement;
- 1.27. “Purchaser” - as defined in the Agreement;
- 1.28. “Replacement Parts” - those parts of the Equipment which are required to be supplied by the Contractor on its own account to replace non-conforming parts as part of the performance of Contractor’s obligations under the Contract;
- 1.29. “Site/s” - as defined in the Agreement;
- 1.30. “Spare Parts” - those parts which Purchaser purchases on its own account from Contractor for servicing the Equipment;
- 1.31. “Warranty Period” - as set forth in Sub-article 16.3 below;
- 1.32. “Work” or “Works” - includes, unless the context clearly indicates otherwise, the Equipment, Goods, as well as all labor, intellectual property rights, computer software components, transportation, insurance, and other facilities and services which the Contractor is required to furnish in order to meet its obligations under the Contract and normally considered part of the scope of work covered by the Contract, whether or not fully detailed therein;
- 1.33. [Reserved.](#)
- 1.34. “LD2A”, “LD2C” - liquidated damages for delays in delivery as referenced in Sub-articles 11.2.1 and 24.1.3.2 below, at the specific rates, periods and limits stated in the Agreement;
- 1.35. [Reserved.](#)

1.36. Reserved.

1.37. Reserved.

1.38. "WP", "WCO" - Warranty Period and Warranty Cut-off date as referenced in Sub-article 16.3 below, at the specific periods stated in the Agreement;

1.39. "DP", "RE" - Down Payment, Retention Payment as referenced in Sub-article 18.3 below, at the specific rates and period stated in the Agreement;

2. **CONTRACTOR'S DOCUMENTATION**

2.1. The Documentation shall be submitted by the Contractor in accordance with the Documentation Submission Schedule in the specification hereto and/or as otherwise agreed upon by the Parties, in a timely manner. The Documentation shall be submitted to the largest extent possible using computerized media and in all cases shall be clear, legible and of quality consistent with Good Engineering Practice.

Where not specified in the Contract, further details and procedures for handling of documents shall be agreed upon by the Parties during the performance of the Contract.

2.2. Reserved.

2.3. The Contractor shall be responsible for any discrepancies, errors, or omissions in the Documentation supplied by it, whether they have been approved by the Purchaser or not, provided that such discrepancies, errors, or omissions are not due to discrepancies, errors or omissions contained in drawings or information furnished to the Contractor by the Purchaser.

2.4. The Contractor shall at its own expense carry out any alterations or re-performance necessitated by reason of such discrepancies, errors, or omissions and modify the Documentation accordingly. The performance of its obligations under this Sub-article shall be in full satisfaction of the Contractor's liabilities under Sub-article 2.3 above, and shall not relieve the Contractor of its liabilities under Sub-article 2.2 above and Article 11 below.

2.5. The Purchaser shall be responsible for modifications, discrepancies, errors, and omissions in drawings and information supplied by the Purchaser.

- 2.6. The Purchaser undertakes to submit its approval or comments to Contractor's Documentation (as per the Specification or as otherwise specified in the Contract) within 14 working days from the receipt thereof. The Contractor must, within 10 working days following the Purchaser's notification of any comments or queries, amend the document/s or otherwise take account of or respond to the Purchaser's comments or queries and resubmit the document/s for the Purchaser's review. For the removal of doubt, submission of Documentation for Purchaser's approval/comments shall not derogate from Contractor's right to proceed, at its responsibility and risk, with any part of the Work and that approval by the Purchaser shall only mean that upon Purchaser's review of the Documentation, faults were not detected. The Contractor remains responsible for the correctness and accuracy of the Documentation even if such faults are detected after submission of Purchaser's approval.
- 2.7. Without derogating from the list of Critical Documents set forth in the Specification, the following shall be considered as Critical Documents:
- 2.7.1. The instruction manual, in a preliminary format enabling installation, operation and maintenance of an Equipment Package in an adequate, safe and reliable manner, to be submitted within two months after completion of design of said Equipment Package or as otherwise specifically agreed upon in the Specification;
- 2.7.2. The electronic EXCEL file with all the Spare Parts data as per Annexure "C", to be submitted within two months after completion of design of an Equipment Package or as otherwise specifically agreed upon in the Specification.
- 2.8. Receipt by Purchaser of a substantially complete and adequate issue of the instruction manual in its preliminary format, as well as receipt of the electronic EXCEL file with all the Spare Parts data, (as specified in Sub-articles 2.7.1 and 2.7.2 above) shall together form a condition precedent to the issuance of the Acceptance Certificate.
- 2.9. The final version of the instruction manual shall be submitted within three (3) months after Acceptance or two (2) months after submission by Purchaser to the Contractor of all the relevant "as built" data, whichever occurs later; shall include a copy of all the drawings to be provided by Contractor in their final updated (as made) and (if applicable) approved version; and shall include media containing an EXCEL file with all the Spare Parts data required by the Contract under Annexure "C".

3. QUALITY ASSURANCE, INSPECTION AND FACTORY TESTING

- 3.1. The Contractor shall provide and maintain a program to verify and demonstrate that the quality of the Work will be in accordance with the Contract.
- 3.2. The Contractor shall approve its subcontractor(s)' quality assurance/control programs and shall verify that they are consistent with the requirements of the Contract.

3.3. The Contractor shall implement the agreed inspection and factory testing program specified in Annexure "B" which consists of Purchaser's quality assurance/control procedure and basic requirements (if any) and of Contractor's basic inspection and factory test plan (as submitted with the Contractor's technical proposal and approved by the Purchaser). In addition, the Contractor shall submit in writing, as scheduled in the Documentation Submission Schedule, in the Specification, its detailed recommended inspection and test program which shall include, without limitation, the inspection and factory test operations and procedures necessary for the accomplishment of the Work and the scheduling thereof. The Contractor shall implement the agreed inspection and factory testing program at such times and in the manner specified in the Contract.

3.4.

3.4.1. Subject to prior notice and coordination with the Contractor, the Purchaser or its duly authorized representative shall have the right during normal working hours to inspect or observe the production, inspection and factory testing of the Work in accordance with the inspection and test plan at any facilities where Work is performed, including those of Contractor and its subcontractors.

3.4.2. The Contractor shall provide the Purchaser with preliminary notification of readiness for factory testing and inspection of each part of the Work for which tests (witness points) are specified in the agreed upon inspection and test plan 2 months prior to such readiness. Final notification shall be provided to the Purchaser 2 weeks prior to such readiness. In exceptional cases this notification can be re-issued at least 3 working days prior to the respective event.

Purchaser shall provide Contractor with prior written notice of its attendance and shall bear the expenses related to such attendance. In the event the Purchaser's representatives fail to attend the factory tests or inspections as scheduled, the Contractor may proceed while properly recording the test procedures and all the test results for timely submission to Purchaser, except in the case of specific hold points (if any) agreed upon in the Contract, where (unless instructed otherwise by Change Order in accordance with article 4 below), Contractor may proceed as above only after giving the Purchaser an additional 3 days prior notification.

3.4.3. The witnessing of the Contractor's factory tests and inspection(s) by the Purchaser shall in no way whatsoever delay Contractor or relieve the Contractor of any of its responsibilities or liabilities under the Contract, nor shall it be interpreted in any way as implying acceptance of the Work.

3.5.

3.5.1. The Contractor shall conduct, at its responsibility and expense, all factory tests and inspections called for by the Contract (excluding tests and inspections that require dismantling of Equipment which Contractor has declared in its proposal to be manufactured and assembled prior to signing this Contract) and any inspection required by statutory authority, governmental regulation or other similar authority of the applicable codes or standards.

- 3.5.2. The Contractor shall repair and replace, without cost or delay, anything found defective by factory tests and/or inspections and shall also conduct, at its own responsibility and expense, any re-inspection and re-testing to verify conformance with the Contract. Where during the course of such tests and inspections corrective measures are agreed upon, such measures shall be documented in a quality control report and the Purchaser shall be notified of the dates for re-testing and inspection for verification of their proper implementation.
- 3.5.3. If during verification under Sub-article 3.5.2 above it is found that the agreed upon corrective measures were not properly implemented by the Contractor, the Contractor shall additionally bear all direct substantiated costs of the Purchaser (or Purchaser's representative(s)) in attending any further re-testing and inspections for verification of the implementation of said corrective measures.
- 3.6. In the event Contractor fails to provide Purchaser with notifications and access for inspection as set forth in Sub-article 3.4 above and if it is reasonably necessary to dismantle the Equipment for such inspection, then, upon Purchaser's request, Contractor shall dismantle and reassemble such Equipment and bear the expense thereof.
- 3.7. The Contractor shall provide the Purchaser with a copy of each factory test certificate as soon as available upon the completion of the related test without undue delay. Purchaser shall be entitled to reasonably demand the provision of quality records for Equipment not manufactured specifically for this Contract, and Contractor shall reasonably endeavor to provide Purchaser with same.
- 3.8. The provision by Contractor of a copy of the Quality Control Certificate by e-mail in the format of Form 5 attached hereto shall be a condition precedent for delivery of Equipment and payment therefor.
- 3.9. The Purchaser shall inform the Contractor in writing immediately upon becoming aware of any defect(s) in the Equipment. The Purchaser shall not be obliged to accept Equipment or any part thereof as long as it is in material non-conformance with the terms of the Contract regardless of the stage of completion of the Work, or the time or place of discovery of such defects and regardless of whether Purchaser's inspector has previously accepted the Work in question.

4. **CHANGES IN THE WORK**

- 4.1. The Contractor shall not alter any of the Work except as set forth in writing by the Purchaser's Procurement Division.
- 4.2. The Purchaser shall have the right to direct the Contractor to delete, add to or otherwise amend any portion of the Work by issuing to the Contractor in writing an amendment to the Contract (hereinafter referred to as a "Change Order") pursuant to the following procedure:
 - 4.2.1. Purchaser shall notify Contractor in writing of the desired change (the "Notice of Change").

- 4.2.2. Contractor shall respond to the Notice of Change in writing within fifteen (15) working days thereafter.
- 4.2.3. In any case in which the Contractor has received a Notice of Change which will, in the opinion of the Contractor, involve any change to the Contract (particularly changes that may entail a change in performance, Contract Price or schedule), the Contractor shall advise the Purchaser in writing within the fifteen-day period or within other reasonable period mutually agreed upon indicating the required amendment(s) to the Contract.
- 4.2.4. Any amendments to the Contract Price shall be ascertained and determined in accordance with rates specified in the Contract (including price break down and specified lump sums) as far as the same may be applicable. Where rates are not contained in said Contract or are not applicable or involve changes in excess of $\pm 15\%$ of the Contract Price, such rates shall be agreed between the Parties having regard to Contractor's actual proven costs incurred (including overhead) plus an allowance for reasonable profit which shall not exceed ten percent (10%).
- 4.2.5. Upon reaching an agreement with Contractor, Purchaser shall issue the Change Order, Contractor shall countersign the Change Order and the provisions of the Contract shall be revised *mutatis mutandis* and shall enter into full force and effect.
- 4.3. In the event of any amendment to any of the technical and engineering codes and standards which are relevant for the performance of this Contract, the Contractor shall inform the Purchaser of such amendments and the expected impact (if any) on the performance of the Contract, (including *inter alia* any impact on the Contract Price and the schedule). The Purchaser shall then direct the Contractor to either perform the Contract in accordance with the technical and engineering codes and standards valid at the time of Contract Signature or in accordance with the changed technical and engineering codes and standards. In the latter case, or if compliance with such changed technical and engineering codes and standards is mandatory, Contractor shall be entitled to a Change Order as described above. Purchaser shall have fifteen (15) working days to respond to Contractor's request. In the event Purchaser fails to respond within such fifteen-day period or Purchaser rejects Contractor's request, the matter shall be resolved in accordance with the provisions of Article 32.
- 4.4. Without derogating from the generality of the above, the relevant provisions of this Contract shall be adjusted by way of a Change Order requested by either Purchaser or Contractor, to take account of any necessary changes resulting from changes in legislation of the State of Israel. For purposes hereof, legislation shall refer to any law, order, regulation or by-law having the force of law, which have come into force after the date of submission of price proposal and which affects the performance of the Contract by either Contractor or Purchaser, as the case may be. This shall apply to the rate of tax deduction at source for On Site Services of Contractor's Non-Israeli Personnel and to the rates of other taxes imposed on the Work by the State of Israel. However, this Sub-article 4.4 shall not apply to price increases for those commodities the price of which is regulated by the Government of the State of Israel, nor to income tax payable in Israel by any Israeli Contractor or Israeli subcontractors.

4.5. With the exception of the special changes in the Change Order (including the exercise of Options as detailed in article 5 below) which have been expressly agreed to between the Parties, all the other provisions of this Contract shall be applicable with the necessary changes required.

5. **EXERCISE OF OPTIONS**

5.1. The Purchaser shall have the right to exercise any options by the dates set forth in the Contract.

5.2. [Reserved](#).

5.3. Upon finalization by the Parties of all the details regarding the exercise of an option, Purchaser shall issue a Change Order.

5.4. All the provisions of this Contract, *mutatis mutandis*, shall be applicable to the exercise of the options and the Equipment/On Site Services/special services purchased pursuant thereto.

6. **CONTRACTOR'S TOOLS, REPLACEMENT PARTS AND SPARE PARTS**

6.1. Contractor's Tools

6.1.1. The cost of transportation and insurance of any tools imported by the Contractor for the purpose of the Work to the Site in Israel and return is included in the Contract Price. Any costs of entry into or exit from Israel for these tools shall be for Purchaser's account. Contractor shall give Purchaser two months advance written notice of shipment of tools to be sent to the Site.

A detailed notice relating to the tools shall be sent to the Purchaser seven (7) days prior to shipment. Such notice shall include a detailed list of the tools together with a *pro forma* invoice showing their value for customs purposes and indicating that same are the property of Contractor, its subcontractor(s) and/or their respective representatives and are imported for the use in the performance of the Work.

6.1.2. The Contractor shall provide the tools accompanied by an ATA Carnet together with a notarized Power of Attorney, authorizing the Purchaser to release them from Customs upon arrival in Israel and to arrange for their re-export upon completion of the Work.

In the event the Contractor cannot provide the tools accompanied with an ATA Carnet, upon Contractor's request, Purchaser shall import the tools by a customs procedure for temporary import applicable in Israel, and back charge the Contractor for the related reasonable extra handling costs (including, without limitation, overhead and non-refundable customs).

6.2. Replacement Parts

In addition to Article 16 below and without derogating therefrom, the Contractor shall provide in a timely manner Replacement Parts throughout the installation, start up, commissioning, testing and operation of the equipment until the end of the Warranty Period.

6.3. Spare Parts

The Contractor undertakes to ensure that Spare Parts, (or, if no longer being manufactured, their functional equivalent), shall be available for purchase from or through the Contractor at the prices and lead times for delivery quoted in Annexure "C" (subject to price adjustment (if any) until the end of the Warranty Period for the related Equipment Package.

7. **REPORTS AND SCHEDULES**

Contractor shall provide Purchaser with the following:

7.1. Contractor's Project Schedule

After execution of the Contract and as scheduled in the Documentation Submission Schedule in the specification, the Contractor shall submit to the Purchaser for its review and comments a detailed "Contractor's Project Schedule". The Contractor's Project Schedule shall be in conformance with Purchaser's project milestones and with Annexure "C" and the Specification.

The Contractor's Project Schedule shall contain, where applicable and as agreed upon by the Parties, details regarding major milestones of design, fabrication, factory testing and shipment. The milestones set out in the Contractor's Project Schedule shall be highlighted in the Contractor's progress reports to be submitted in accordance with Sub-article 7.2 below.

7.2. Progress Reports

N / A.

7.3. Payment / Draw Down Report

N / A.

7.4. Balance Sheets and Annual Reports

N / A.

7.5. Purchaser's estimated Site activities schedule

N / A.

8. INVOICES

8.1. Where Equipment is shipped from abroad, the Contractor shall deliver detailed and certified invoices made out in the name of the Purchaser and airtailed to the Purchaser in accordance with Annexure "R" showing the value of the Equipment and containing the following particulars (which may also be required by the Israeli Customs Authorities) on the face of the invoice or on the attached packing list:

- 8.1.1. a detailed description of the Equipment (as fully itemized per component as possible) including the Purchaser's Purchase Order number;
- 8.1.2. the quantity of each item in the metric system of weights and measures;
- 8.1.3. the price or value of each component, where possible, or of each shipment, cross referenced to the appropriate paragraph in the Summary of Prices and Delivery Schedule, Annexure "C" and to the relevant Unit, and/or the relevant Change Order;
- 8.1.4. the consecutive shipment/consignment number;
- 8.1.5. the package number, gross and net weights and measurements of each package, and the volume of each container;
- 8.1.6. the total gross and net weights of the consignment;
- 8.1.7. freight and packing and other additional charges if not included in the prices;
- 8.1.8. all applicable discounts (cash and/or trade) and down payments must be shown deducted on the invoice. The final figure must be the net amount;
- 8.1.9. a clear statement as to the applicable Incoterms delivery term;
- 8.1.10. the country of origin of the Equipment;
- 8.1.11. a signed and witnessed statement as detailed in Sub-article 8.4 below.
- 8.1.12. In the case of countries in the European Union or associated therewith, (Switzerland, Norway, Iceland), the first six (6) digits of the customs tariffs number according to Harmonized System nomenclature. In addition, where the Israeli Customs authorities do not grant exempted status under the consignment ruling applied for by the Purchaser (as detailed in Sub-article 20.2.1 below) to any consignment from the European Union or countries associated therewith, said consignment shall be accompanied by the Exporter's Declaration EUR 1, or EUR-MED if applicable, within the framework of Contractor's declared sourcing.

- 8.1.13. In case of deliveries from the United States where the Israeli Customs authorities do not grant exempted status under the consignment ruling applied for by the Purchaser (as detailed in Sub-article 20.2.1 below) to any consignment, said consignment shall be accompanied by a special U.S. Certificate of Origin for Export to Israel issued in accordance with the U.S.-Israel Free Trade Area Agreement if applicable, within the framework of Contractor's declared sourcing; duly notarized and certified by a recognized Chamber of Commerce.
- 8.1.14. In case Equipment is shipped without either EUR1/EUR-MED or Exporter's Declaration or FTA Certificate, where required, Contractor shall pay costs of customs.
- 8.1.15. Notwithstanding the stipulations as per Sub-articles 8.1.12 and 8.1.13 above and as per Annexure "R", and to the extent Israeli customs regulations allow, the following shall apply:
- 8.1.15.1. The EUR 1 certificate can be substituted by an invoice declaration in accordance with the provisions of the relevant preferential agreement Israel has concluded with the respective country of origin; and/or
- 8.1.15.2. For all equipment rated with zero Israeli customs/import duties, the submission of a EUR 1/ Exporter's Declaration / FTA is not required.
- 8.2. Where On Site Services/special services are rendered the Contractor shall deliver detailed and certified invoices made out in the name of the Purchaser, showing the prices of the On Site Services/special services rendered.
- 8.2.1. Such Commercial Invoices shall contain the following particulars:
- 8.2.1.1. a general description of the On Site Services/special services and the scheduled dates and actual dates of performance;
- 8.2.1.2. With respect to On Site Services rendered on a *per diem* basis - a separate calculation for each engineer or expert, indicating regular time and overtime separately as well as details of travel, living and accommodation expenses as per Annexure "N"; such calculation to be substantiated by enclosing the Purchaser's standard weekly time sheet duly filled in by the Contractor, countersigned by an authorized employee of the Purchaser; and/or
- 8.2.2. a signed and witnessed statement as detailed in Sub-article 8.4 below.

8.3. VAT Invoices of Israeli Sub-contractors:

Israeli Subcontractors shall invoice the Contractor for any payment due under the Contract by issuing a VAT invoice in the name of the Contractor, in such currency as agreed between the Contractor and the Israeli Subcontractor and shall state that the Equipment or Services provided by the Israeli Subcontractor are **"FOR THE ISRAEL ELECTRIC CORPORATION LTD."**.

The Contractor shall ensure that the Purchaser receives the original VAT invoice to enable the Purchaser to pay the VAT directly to the Israeli Subcontractor.

The Israeli Subcontractor shall issue a duplicate original of the VAT invoice to the Contractor.

The Contractor confirms that it understands the implications of the taxation derived from this provision.

If a Contractor initiates its registration as a "Foreign Company" in Israel with the Israeli Tax Authority, it is obliged to inform Purchaser of such so that Purchaser does not pay and does not deduct the VAT from the invoices of Contractor's Israeli Subcontractors.

8.4. The certified invoices detailed in Sub-articles 8.1 and 8.2 above shall contain a signed and witnessed statement as follows:

"We hereby certify that this invoice is correct and true in all respects and contains a true and full statement of the cost of the goods/services and all charges thereon.

We further certify that, to the best of our knowledge, payment in respect of this invoice has not previously been made.

Declarant
Title or Qualification

Witness
Title or Qualification

8.5. Digital Invoice

8.5.1. The Contractor shall be obliged to submit all invoices through a uniform computerized platform (hereinafter referred to as: "Digital Invoice").

All costs in connection with submitting the Digital Invoice through this computerized system, shall be borne by the Contractor and shall be paid directly to the platform provider.

8.5.2. Upon Contractor's connection to the computerized platform, the Purchaser shall provide the computerized platform operator any and all relevant data regarding Purchaser's Contract with the Contractor, such as price, total value of Contract, terms of payment, supply dates and so on, all in order to enable accurate and controlled submission of invoices.

8.5.3. Contract will be valid only once issued directly by the Purchaser, whereas the fact that the Contract is updated on the computerized system is insufficient for indicating its validity.

- 8.5.4. It is hereby emphasized that submission of the invoice, as applicable, shall be a prerequisite for any payment Purchaser shall make to the Contractor under the Contract.
- 8.5.5. In the event any charges shall be imposed on the Contractor in connection with the Contract, the invoices will be invoiced digitally via the computerized system, and sent to the Contractor via email.

9. **TIME**

- 9.1. The Parties shall adhere to the contractually agreed upon schedules and time requirements set forth in the Contract. Failure by any Party to meet the contractually agreed upon schedules and/or time requirements shall be deemed to be a breach of the Contract, to be remedied under the provisions of this Contract (including, without limitation, the provisions set forth in Articles 2, 4, 11, 18A, 24, 28 and 30 of this Annexure A16).
- 9.2. In addition to the above and without derogating therefrom, in the event the Purchaser is of the reasonable opinion that the Contractor and/or any of its subcontractors is unable to keep or maintain the Contract schedule or its ability to perform the Contract is otherwise impaired or likely to be impaired, the Purchaser may demand of the Contractor by notice in writing and Contractor shall supply within thirty (30) days of the Purchaser's demand additional data and information and/or reasonable assurances of due performance to the satisfaction of the Purchaser.

10. **FORCE MAJEURE**

- 10.1. "Force Majeure" shall mean an event or circumstances beyond the control of a Party, which:
 - 10.1.1. could not have been prevented or avoided by said Party by reasonable foresight; and
 - 10.1.2. occurred without its fault or negligence; and
 - 10.1.3. fundamentally changes the situation from that which existed at the time of Signature of the Contract; and
 - 10.1.4. makes it impossible for said Party to perform any of its obligations under the Contract.

Such event or circumstances shall include but shall not be limited to: fire, flood or other natural disasters; acts or inactions of Governmental authority; acts of terror or sabotage; war, invasion, act of foreign enemy, whether war be declared or not, civil war, rebellion, piracy, civil strife, and/or general mobilization of military reserves; strikes, labor sanctions and/or industrial disputes.

- 10.2. Neither Party affected by a Force Majeure shall be responsible to the other for loss or damage due to such Force Majeure.

- 10.3. Upon becoming aware of the occurrence of any Force Majeure, the Party affected shall notify the other in writing by the fastest means possible but not later than seven (7) days after becoming aware of the Force Majeure, and the Parties shall promptly thereafter consult with one another for the purpose of finding a solution to the difficulties in performing the Contract due to said Force Majeure.
- 10.4. Any delays resulting from any Force Majeure shall extend performance time of that part of the Work so affected by the period of such delay, or such other appropriate period as the Parties may agree upon in writing, taking into consideration remobilization and other appropriate arrangements.
- 10.5. For avoidance of doubt, the Parties agree that:
- 10.5.1. security conditions in Israel similar to those existing at the time of the Signature of the Contract shall not release any Party from its obligations under the Contract for reasons of Force Majeure;
 - 10.5.2. the Contractor is entitled to evacuate its personnel from Israel at its own cost and responsibility or refrain from sending personnel to Israel (where required), in the event the government of Contractor's country and/or the government of the Contractor's relevant Non-Israeli subcontractor has (after Signature of the Contract) actually issued to its non-Israeli nationals an order to immediately leave Israel or a highest level travel warning to refrain from traveling to Israel;
 - 10.5.3. Notwithstanding the provisions of Sub-article 10.2 above, the Contractor shall be compensated for extra costs and expenses only for Force Majeure events affecting the whole Country of Israel and/or the Site, to the extent that:
 - 10.5.3.1. Equipment cannot be delivered as per agreed upon delivery terms and must be stored prior to delivery as detailed in Article 12 below; and/or
 - 10.5.3.2. Bank Guarantees provided by the Contractor should be extended as detailed in Sub-article 19.6 below; and/or
 - 10.5.3.3. On Site Services are interrupted.
- 10.6. If due to Force Majeure it shall become impossible to perform the Contract in whole or a substantial part thereof for a period in excess of 270 days in the aggregate, this Contract may be cancelled by either Party.
- 10.7. In the event of notice of cancellation of the Contract under Sub-article 10.6 above, or other material disagreements regarding the provisions of this Article 10, the Parties shall immediately consult with one another for the purpose of agreeing upon the basis for settlement of respective claims and obligations and shall try to reach an amicable agreement between the Parties, failing which the matter shall be subject to the provisions of Article 32 below.

11. DELAYS IN DELIVERY AND DELAYS IN ACCEPTANCE

11.1. General

- 11.1.1. In every case of delay or anticipated delay, from whatever cause, in fulfillment of the Contract by the Contractor, which is likely to postpone the scheduled dates provided for in the Contract, the Contractor will notify the Purchaser in writing within seven (7) working days after Contractor becomes aware of such delay, of the cause of the delay and of the changed date. The Contractor shall not be absolved from making every reasonable endeavor to anticipate, and overcome such delay and the above notification shall not release the Contractor from its obligations under the Contract.
- 11.1.2. In the event the Equipment or any part thereof has been delivered in substantial non-conformance with the Contract, the Purchaser, upon becoming aware of such non-conformance, shall promptly notify the Contractor in writing of such non-conformance, and delivery of said Equipment or any part thereof shall be deemed not to have been made and the provisions of Sub-article 11.2 below shall apply.

The Purchaser may assess liquidated damages for delays in delivery from the date of Purchaser's notice to Contractor regarding the non-conformance.

11.2. Delays in Delivery

- 11.2.1. The Contractor shall pay the Purchaser for delays in delivery which are attributable to Contractor, liquidated damages, at the rate of LD2A per week. The said rates shall be applied to the portion of the Contract Price reasonably allocated to such part of the Work the delivery of which has been delayed and to all such other parts of the Work dependent thereon for delivery, installation and/or commissioning, per full week of delay.

The liquidated damages for "all such other parts of the Work dependent thereon for delivery, installation and/or commissioning" as detailed above shall be assessed for the parts which the delivery, installation and/or commissioning thereof have been adversely affected by the abovementioned delay in delivery. Said liquidated damages shall be assessed for the period of such adverse effect but such period shall not exceed the period of delay in delivery of the part causing the delay. The Purchaser shall endeavor to take reasonable steps to mitigate said adverse effect by re-sequencing and working around the delay and shall inform the Contractor accordingly.
- 11.2.2. Nothing contained in this Article shall relieve the Contractor of its obligation to deliver the Work as close as possible to the specified delivery date(s).

11.2.3. Payment of liquidated damages for delays in delivery as aforesaid shall be limited as set out in Sub-article 24.1.3.2 below and shall constitute the sole remedy of Purchaser and Contractor's exclusive liability with respect to claims resulting from such delays, and this without derogating from Purchaser's rights as set out in Articles 19 and 30 below.

11.3. [Reserved.](#)

12. **STORAGE PRIOR TO DELIVERY**

12.1. If the Contractor is ready to deliver any part of the Equipment in accordance with the Contract and such delivery cannot be effected for a period exceeding thirty (30) days for any reason attributable to the Purchaser or Force Majeure affecting the whole country of Israel, then the Purchaser shall either make arrangements for immediate acceptance of delivery or acknowledge in writing its request (as a Change Order) to place said part of the Equipment into storage for a maximum period of 12 months (taking into consideration the shelf life limitations of said part of the Equipment, as applicable). In such case the Contractor shall take the necessary steps to secure adequate storage of said part of the Equipment at a place and in a manner to be mutually agreed upon until delivery can reasonably be effected by Contractor following adequate request by Purchaser to affect delivery.

In such case, upon placement into storage, the Purchaser shall pay the amounts which were otherwise due upon delivery, title to stored parts of the Equipment shall pass to the Purchaser, and the Purchaser shall bear the reasonable expenses substantiated by the Contractor of storage preparation, insurance, and all other costs incurred in connection with the storage, all as set forth in Sub-articles 18.3.7 and 18.3.8 below.

12.2. Any part of the Equipment which cannot be delivered as stated above shall be stored separately and distinctly from other equipment. The Contractor shall mark and designate said part of the Equipment as belonging to the Purchaser and shall do such acts as are required by the law of the country where said part of the Equipment is stored to pass title to said part of the Equipment to the Purchaser.

The passage of title, however, shall not affect Contractor's liability for the risk of loss or damage to the Equipment, nor shall it affect Contractor's liability for bodily injury or death of any person or its liability for loss or damage to property caused by or in any way relating to the Equipment or its storage. However, the Purchaser shall not be entitled to claim liquidated damages for late delivery in the event Contractor is required to rework or replace any part of the stored Equipment as a result of damage during storage.

12.3. In order to cover the risk in the storage of any part of the Equipment which cannot be delivered as stated in Sub-article 12.1 above, the Contractor shall insure said part of the Equipment and maintain such insurance until completion of the storage, namely Property Insurance against damage to the Equipment, with a limit of not less than the replacement value plus ten percent (10%) for Equipment damage caused whilst it is in storage at Contractor's premises at Contractor's risk of loss. Such insurance shall also name Purchaser as an additional insured, and the party incurring the cost of repairs shall be the loss payee.

Such insurance shall also provide for direct payment of the insurance proceeds to the Purchaser in the event of damage or loss relating to the Equipment, not rectified by Contractor. Alternatively, Contractor shall indemnify Purchaser with regard to any damage below the deductible &/or costs excluded by the Contractor's policy caused to Purchaser's Equipment during the repair process whilst it is at Contractor's premises. The Contractor shall furnish the Purchaser with copies of the insurance policies or certificates of insurance within 30 days after submission of Purchaser's request to place said part of the Equipment into storage but in no event later than the actual date of placing said part of the Equipment into storage.

12.4. Notwithstanding the foregoing, after the expiration of the maximum period of 12 months set forth in Sub-article 12.1 above, unless otherwise agreed upon by the Parties, the Purchaser shall be obliged to accept delivery of the Equipment.

13. **DELIVERY**

The terms and conditions applicable to delivery are specified in the Agreement and Annexure "R".

14. **TITLE**

14.1. Title to the Equipment free and clear of all liens and encumbrances, shall pass to the Purchaser upon delivery by the Contractor and receipt by the Contractor of all documents necessary to evidence such delivery as stipulated in Annexure "R".

14.2. Title to Purchaser's equipment or materials, shipped either to the Contractor or to its subcontractor for repairs or for fabrication or for upgrade or for incorporation in or attachment to Equipment or Work being furnished under this Contract, shall remain with the Purchaser at all times.

14.3. In the event of storage, title shall pass as set forth in Sub-article 12.1 above.

15. **RISK OF LOSS OR DAMAGE**

15.1. Upon delivery, the risk of loss or damage to the Equipment shall pass from the Contractor to the Purchaser in accordance with the contractual terms of delivery as set forth in Sub-article 7(d) of the Agreement and Annexure "R".

- 15.2. Where Purchaser's equipment or materials are delivered to the Contractor or to any of its subcontractors in accordance with Sub-article 14.2 above, then, from receipt of said equipment or materials until their redelivery to the Purchaser, Contractor shall assume the same responsibility for loss or damage thereto as it assumes for the Equipment being furnished by it.
- 15.3. In the event of storage, risk of loss or damage to the Equipment shall pass as set forth in Article 12 above.

16. **WARRANTY**

16.1. Warranted Work

The Contractor warrants that:

- 16.1.1. in respect of the design, material, skill and workmanship, the Work shall be non-infringing, of third parties' intellectual property rights, and of the quality specified in the Contract and, where not so specified, shall be of a professional standard consistent with Good Engineering Practice;
- 16.1.2. The Equipment, Replacement Parts and Spare Parts shall be new and unused unless otherwise specified, shall be free from deficiencies and defects shall be in conformance with the requirements of the Contract, and suitable for the purposes contemplated /specified therein;
- 16.1.3. All advice, recommendations, technical information, reports, analysis and the performance of services forming an integral part of the Work, whether On Site Services or otherwise, shall be of a professional standard consistent with Good Engineering Practice and shall be rendered by appropriately qualified personnel using proper skill, care and diligence at the times and places to be specified;
- 16.1.4. Until the end of the Warranty Period, any part of the Work (excluding wear and tear parts as set forth in Sub-article 16.2.5.2) below shall not develop an undue amount (as compared with specific requirements of the Contract and, in the absence thereof, as compared with professional standards consistent with Good Engineering Practice) of noise, vibration, heating, leakage, deterioration, deformation, strain or wear and tear.
- 16.1.5. Contractor takes full responsibility for infringement of third party intellectual property rights in the Work as further specified in Article 27 below.

16.2. Remedy

- 16.2.1. The Contractor agrees to repair, remedy, replace or re-perform any part of the Work (hereinafter “Remedy”) whether on the Purchaser’s premises or elsewhere, which within the Warranty Period does not comply with the warranties set forth in Sub-article 16.1 above, as well as all other parts of the Work damaged due to such non-compliance.

The Purchaser undertakes to inform the Contractor in writing of any warranty issue promptly after discovery of the matter by the Purchaser and to take all reasonable action to mitigate damage to the Equipment as required by the provisions of Article 38 below.

- 16.2.2. The Contractor shall bear all costs of the Remedy including:

- 16.2.2.1. delivery free of any charge to Purchaser, to the designated site of all Remedied Equipment or materials;
- 16.2.2.2. shipping to and from Contractor’s facilities, testing and all labour and technical direction; and
- 16.2.2.3. replacing materials damaged by such Remedy.
- 16.2.2.4. re-performance of non-conforming services.

During the Remedy the Purchaser shall provide at no cost to Contractor operating personnel, fuel, electricity, water, compressed air and the like as may be required for the operation of the Assembly/Unit.

Purchaser undertakes to provide the Contractor reasonable access to the Equipment to perform the Remedy.

For purposes of this subparagraph, “access” is defined as the possibility of the Contractor to fulfill its Remedy obligations, and includes, if necessary, disassembly, removal, replacement and reinstallation by Purchaser of walls, structures and other Purchaser-provided equipment, material, obstruction or component in a professional manner that inhibits the Contractor from performing the Remedy.

- 16.2.3. The Remedy shall render the Work compliant with the requirements set forth in the Contract and shall be scheduled in co-ordination with the Purchaser’s operating requirements.

Without derogating from the above, should two Warranty events occur in a sub-assembly of the Work, the decision to repair or replace the relevant sub-assembly shall be made by the Purchaser, taking into account Contractor’s recommendation.

- 16.2.4. If Contractor does not begin and diligently continue to perform the Remedy within a reasonable time after written notice by the Purchaser, then the Purchaser may, after further written notice to Contractor, remedy it by its own workmen or by others at Contractor's expense and shall be entitled to retain and apply the balance of any sum which may be otherwise due to the Contractor under the Contract as may be necessary for the payment of the substantiated reasonable costs and expenses incurred in the execution thereof.

In the event the foregoing substitutive performance by the Purchaser or any other third party fails to comply with the Contractor's reasonable written instructions, or, where, due to any wrongful act of the Purchaser and/or said third party, the substitutive performance does not resolve the problem, or, where the substitutive performance resolves the problem, then the payment as aforesaid shall be the sole remedy of the Purchaser and Contractor's exclusive liability with respect to defects in design, material, workmanship or skill with respect to such warranty claim. In all other cases the Purchaser shall be entitled to exercise all its other rights and remedies under the Contract.

- 16.2.5. Contractor's warranty obligations under this Article shall not apply in cases of:

- 16.2.5.1. Purchaser's, its subcontractors and/or its representative's storage and handling of the Equipment, installation, commissioning, testing, operation, maintenance, modification or repairs not in accordance with the instructions specifically set forth by the Contractor in the Contract or in any manuals, provided such instructions were submitted in writing to Purchaser in a timely manner, or, in the absence of such instructions, in accordance with Good Engineering practice; and/or
- 16.2.5.2. normal wear and tear of items specified by the Contractor in its proposal and (where applicable), such as gaskets, seals, filters, fuses, wear plates or any other consumable parts of the Equipment (if any) that in accordance with Contractor's operation and maintenance policy should either be periodically replaced or are likely to wear within the Warranty Period to the extent that they have to be replaced, provided such items shall properly function for the substantial length of their normal life expectancy; and/or
- 16.2.5.3. effects resulting from or caused by failure of items or equipment not forming part of the Work or resulting from non-conformity of such items or equipment with specified interfaces specified under the Contract, in both cases for reasons not attributable to the Contractor; and/or
- 16.2.5.4. The Purchaser failed to order the related compulsory On Site Services specified in Annexure "C".

16.2.6. In connection with any warranty Remedy to be carried out by the Contractor and taking into consideration safety and security considerations, and any limitations on power generation functions, Purchaser shall, without cost to Contractor, make available access to the Site and the Work so as to allow Contractor to perform its warranty obligations. In the event the Purchaser does not allow Contractor access to the Site and the Work within a reasonable time, then the Contractor shall not be liable to perform its warranty obligations under this Article nor shall the Contractor be liable for any consequences resulting from such late or non-performance of its warranty obligations insofar as such access is denied.

16.2.7. This Sub-article 16.2 also applies to Replacement Parts.

16.3. Warranty Period

16.3.1. Equipment and On Site Services

The Warranty Period for an Equipment Package forming part of an Assembly/Unit as well as for On Site Services related to said Equipment Package, however excluding repaired parts or Replacement Parts related to said Equipment Package, shall run until WP1 after the date specified in the Acceptance Certificate in respect of said Equipment Package (after trial run of 4 weeks of successful continuous operation), but not more than WCO1 after the date of delivery or the date of placement into storage (in accordance with Article 12 above) of each Unit, whichever is the earlier.

16.3.2. Repaired/Replacement Parts

The Warranty Period for a repaired part or a Replacement Part forming part of an Equipment Package of an Assembly/Unit shall run WP1 from its installation or from the Acceptance of the Equipment Package of said Assembly/Unit, whichever occurs later, but not more than twelve (12) months from the expiration of the Warranty Period of said Equipment.

16.3.3. Spare Parts and tools

The Warranty Period for a Spare Part/tool shall run for WP2 from its installation, but not more than WCO2 from its delivery (if applicable), whichever is the earlier.

16.4. Warranty Extension “Down-Time”

Notwithstanding the provisions of Sub-articles 16.3.1 and 16.3.2 above, the Warranty Period for any part of the Equipment supplied under the Contract shall be extended by a period equal to the period for which said part of the Equipment has been out of operation due to any non-compliance with the warranties set forth above and/or Remedy performed by Contractor, based on a substantiated Warranty claim.

16.4.1. Optional Warranty Extension (where relevant)

In the event the Purchaser exercises the Warranty extension option as stipulated in the Agreement and Annexure "C", the Contractor shall accordingly extend the validity date of the Performance Guarantee specified in Article 19 below with the understanding that the Warranty extension price includes the costs of extending the Guarantee.

16.4.2. Warranty against Infringement of Intellectual Property as per Article 27 below.

16.5. THE WARRANTIES SET FORTH ABOVE ARE IN LIEU OF AND EXPRESSLY EXCLUDE ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

16.6. Subject to the provisions of Article 24 below and without derogating from Purchaser's rights and remedies under Articles 19 and 30 below, the provisions of this Article 16 shall constitute Contractor's sole duty as to its warranty obligations, and Purchaser's sole remedy with regard to any non-conforming and/or defective Work.

17. SHIPMENT, HANDLING AND BILLING DOCUMENTATION:

The Contractor shall comply with the following provisions, concerning handling, shipping and invoicing:

17.1. Contractor shall make no shipment in advance of the specified/Contractual delivery/shipping dates, without obtaining Purchaser's prior written approval.

17.2. The Equipment shall be preserved, crated, packed, loaded and braced in good and workmanlike manner, in accordance with the best commercial export practices, to avoid any damage, or spoilage.

17.3. No shipment shall be made, except through the Purchaser's freight forwarders, designated in the purchase Order. In the event no freight forwarder is designated, the Purchaser's Import Manager should be contacted for instructions.

17.4. All enclosures in connection with the Equipment must be sent by Contractor to the Purchaser in triplicate.

17.5. When, under the terms of the Order, the Purchaser is responsible for shipping and/or loading of the Equipment, the Contractor will give the Purchaser and Purchaser's forwarder a notice, sufficiently in advance, of Equipment to be ready for delivery, in order to enable the Purchaser or the forwarder to make proper arrangements for loading for and/or shipping. Such notice shall include the number of packages, weights, volumes and values of the packages.

17.6. Packing lists shall have a detailed description of all items (consistent with the description set forth in the Order, or bill of materials, as applicable). Packing lists shall specify weight, measurements, contents of each package/container, Order/Contract number and consecutive number of package).

- 17.7. Components, accessories or materials, not included in the main shipment as a result of an oversight, or the negligence of the Contractor, shall, unless otherwise agreed by the Purchaser, be shipped air freight on the Contractor's account, freight prepaid, accompanied by a no charge invoice, indicating that the Equipment was billed under Invoice No." .. but not shipped.
- 17.8. Three sets of originally signed and stamped commercial invoices shall be made out in the name of the Purchaser and shall be airmailed to the Purchaser, containing the data, set forth below, as applicable:
 - 17.8.1. Detailed description of the Equipment (as fully itemized as possible);
 - 17.8.2. Quantity of each item in the metric system, weights and measurements;
 - 17.8.3. The price or value of each component, where possible, or of each shipment, cross referenced to the appropriate paragraph or item in the Order/Contract;
 - 17.8.4. Consecutive shipment/consignment number;
 - 17.8.5. Purchaser's Order number (the invoice shall relate only to one of Purchaser's Orders and display such number next to the invoice number);
 - 17.8.6. Package number, gross and net weights and measurement of each package, and the volume of each container;
 - 17.8.7. Inland freight, packing and other additional charges if not included in the price;
 - 17.8.8. All applicable discounts, cash and/or trade and payments made on account. The final figure must be the NET amount;
 - 17.8.9. An indication whether the prices shown are FCA, FOB, DPU, DDP, or otherwise, as applicable.
 - 17.8.10. The country of origin of the Equipment;
 - 17.8.11. A signature and attestation in the following manner: "We hereby certify that this invoice is correct and true in all respects and contains a true and full statement of the cost of the Equipment and all charges thereon. We further declare that the Equipment is of #####..... origin.
 - 17.8.12. A printout of the name and title of the signatory. (1) Three (3) originals and three (3) non-negotiable copies of clean on board Bills of Lading, made out to the Order of "The Israel Electric Corporation Ltd., P.O. Box 10, Haifa, Israel," and bearing substantially the following clause: "In view of danger of confiscation, this vessel is not to call at ports and not to enter the territorial waters of Iran, Sudan, Syria, Lebanon, Iraq, Saudi-Arabia, Yemen, Libya or other Arab countries, excepting Egypt, Jordan, the United Arab Emirates and Bahrain prior to unloading in Israel, unless in distress or subject to force majeure", shall be delivered to the Purchaser and further copies to be distributed as per Purchasers instructions.
- 17.9.
 - 17.9.1. If the Equipment originates in countries, which have a free trade agreement (FTA) with Israel, the certificate of origin shall be accompanied by the proper documentation, allowing the Equipment to benefit from the FTA's terms.

- 17.9.2. Deliveries from the United States shall be accompanied by a special U.S. Certificate of origin for Export to Israel issued in accordance with the U.S.-Israel Free Trade Area Agreement duly notarized and certified by a recognized Chamber of Commerce, if applicable; failing which the Contractor shall pay the cost of customs.
- 17.9.3. Deliveries from European countries shall be accompanied by either EUR1 or EUR MED or Exporter's (Contractor's) Invoice Declaration (as referred to below), failing which the Contractor shall pay costs of customs.
- 17.9.4. Notwithstanding the stipulations above in the event the value of the Equipment from European countries does not exceed € 6,000 (six thousand EUR) and to the extent Israeli customs regulations allow, the EUR 1 or EUR MED certificate can be substituted by an Invoice Declaration in accordance with the provisions of the relevant preferential agreement Israel has concluded with the respective country of origin. Where the value of the Equipment exceeds €6,000 (six thousand EUR), the Equipment shall either be accompanied by the required EUR 1 or EUR MED or invoice showing the Contractor's Authorization Number.
- 17.9.5. In the event that Equipment is dispatched from a country other than the place of manufacture having free trade agreements with Israel, a Non-Manipulation certificate, signed by local Customs authorities and Chamber of Commerce must accompany the original Certificate of Origin.
- 17.9.6. For all Equipment rated with zero Israeli customs/import duties, the submission of a EUR 1/ EUR MED/Exporter's Declaration/ FTA is not required.
- 17.10. All shipping documents (invoices, packing lists, and bills of lading) shall be distributed as follows:
 - 17.10.1. One set for presentation for payment shall be shipped to Purchaser's Accounting Department (the certificate of origin to be a copy);
 - 17.10.2. One set to be delivered to the Purchaser's Import Department of the Procurement Division, Attention "Import Department's Manager", by airfreight, or by courier, so as to arrive at least one week prior to the arrival of the vessel / airline (certificate of origin to be a copy);
 - 17.10.3. One set to be delivered to Purchaser's freight forwarder (against receipt) for onward transmission to Purchaser (with original certificate of origin);
- 17.11. If the customs authorities in Israel determine that the country of origin of the Equipment is different than the one, specified by the Contractor in its original offer, or in the certificate of origin, or elsewhere, as applicable, or if the Contractor fails to deliver a certificate of origin, when appropriate, or required and consequently, the Purchaser is required to pay customs in excess of the customs, that the Purchaser would have, otherwise, been required to pay, the Contractor shall reimburse to the Purchaser the amount of such excess customs.
- 17.12. Where the Contractor provided IEC with a certificate of origin and as a result IEC did not take into consideration in the proposal evaluation the customs costs imposed on the Contractor, and the customs authorities in Israel conducted an inquiry as to the origin of such Equipment, in such instance, the Contractor shall:

- 17.12.1. Provide IEC and/or the Israeli customs authorities with all the necessary documents required; and
- 17.12.2. Reimburse IEC for custom payments paid by IEC following the customs authorities' demands, regardless as to when the customs duties are required to be paid and even after the warranty period has elapsed. Should the Contractor fail to reimburse IEC, IEC shall be entitled to deduct from any Contract/Order signed with the Contractor, the customs due to IEC.

18. **PAYMENT**

18.1. Conditions Precedent for Payment

Any payment under this Contract shall be subject to the following conditions:

- 18.1.1. the Purchaser has received a fully executed copy of this Contract;
- 18.1.2. the Purchaser has received the guarantees which the Contractor is required to provide in accordance with Sub-article 19 below;
- 18.1.3. the Purchaser has received copies of the insurance certificates or policies which the Contractor is required to provide in accordance with Annexure "L";

18.2. Method of Payment

18.2.1. Non Financed Contract

18.2.1.1. Payment to Contractor shall be as follows:

- 18.2.1.1.1. Payment of any Down Payment, where applicable, shall be effected by direct bank transfer to Contractor's designated bank account.
- 18.2.1.1.2. Payments upon delivery of Deliverables shall be effected by direct bank transfer to the Contractor's designated bank account.
- 18.2.1.1.3. Payment of retention shall be affected as detailed in Sub-article 18.2.1.1.2 above.

18.2.1.2. Reserved

18.2.1.3. Payment of VAT to Contractor's Israeli Subcontractors:

Payment of VAT to Contractor's Israeli Subcontractors shall be effected in such currency as agreed between the Contractor and the Israeli Subcontractor by direct bank transfer to the Contractor's Israeli Subcontractors designated bank account.

18.2.1.4. Payment for On Site Services

Payment of the Price for On Site Services, shall be effected via direct bank transfer to the Contractor's designated bank account.

18.2.1.5. Other payments

Unless otherwise specifically agreed in writing between the Parties, payments for special services rendered outside of Israel (including training, testing) or any other payments shall be effected via direct bank transfer to the Contractor's designated bank account.

18.2.2. Financed Contract:

In case of financing, the method of payment to the Contractor will be determined by way of a Change Order to the Contract.

18.3. Terms of Payment

18.3.1. The Equipment Price shall be paid as follows:

18.3.1.1. For main equipment only, DP, shall be paid as a Down Payment against Contractor's request for payment, forty five (45) days after Signature of the Contract, and upon the fulfillment of the conditions precedent as above, and provision of the related Down Payment Guarantee in accordance with Sub-article 19.2.2.2 below, whichever occurs later.

18.3.1.2. Reserved

18.3.1.3. Upon delivery of Deliverables in accordance with the terms stipulated in Annexure "R" (or the Agreement, whichever is applicable), the contractual value of the Deliverable items, from which have been deducted the Down payment (where applicable) and the Retention payment, shall be paid forty five (45) days after receipt of the following:

18.3.1.3.1. Contractor's Invoices;

18.3.1.3.2. Quality Control Certificate in the format of Form 5;

18.3.1.3.3. Reserved.

18.3.1.3.4. The appropriate delivery documents stipulated in Annexure "R".

18.3.1.4. For main equipment only, RE, shall be paid to Contractor as a retention payment forty five (45) days after the technical documents conditional for Acceptance were supplied as required in the Specification and the Equipment completed 4 weeks of successful continuous operation duly approved by the Purchaser or forty five (45) days after the Purchaser has received the said request for payment / invoice, whichever is the later, but in any event not later than 14 months from delivery, against receipt of the following:

18.3.1.4.1. Form 2 of the Agreement issued for the relevant Equipment, signed by Purchaser; and

18.3.1.4.2. Contractor's request for payment.

In the event the Equipment was delivered in accordance with Article 13 or placed into storage by Contractor pursuant to the terms of Article 12 above, and Acceptance of said Equipment is delayed for reasons which are not attributable to Contractor, the Purchaser shall issue the Acceptance Certificate by no later than WP1 prior to the Warranty cut-off date (the Warranty cut-off date is WCO1 after delivery, extended, where applicable, in accordance with Sub-articles 16.3.4 and/or 16.3.5 above) of the related Equipment, and the Contractor shall be paid as stated above.

18.3.2. Engineering / Electromechanical design including not only "Civil Guide" and "Electro-mechanic plan";

The contractual value to be paid upon delivery of the related engineering Electromechanical design in accordance with the terms stipulated in Annexure "R" (or Agreement, whichever applicable), and the delivery schedule set forth in the Contract on the 45th day, after receipt of the following:

(A) Contractor's invoices;

(B) The related Electromechanical design.

18.3.3. Payment of VAT to Contractor's Israeli Subcontractors (if applicable);

18.3.3.1. In the case of Work done by an Israeli subcontractor on behalf of the Contractor, the VAT due on the Israeli sub-contractor's Invoice to the Contractor shall be paid directly to the Israeli subcontractor, forty-five (45) days

after Purchaser has received the Israeli subcontractor's original VAT invoice for the VAT to be paid by the Contractor's Israeli Subcontractor to the VAT authorities.

18.3.3.2. Purchaser shall provide the Contractor with a monthly report stating all the payments of VAT affected to the Israeli Subcontractors.

18.3.4. Price for On Site Services and special services (outside of Israel).

In respect of the Price for On Site Services, or any other amounts due to the Contractor on account of special services rendered by the Contractor outside of Israel, one hundred percent (100%) of the price thereof, less any amounts to be deducted at source for Israeli corporate income tax (if applicable - at the rate defined in the respective Double Taxation Agreement between Israel and Contractor's country), shall be paid forty five (45) days after receipt by the Purchaser of Contractor's Invoices duly approved by the Purchaser in accordance with the provisions of Sub-article 8.2 above

18.3.5. Payment for Spare Parts and tools

Payments in respect to Spare Parts and tools shall be made, one hundred percent (100%) of the price thereof, forty-five (45) days after delivery and receipt of Contractor's Invoice, subject to the provisions of any Price Adjustment, if applicable.

18.3.6. Payment according to milestones (if applicable)

Payments according to milestones to Contractor, one hundred percent (100%) of the milestones price shall be paid, forty-five (45) days after completion of the related milestone in accordance with the milestone definitions as set forth in Annexure "C", after receipt by the Purchaser of:

18.3.6.1. Contractor's invoice;

18.3.6.2. Certificate of Milestone Completion in the format of Form 2 attached hereto, duly executed by Purchaser.

18.3.7. Payment for extended warranty shall be made at the end of a quarter and within 45 days after receipt of Contractor's invoice by the Purchaser.

18.3.8. Ocean Air/Freight Effected by Contractor (if applicable)

In the event the Purchaser has issued a Change Order requiring the Contractor to arrange, bear the costs and pay on Purchaser's behalf any amounts due for Ocean/air freight of Equipment, payment shall be made by direct payment, against:

18.3.8.1. Contractor's Invoices; and

18.3.8.2. clean on board ocean bill of lading or airway bill marked "freight prepaid".

18.3.9. Payment for Equipment upon Storage (if any)

Payment of the sums due upon delivery for any part of the Equipment put into storage by Contractor pursuant to the terms of Article 12 above shall be made against:

- 18.3.9.1. Contractor's Invoices approved by the Purchaser for Equipment .
- 18.3.9.2. Warehouse storage receipt or other evidence of proper storage of the Equipment, detailing the items stored and the quantity thereof;
- 18.3.9.3. Copy of Contractor's notification to Purchaser advising of completion of manufacture and inability to deliver and the reasons therefor;
- 18.3.9.4. Certificate of Insurance in the name of both the Purchaser and the Contractor covering items stored against all risk of loss or damage in the amount of their replacement value plus ten percent (10%); and
- 18.3.9.5. Contractor's declaration that the Contractor has, by the law of the country in which the Equipment is stored, taken such steps as are necessary to pass legal title in the Equipment to the Purchaser and such other steps as are required under Sub-article 12.3 above.

18.3.10. Payment of storage costs (if any).

In the case of storage being effected in accordance with the provisions of Article 12 above, the Purchaser shall pay to the Contractor by direct bank transfer to Contractor's designated bank account all reasonable costs related to such storage such as but not limited to costs of storage preparation, storage, preservation, transportation, insurance, loading and unloading, against:

- 18.3.10.1. Contractor's Invoices approved by the Purchaser;
- 18.3.10.2. Warehouse or Storage receipt plus evidence of storage costs of the Equipment describing the items stored and the quantity thereof together with insurance costs; and
- 18.3.10.3. Certificate of appropriate insurance.

18.3.11. Reserved

18.3.12. Deduction of Income Tax from Source

18.3.12.1. Consistent with the provisions of Sub-article 21 (Taxes and Duties) detailed below, the Purchaser shall deduct corporate income tax from source from the invoices of the Contractor for the Price for On Site Services, unless the Purchaser has received a certificate of exemption (or partial exemption) in accordance with the Israeli Income Tax Ordinance.

18.3.12.2. In the event the Contractor is a company or body registered in a country which has a double taxation treaty with the State of Israel and in the event income tax has been deducted from source as above, then the Purchaser shall promptly furnish the Contractor with a declaration as to the amount deducted for purpose of Contractor's use in avoiding double taxation.

18.3.13. Set-off

The Purchaser shall have the right to set-off from any sum due under this Contract to the Contractor, such sum(s) as may be due and payable to the Purchaser under this Contract by the Contractor. Purchaser shall inform the Contractor in advance as to the reason for the set-off, and grant the Contractor the possibility to pay such due and payable sum before such set-off.

18.3.14. Set off of Down Payment from payment of delivery invoices

A Down Payment made on account of the Contract Price shall be deducted from the payment for the first related partial delivery and, in the event the amount of the Down Payment exceeds the price of said partial delivery, from the related next consecutive partial deliveries. For purposes of clarification, in cases of partial deliveries, circumstances may well arise whereby delivery is made to the Purchaser and (because of the deduction of the Down payment) no actual payment is effected to the Contractor by direct payment - until such time as the value of the Down Payment has been deducted in full.

18.4. Certification

No certificates given or payments made shall be considered as conclusive evidence of the performance of the Contract, either wholly or in part, nor shall any certificates or payment be construed as acceptable of any defective or non-conforming part of the Work.

18A. reserved.

18B. PAYMENT BY CONTRACTOR OF LIQUIDATED DAMAGES AND BACK CHARGES

The Contractor shall pay the Purchaser liquidated damages and any other back charges as set forth under the Contract by direct bank transfer to Purchaser's designated bank account no later than sixty (60) days after receipt from Purchaser of written substantiated demand which is not reasonably disputed by the Contractor. Failure to pay as stated above shall be deemed to be a breach of the Contract by the Contractor.

19. GUARANTEES

19.1. General

19.1.1. To secure the due, timely and complete performance by the Contractor of its obligations under the Contract, and as a condition precedent to Purchaser's making any payment under Article 18 above, the Contractor shall, at its expense, within thirty (30) days of the Signature of the Contract, provide the Purchaser with a guarantee for the due performance of the Contract ("Performance Guarantee") in the form of a standby letter of credit ("SBLC") as per Annexure "E".

19.1.2. In addition to and without derogating from the provisions of Sub-article 19.1.1 above, and to secure the repayment of any Down Payment made on account of the Contract Price in the event of default by the Contractor, the Contractor shall as a condition precedent to receiving any such Down Payment, provide an additional guarantee ("Down Payment Guarantee") in the form of a SBLC as per Annexure "F".

19.1.3. In the event the Purchaser has notified the Contractor that the Contractor is in breach of Contract and seven (7) days thereafter the Contractor has failed to remedy said breach of Contract or failed to begin and diligently continue to remedy same, and thereafter, the Contractor has been given ten (10) days prior written notification of Purchaser's intent to draw on the Guarantee, then the Purchaser shall have the right to draw on the Performance and/or Down Payment Guarantees.

19.2. The Guarantees shall be:

19.2.1. issued in the name of the Purchaser, not transferable, bearing clear statements with respect to the latest validity date and maximum amount available for drawing, given and maintained until their expiration by:

19.2.1.1. a First Class Non-Israeli Bank, as specified in Annexure "Y"; or

19.2.1.2. an Israeli Bank holding a banking license received pursuant to the Banking Law (Licensing) 5741-1981, confirmed by the Purchaser; or

- 19.2.1.3. an Israeli insurance company as specified in Annexure “Y” that has received a valid license to issue guarantees from the Ministry of Finance and which is approved by Purchaser;

Guarantees provided by a bank outside of Israel shall be advised through an Israeli bank, also to be approved by the Purchaser;

19.2.2. Terms of Guarantees

19.2.2.1. The Performance Guarantee shall be:

- established with immediate effect;
- issued and thereafter amended as may be necessary to equal an amount of **five percent (5%)** of the Basic Contract Price plus the price for any options exercised (not inclusive of V.A.T.);
- (applicable only if the Basic Contract Price and price for options exercised is subject to price adjustment and/or affected by variation in costs of materials, labor, etc.) increased annually by such amount as will reflect a rate of interest of two percent (2%) per annum if the amount of the guarantee is stated in non-Israeli currency or linked to the Consumer Price Index if the amount of the guarantee is stated in Israeli currency. Such increase shall apply from the date of effectiveness to the date of exercise or expiration, as the case may be; and
- maintained in full force and effect until sixty (60) days after the expiration of the warranty period for the warranted part of the Equipment as prescribed in Article 16 and any extension thereof in accordance with the Contract;

19.2.2.2. The Down Payment Guarantee shall be:

- provided by no later than receipt by the Purchaser of the first request for payment submitted by the Contractor.
- established in an amount equal to the amount to be drawn in respect of the Down payment;
- Increased annually by such amount as will reflect a rate of interest of six percent (6%) per annum for Guarantees set in non-Israeli currency or four percent (4%) per annum above the Consumer Price Index(CPI) for Guarantees set in NIS, such increase shall apply from the date of effectiveness to the date of exercise or expiration, as the case may be;

- maintained in full force and effect until sixty (60) days from date of the last scheduled or actual delivery of Equipment, whichever occurs later.

19.2.2.3. The Guarantees shall be amended from time to time, but at least on an annual basis, to reflect the adjusted Contract Price and term due to exercising options, issuance of Change Orders and price adjustment arising from the application of escalation provisions, if any;

19.3. Reserved.

19.4. Any extension of a Guarantee required under this Article shall be made at least ninety (90) days prior to the expiration of the then current validity date.

19.5. Should any event of Force Majeure (as defined in Article 10 afore-mentioned) occur, the Contractor undertakes to extend the validity of the Guarantees from time to time by the period(s) for which the Force Majeure existed and/or continues to exist.

19.6. The costs of extending a Guarantee shall be borne by the Contractor unless the extension is due to reasons attributable to the Purchaser, or due to Purchaser's claim for Force Majeure relief, or to due to any claim for relief for Force Majeure affecting the whole Country of Israel, in which cases the costs of extension shall be borne by the Purchaser. For the removal of doubt, any extension of a Guarantee due to the exercise of any option available to the Purchaser shall be on Contractor's account.

19.7. The Purchaser may exercise its right to draw on the Guarantees given under this Article on one or more occasions, until the aggregate amount drawn reaches the amount of the Guarantees, and this right shall be in addition to and not in derogation of the exercise by the Purchaser of any of its other rights and remedies under the Contract.

19.8. The Contractor shall, if applicable and required by Purchaser, supply a Parent Company Guarantee in the form of Annexure "G" within 30 days of the Signature of the Contract.

Upon Contractor's written request at least sixty (60) days after said Guarantee's final expiration, the Purchaser shall issue a written confirmation of the Guarantee's expiration.

20. PERMITS, VISAS AND LICENSES

20.1. The Contractor shall be responsible for:

20.1.1. all export and any and all other licenses required for the shipment and delivery of the Equipment (including tools, spare and replacement parts) in accordance with Annexure "R"; and

20.1.2. entry permits into Israel and work permits (if required by Israeli Law) in respect of Contractor's service personnel performing On Site Services in Israel.

- 20.2. The Purchaser shall be responsible for:
- 20.2.1. applying to and obtaining from the Israeli customs authorities the appropriate consignment ruling, and provided the Contractor complied with its undertakings towards the Israeli Industrial Cooperation Authority for all import licenses required in respect of the Work, and
 - 20.2.2. any other permits of Israeli origin except for obtaining the aforesaid entry and work permits for Contractor's service personnel.
- 20.3. Upon Contractor's request, Purchaser shall render Contractor reasonable assistance, at Contractor's cost, for obtaining the necessary entry permits, work permits and licenses.

21. **TAXES AND DUTIES**

- 21.1. For the purpose of this article only, the following terms shall have the meaning ascribed to them below:
- i. "**Foreign Contractor** for tax purposes" shall have the meaning ascribed to it under the Israeli Income Tax Ordinance 1961.
 - ii. "**Israeli Contractor** for tax purposes" shall have the meaning ascribed to it under the Israeli Income Tax Ordinance 1961.

21.2. Israeli Taxes and Duties.

In the case of an Israeli and a Foreign Contractor for tax purposes, the taxes will be dealt with in accordance with Israeli laws.

21.3. Non Israeli Taxes and Duties.

21.3.1. Foreign Contractor for tax purposes shall be responsible for all Taxes or other compulsory payments of Non-Israeli origin imposed as a result of or in connection with the Order/Contract

21.3.2. Purchaser shall deduct, from any payments made to the Foreign Contractor for tax purposes any taxes and compulsory payments, all in accordance with the provisions of any law. It is hereby clarified that Purchaser will deduct income tax from source and compulsory payments at the maximum rate prescribed by Israeli law, unless, at the time of payment, a legally valid tax approval exists from the tax authorities stating the Purchaser to act otherwise.

21.3.3. Foreign Contractor for tax purposes shall bear all costs and expenses incurred in obtaining any required certificates of exemption, and the Foreign Contractor for tax purposes shall have no claim against Purchaser for reimbursement of such costs and expenses.

- 21.3.4. A Foreign Contractor for tax purposes, awarded the Contract, shall within 5 working days from receipt of notice of award, submit to the Purchaser, the following documents:
- i. Certificate of residency;
 - ii. A declaration from the Foreign Supplier for tax purposes, stating that it has or does not have, as the case may be, a permanent establishment in Israel.
 - iii. If the Foreign Supplier for tax purposes, is registered as a foreign company in Israel, the Foreign Supplier for tax purposes must present a certificate from the Israeli tax authority.

Failure to submit the above documents within the time period stipulated above, shall entitle Purchaser to deduct the tax rate according to Israeli law and/or cancel the Contract.

Purchaser shall have no obligation to reimburse or indemnify Foreign Contractor for tax purposes or any person on its behalf, for any taxes imposed by tax authorities pursuant to any law or with respect to any deductions made by Purchaser to Foreign Contractor for purposes of tax.

- iv. In the event the Contractor is a company or body registered in a country which has a double taxation treaty with the State of Israel and in the event income tax has been deducted from source as above, then the Purchaser shall promptly provide the Contractor with a declaration as to the amount deducted for purpose of Contractor's use in avoiding double taxation.

22. ANTI DUMPING LEVY

- 22.1. The Contractor declares that the prices specified in the Contract do not constitute dumping according to Israeli Law.
- 22.2. The Purchaser shall notify the Contractor promptly of any allegation of dumping or of subsidy and the institution of proceedings or action against it. The Contractor shall supply the Purchaser with all such information and assistance to enable it to defend the suit.
- 22.3. In the event the competent Israeli authorities determine that the prices stipulated in the Contract constitute dumping prices and/or that the prices are subsidized contrary to Israeli Law, and the Purchaser is required, as a result thereof, to pay any anti-dumping or subsidy duty or any other assessment, levy, penalty, fine, obligation or payment, and incur costs, expenses or fees (including legal fees), the Contractor shall indemnify and hold the Purchaser harmless for such costs as shall be imposed on or suffered by the Purchaser.

23. ASSIGNMENT AND SUBCONTRACT

23.1. Assignment

23.1.1. General

Neither party may assign the Contract or all or any of its rights thereunder without first obtaining the other Party's written approval, which shall not be unreasonably withheld. Approval may be given subject to reasonable conditions, which if not met, shall render any approval given null and void.

23.1.2. Assignment by Contractor

In the event the Contractor undergoes corporate or other reorganization, whereby control therein passes to another entity, e.g. purchase by another entity, formation of a joint venture or where there is a change of corporate name, the approval required under Sub-article 23.1.1 above shall be deemed given provided that:

- 23.1.2.1. the new entity assumes all the obligations and limitations (including limitations of liability) of the Contractor under the Contract and is not controlled by bodies from or located in a country that has no diplomatic relations with Israel; and
- 23.1.2.2. all guarantees issued under the Contract in the name of the Contractor (and, where relevant, its parent organizations) are reissued to the Purchaser in the name of the new entity; and
- 23.1.2.3. (where necessary) invoices or requests for payment are issued in the name of the new entity; and
- 23.1.2.4. the Purchaser is supplied with the following information as to the reorganization:
 - 23.1.2.4.1. the new entity (name, address, place of registration, registration number, shareholding etc.); and
 - 23.1.2.4.2. its financial standing; and
 - 23.1.2.4.3. its ability to fulfill the Contractor's obligations under the Contract; and
 - 23.1.2.4.4. the change of relevant personnel involved in administration of the Contract (including the change of Israeli representatives).

In any event of such corporate reorganization, the Contractor (if it is still in existence) and the new entity shall be jointly and severally responsible for the performance of the Contractor's obligations under this Contract, unless a parent company guarantee has been provided in which case the new entity will be responsible.

23.1.3. Assignment by Purchaser

Notwithstanding the aforesaid, the Purchaser shall be entitled to assign and/or transfer and/or pledge the Contract or any order or any obligation and/or right and/or benefit included in them to a subsidiary, or affiliate of the Purchaser, and shall also be entitled to assign and/or transfer and/or pledge the Contract or any order or any obligation and/or right and/or benefit included in them, to anyone, in the event of a change and/or structural division or sale of assets of the Purchaser which is/are required under any law, including under the Electricity Sector Law, 1996, and/or the Government Companies Law, 1975, and/or pursuant to Government decisions and/or according to the directive of an authorized regulator and/or carried out with its/their approval. The Purchaser shall notify the Contractor of any such assignment and/or transfer and or pledge in writing in advance.

“Affiliate” – in this clause, as defined in the Securities Law, 1968”.

In such event, the Purchaser shall fulfill, *mutatis mutandis*, the requirements set out in Sub-articles 23.1.2.1, 23.1.2.3 and 23.1.2.4 above, and all payments and related obligations due under the Contract shall be assumed by the new entity and the Contractor, at Purchaser’s cost, shall re-issue the Guarantees set out under Article 19 in the name of the new entity.

23.2. Subcontract

23.2.1. The Contractor may not subcontract nor otherwise delegate performance of any part of the Work, without first obtaining Purchaser’s written approval, which shall not be unreasonably withheld.

Notwithstanding the foregoing, the Contractor may subcontract with any of the potential subcontractors (for portions of the Work as listed in its proposal and approved by Purchaser prior to Signature of the Contract) without any further request for approval.

Additionally, Contractor shall not be required to obtain Purchaser’s prior approval for purchase of off-the-shelf accessories (not to exceed 5% of the Basic Contract Price per such purchase).

23.2.2. Any request for approval shall contain the name and address for each proposed new subcontractor as well as a description of the portion of the Works to be performed by such subcontractor.

23.2.3. Purchaser shall notify Contractor, within ten (10) days of receipt of Contractor’s request, of its approval or objection to any proposed subcontractor allowing Contractor to identify and propose in writing a suitable substitute party in a timely manner.

23.2.4. Approval may be given subject to reasonable conditions, which if not met, shall render any approval given null and void.

23.2.5. Purchaser’s approval, if given, shall not relieve Contractor from full responsibility for the due fulfillment of all obligations under or pursuant to the Contract.

- 23.2.6. Contractor may subcontract with any of the approved subcontractors for a certain portion of the Work only after giving the Purchaser a written notice thereof acknowledging Contractor's sole responsibility for the performance of said subcontractor.

24. **LIMITATION OF LIABILITY AND INDEMNITY**

24.1. Limitation of Liability

- 24.1.1. The total liability of each Party to pay the other Party for all claims relating to this Contract or its termination whether as a result of performance or breach of Contract, warranty, tort (including negligence), strict liability or otherwise, shall be limited to 100% of the Contract Price. This provision shall not apply with respect to indemnities for third party claims as provided for in article 24.2.

Amounts paid by the Contractor as liquidated damages or drawn by Purchaser on the guarantees detailed in Article 19 shall be deemed to be included in the Contractor's total liability to the Purchaser as stated above.

- 24.1.2. In no event shall either Party be liable to the other for any indirect or consequential damages (excluding for gross negligence and willful misconduct) or other losses such as loss of energy, loss of production, loss of profit, loss of business opportunity and loss of contract; provided however, that this exclusion does not derogate in any way from Purchaser's right to claim liquidated damages and/or back charges, and from Contractor's and/or Purchaser's right to receive costs, profit, overheads and/or interest, in either case as specifically provided for in this Contract.

- 24.1.3. The Contractor shall not be liable to pay liquidated damages for:

24.1.3.1. [Reserved.](#)

24.1.3.2. delays in delivery (as specified in Sub-article 11.2 above) exceeding in the aggregate LD2C of the Contract Price (as defined in the Agreement)

24.1.3.3. [Reserved.](#)

24.1.3.4. [Reserved.](#)

24.1.4. Reserved

24.1.5. Reserved

24.1.6. Reserved

- 24.1.7. For the purposes of this Sub-article 24.1 each Party contracts also on behalf of its subcontractors, employees, agents and contractors which shall have no greater liability to the other Party than said Party

24.2. Indemnity for Third Party Claims

24.2.1. Each Party shall indemnify the other Party and hold the other Party harmless in connection with any law, order or ordinance, including without limitation, the Torts Ordinance (New Version) in respect of any claims for losses, damages, costs and expenses, including reasonable attorney's fees and costs of defense arising or alleged to arise from:

24.2.1.1. bodily injury to or death of any person whomsoever; and

24.2.1.2. any damage to or loss of property of any third party,

in so far as such injury, death, damage or loss is due to an act or omission of such Party, its subcontractors or other servants or agents arising out of or in connection with the Contract to the extent the indemnifying Party would be liable to such third party under law.

24.2.2. The indemnifying Party's obligations under this Sub-article 24.2 are subject to the following conditions:

24.2.2.1. The Party to be indemnified has immediately notified the indemnifying Party in writing of the claims asserted by the third party and has furnished the indemnifying Party with a copy of each communication, notice or other action relating to the claim; and

24.2.2.2. The Party to be indemnified has not admitted any liability under any claim and where the indemnifying Party is a party to any such claim, the Party to be indemnified has provided indemnifying Party with information and assistance necessary to defend itself under such claim.

24.2.2.3. The Parties shall reasonably cooperate in the defense of any related claims and proceedings initiated against the Party to be indemnified.

25. CHANGES IN SOURCING

25.1. The Purchaser declares and the Contractor acknowledges that the agreed upon designated countries of origin, from which the Contractor agreed to supply the Equipment or any part thereof including components, materials and other work or services, constitute a material term of the Contract. Such agreed countries of origin were, *inter alia*, utilized and relied upon by the Purchaser in its evaluation of the Contractor's proposal (including, where applicable, Annexure "P", "Preference to Suppliers of Israeli Manufactured Goods") and its entering into the Contract with the Contractor.

25.2. The Contractor shall comply with the requirements specified in Annexure "U" - "Mandatory Industrial Cooperation".

- 25.3. In the event Contractor wishes to change the agreed countries of origin as stated above, the Contractor shall immediately inform the Purchaser thereof in writing and shall obtain Purchaser's prior written approval for such change, such approval not to be unreasonably withheld. The aforesaid approval does not derogate from the provisions of Sub-article 25.4 below.
- 25.4. If the Equipment is manufactured and/or delivered or On Site Services are rendered from a country of origin other than that set forth in the Contract (including Israel), then:
- 25.4.1. Reserved
- 25.4.2. the Contractor shall compensate the Purchaser for any increase in inspection, handling, packing, shipping, insurance, customs or other import costs incurred or suffered by the Purchaser as a result of a change in origin of Equipment supplied or On Site Services rendered; and
- 25.4.3. the Contractor shall compensate the Purchaser for any reduction in quality between that of the Work contractually agreed upon and that of the Work actually supplied, as determined by a mutually agreed upon independent assessor.

26. **INSURANCE**

The Contractor shall insure, on its, and/or its Subcontractors own account, their liabilities under this Contract and any applicable law. Such insurance policies shall be in force during the whole period of the Contract.

Without derogating from the generality of the aforesaid or from the Contractor's obligations and those of its subcontractors under the Contract, the Contractor shall provide and maintain insurance not less than that stipulated in Annexure "L", within 5 days of Contractor's receipt of the notice of award.

27. **INTELLECTUAL PROPERTY RIGHTS**

Notwithstanding any provisions of the Contract:

- 27.1. The Contractor covenants that no patent, copyright, registered design, rights in firmware or software or other intellectual property right will be infringed in the manufacture or supply of the Work or in the use of or derivation of benefit from such Work by the Purchaser.
- 27.2. Contractor shall, on its account, pay all royalties and license fees which may be payable in respect of the Work or any part thereof.
- 27.3. Contractor shall not be liable for infringement of any patent rights, copyright, or other intellectual property right due to (A) changes in the Equipment made by the Purchaser without Contractor's express written consent; or (B) engineering furnished by Purchaser inasmuch as the infringement directly results from the engineering and not from its application by the Contractor;

27.4. Actions for Infringement

27.4.1. Should an action for infringement of any patent rights, copyright, or other intellectual property right be instituted or a claim in respect thereof asserted, the Contractor shall at its option either:

27.4.1.1. at its own expense, defend all suits or proceedings instituted against Purchaser, provided that:

27.4.1.1.1. Purchaser gives the Contractor reasonable notice in writing of the institution of any such suit or proceedings;

27.4.1.1.2. Purchaser permits Contractor to defend such suits or proceedings, gives Contractor all such information, assistance and authority as shall be necessary to enable Contractor to do so;

27.4.1.1.3. Neither Party shall admit any liability under any claim without first obtaining the other Party's written consent. In the event the Contractor defends the suit or proceedings the Contractor shall at all times keep the Purchaser fully informed as to all details related to the defense of the suit or proceedings; or

27.4.1.2. by mutual written agreement, allow the Purchaser to defend the suits or proceedings instituted against Purchaser and reimburse Purchaser for all substantiated costs and expenses including reasonable attorney's fees incurred by Purchaser in defending any such suits or proceedings.

Notwithstanding any limitations of liability set forth in Article 24 above, in both cases, Contractor shall indemnify and hold the Purchaser harmless against and shall pay all awards of damages assessed and all costs of suit adjudged against Purchaser in such suits or proceedings.

27.4.2. In case any part of the Work is held in any such suit to constitute infringement and its use is forbidden or suspended, Contractor, at its option, shall, within a reasonable time and at its cost either:

27.4.2.1. secure for Purchaser the perpetual right to continue the use of such part of the Work by procuring for Purchaser a royalty-free perpetual license or such other free permission as will enable the Purchaser to use said part of the Work, or

27.4.2.2. replace such part of the Work with an adequate non-infringing part or modify it so that it becomes non-infringing without affecting such part's performance and/or other qualities set forth in the Contract.

27.5. Purchaser's Right to Use Documentation

27.5.1. Purchaser, at its sole responsibility and risk, shall have a non-exclusive right (without obtaining Contractor's prior written consent) to use Documentation of a proprietary nature provided by Contractor for the sole purposes of completing, installing, operating, maintaining, adjusting, connecting Equipment to other equipment or installations of the Purchaser, repairing, replacing or modifying or upgrading the Equipment or any part thereof.

27.5.2. Such Documentation shall not be used for reproducing designs contained in such Documentation in order to manufacture parts or for reproducing the Equipment.

27.5.3. In all cases, the Contractor shall retain sole title in any such Documentation.

Subject to the above, the Contractor shall not have claims for payment, remuneration or compensation against the Purchaser due to Purchaser's usage of Contractor's Documentation.

28. **CONTRACTOR'S SERVICE PERSONNEL**

28.1. The Contractor shall provide On Site Services of Contractor's and/or its Subcontractor's personnel (if ordered) in accordance with all the applicable provisions of the Contract, and, in particular, in accordance with the provisions of Annexure "N" (Conditions for Provision of Contractor Personnel's On Site Services) and Annexure "K" (Security Appendix).

28.2. Safety Procedures at Site

In case On Site Services are rendered and entry to Purchaser's Sites is required, the Contractor and/or its Subcontractor's personnel shall be subject to Purchaser's safety briefing and/or written safety summary and any other requirements stated in Annexure "S" (Safety Appendix).

The Contractor and/or its Subcontractors are required to coordinate and schedule with Purchaser the safety briefing and/or receipt of the written safety summary.

The Contractor and/or its Subcontractor's personnel are required and obligated to act according to Purchaser's safety instructions.

28.3. Scheduling and ordering of On Site Services

28.3.1. Upon the Contractor's request, the Purchaser shall update the Contractor, for general information purposes only, with respect to relevant progress of activities on Site including, in particular, updates as to the expected time frame for the On Site Services. Additionally, the Purchaser shall endeavour to give Contractor 60 days (75 days where the Covid 19 situation still exists) advance written notice of requested On Site Services. In all events (including events following cancellation and/or postponement) the Contractor shall be entitled to not less than 30 days (45 days where the Covid 19 situation still exists) final notice detailing Purchaser's request for On Site Services of Contractor's personnel.

28.3.1.1. with respect to On Site Services rendered on a *per diem* basis, the advance notice shall state the approximate number of requested personnel (including category), approximate number of consecutive working days for each category of personnel as well as the planned date for the arrival at Site.

The final notice shall state the exact number of requested personnel (including category), the number of consecutive working days for which each category of personnel should be made available and the date of arrival at Site.

28.3.1.2. Notwithstanding the provisions of Sub-article 28.3.1 above, the Contractor will use reasonable endeavours to provide the On Site Services with shorter lead times, if so requested by the Purchaser.

28.3.2. **Reserved.**

29. **FINANCING (If applicable, and at Purchaser's discretion)**

29.1. Reserved.

29.2. In the event the Purchaser has obtained financing for the Contract on its own initiative, the Contractor shall upon Purchaser's request reasonably assist the Purchaser in obtaining the necessary documentation and relevant information required by the Financing Institution and assist Purchaser in order to exercise such financing.

30. TERMINATION FOR INSOLVENCY OR FUNDAMENTAL BREACH

30.1. Fundamental Breach

30.1.1. Insolvency

Should either Party make application to court under any bankruptcy legislation or be declared bankrupt or insolvent or go into liquidation, voluntary or otherwise, or be placed under administration, receivership, trusteeship, judicial management, or compound with or make any arrangement with its creditors, or take or suffer any similar action in consequence of debt or should a Party assign any of its rights under the Contract without fulfilling its undertakings to the other Party as set forth in Sub-article 23.1 above, then upon the occurrence of any of the aforesaid events, that Party shall be deemed to be in fundamental breach of this Contract.

30.1.2. Other circumstances of Fundamental Breach by Contractor:

30.1.2.1. When a period of delay attributable to the Contractor, whether in submitting Critical Documents; and/or delivery of Equipment; and/or rendering On Site Services/special services; and/or achieving Acceptance, exceeds 26 weeks; and/or

30.1.2.2. If the aggregate amount of liquidated damages for delays assessed in accordance with the specific rates stipulated in this Annexure "A" (in Sub-articles 2.2, 11.2.1, 11.3.1 and 28.3.2), exceeds any of the respective limits stipulated in Sub-article 24.1, independently or in the aggregate; and/or

30.1.2.3. Reserved

30.1.2.4. In the event the Contractor failed to extend any Guarantee as required under Article 19, 75 days prior to the expiration of the then current validity date of said Guarantee; and/or

30.1.2.5. Reserved

30.1.2.6. In the event of any material breach of Contract by the Contractor other than a breach covered by the provisions of Sub-articles 30.1.2.1, 30.1.2.2 and 30.1.2.4 above, after Contractor has been given a written notice to cure same within a reasonable time thereafter taking into consideration the nature of the breach and Purchaser's scheduling constraints, and in the event the Contractor failed to cure the breach within the indicated period;

the Contractor shall be deemed to be in fundamental breach of this Contract.

30.1.3. Reserved

30.2. Notification of Intent to Terminate

In the event a Party is deemed to be in fundamental breach as stated in Sub-article 30.1 above, the aggrieved Party shall give said Party a written notice to that effect allowing the Parties to reach an amicable solution within thirty (30) days, taking into consideration the costs incurred by the aggrieved Party as a consequence of the breach. In the event such a solution is not reached and/or in the event the Party in breach does not begin and diligently continue to implement such agreed upon solution and/or remedy such breach within reasonable time, the aggrieved Party shall be entitled (but not obliged) to terminate the Contract by giving the other Party 5 working days written notification of the aggrieved Party's intention to terminate the Contract.

30.3. Remedies

30.3.1. The Purchaser may exercise its right to terminate this Contract as stated above without prejudice to any of its rights to draw on the guarantees given under Article 19 or any other relief or remedy or right to claim such damages as it may suffer by reason of the breach. However, Purchaser shall only be entitled to the remedy of restitution if the Contractor is deemed to be in fundamental breach of the Contract, and if the Purchaser is materially prevented from using the affected part of the Work and terminates the Contract, however subject to the cap on the Contractor's cumulative aggregate liability under article 24.1 above.

30.3.2. The Contractor may exercise its right to terminate this Contract as stated above and in such event shall be compensated by Purchaser as stipulated in Article 31 below. However, upon such termination the provisions of Article 18A above shall cease to apply.

31. **TERMINATION FOR CONVENIENCE OF THE PURCHASER**

31.1. The Purchaser shall have the rights to terminate the Contract, in whole or in part, for its convenience after giving the Contractor seven (7) working days written notice.

31.2. In the event of such termination, the Purchaser shall pay the Contractor, termination charges within 60 days after receipt of Contractor's invoice/request for payment adequately substantiated in accordance with the following conditions:

Purchaser shall not be required to pay compensation, except as stated herein below, and shall only be required to pay for the Goods actually delivered to it by the date of termination stated in the written notice.

However, in the case of custom-made parts, Purchaser will pay compensation for the Supplier's direct, proven expenses up to the date of termination. In any event, the compensation shall not exceed the price of the custom-made parts in the Order/Contract. In such case, Purchaser will also be entitled to receive anything manufactured or purchased in connection with the Order/Contract by the date of termination.

- 31.3. In the event of such termination, the Contractor shall make all reasonable efforts to minimize its costs and to use any materials or equipment on hand as a result of such termination in the performance of other contracts or otherwise to third parties, to the extent possible.
- 31.4. In presenting the charges claimed under this Article, the Contractor shall reasonably substantiate the cost thereof. If, in the opinion of the Contractor, the information necessary to substantiate the said costs is proprietary, the financial records involved will be examined by the Contractor's auditors or, at the option of the Purchaser, by such other independent accounting firm as is acceptable to both Parties.
- 31.5. Without derogating from Sub-article 31.2 above, it is expressly agreed between the Parties that the Purchaser shall not be required to pay to the Contractor, its vendors or subcontractors any sum with respect to consequential, indirect losses or damages suffered as a result of such termination of the Contract, including but without limiting the generality of the foregoing, any sum with respect to loss of profits or business opportunities, under-utilization of manpower or facilities, occupancy of any part of plant or facilities, etc.
- 31.6. In the event that any amounts have been paid on account of the Contract Price by the Purchaser and same exceed the amount of such termination charges, such excess amount shall be refunded promptly to the Purchaser. In the event that the amount of the termination charges exceed the amount which has been paid on account of the Contract Price by the Purchaser, then the Purchaser shall promptly pay the Contractor the difference between the amount of such charges and the amount previously paid.

32. APPLICABLE LAW & SETTLEMENT OF DISPUTES

- 32.1. The Contract/Order, including this section, shall be governed by and construed solely under the laws of the State of Israel regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. Notwithstanding the above, the Law of Sale (International Sale of Goods), 5760-1999 shall not apply.
- 32.2. In case of a dispute, the parties shall endeavor to resolve the dispute by good faith discussions, within (30) days after written notice setting out the particulars of the dispute has been given by one party to the other party.
- 32.3. Where the parties are unable to resolve their dispute within the period stated in subsection (b) above, the parties will, for a period of 30 days, endeavor in good faith to appoint an agreed mediator, or to agree on an appointment procedure thereof, and participate in such mediation in good faith. The mediation will, unless agreed otherwise by the parties, take place and conclude within 60 days of the appointment of such a mediator.
- 32.4. Where the parties are unable to resolve their dispute within the period stated in subsections (b) and (c) above, either party may notify the other party in writing of its decision to submit the dispute for resolution by arbitration [the "**arbitration notice**"].

- 32.5. If the arbitration is considered by Article 3 of the Israeli International Commercial Arbitration Law, 5784-2024 (the “**International Arbitration Law**”), to be an "International Arbitration", the arbitration shall be conducted in accordance with the International Arbitration Law and the UNCITRAL Arbitration Rules (2021), except as modified herein. For the avoidance of doubt, the parties hereby agree, that unless it is patently clear otherwise, the Order/Contract constitutes an international arbitration agreement the subject matter of which relates to more than one jurisdiction in accordance with Article 3(c)(3) of the International Arbitration Law.
- 32.6. If the arbitration is considered by Article 3 of the International Arbitration Law to not be a "International Arbitration", or the International Arbitration Law is deemed inapplicable to the dispute in any way, then unless stated specifically otherwise in this Article, the arbitration will be conducted in accordance with the Israeli Arbitration Law, 5728-1968 (the "**Arbitration Law**"), and the rules contained in its annexes, except as modified herein.
- 32.7. The seat of the arbitration shall be in Israel, and it shall be conducted in the English language. Any award granted shall be final and binding upon the parties to the Contract subject to the provisions of Article 43 and 45 of the International Arbitration Law or Article 24 of the Arbitration Law respectively, and to subsection (32.9) below.
- 32.8.
- 32.8.1. In case the amount in dispute is under twenty-five million US Dollars (USD 25,000,000), the arbitration shall be conducted by one arbitrator. The parties will endeavor to agree on the appointment of the arbitrator. In the event the parties fail to agree on the appointment of an arbitrator within thirty (30) days of the date of receipt of the arbitration notice, either party may refer the matter of appointment to the relevant Israeli court – which shall act as the appointing authority.
- 32.8.2. In case the amount in dispute is equal to or above twenty-five million US Dollars (USD 25,000,000), the arbitration shall be conducted by three arbitrators. Each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator, who will act as the presiding arbitrator of the arbitral tribunal; if a party fails to appoint the arbitrator within thirty (30) days of receipt of the arbitration notice, or if the two arbitrators fail to agree on the third arbitrator within thirty (30) days of their appointment, either party may refer the matter of appointment to the relevant Israeli court – which shall act as the appointing authority.
- 32.9. The Parties agree that the existence of the arbitration, any information provided in the arbitration, and any submissions, orders or awards made in the arbitration [the "**confidential information**"] shall be kept confidential unless as required by law, by governmental authorities, or for the purpose of legal proceedings. The parties also agree not to consent to the publication of the confidential information or any part thereof.

33. **WAIVER**

The agreement of either of the parties to waive any of the conditions contained in the Contract or to deviate from them in any particular case shall not be effective unless given in writing and shall not constitute a precedent nor shall such waiver be construed as such in any other case. The failure of either Party to exercise any of its rights granted to it under this Contract shall not be construed as a waiver thereof.

34. **RESERVED**

35. **NOTICES AND MEETINGS**

35.1. Notices

All notices hereunder between the Parties shall be in writing and shall be served at the addresses specified in the Agreement or to such other address(es) as may be agreed upon in writing after Signature of the Contract. For Purchaser, unless otherwise specified, matters of a commercial nature should be directed to the attention of the Head of the Divisional Project Management Dept., Procurement Division, while matters of a technical nature, to the attention of the engineering project manager, Substation Projects Division. Either Party may change its address for service of notices by appropriate notice, in writing, in accordance with the provisions hereof.

35.2. Meetings

Costs of either Party incurred with regard to meetings (including meetings for purpose of document approval) shall be borne by each Party respectively. Unless otherwise agreed upon by the Parties, all meetings shall be held in Israel.

36. **PRESERVATION OF INTENT**

In the event that any provisions of the Contract are illegal or unenforceable, the remainder of this Contract shall nevertheless be valid and enforceable. In any such event the parties undertake to negotiate an equitable revision to the Contract with a view to maintain a balance between their respective rights and obligations.

37. **CONFIDENTIALITY**

37.1. For the purpose of this section, "Information" refers to any knowledge and/or professional and/or personal and/or technological and/or commercial material of a party and/or its employees and/or other parties on its behalf, including aforesaid material provided to it by third parties, as long as it has not become public domain, and any information relating to the business data of the party, which was provided to the party and/or its employees and/or anyone on its behalf and/or coming into their possession and/or knowledge, during the Contract/Order period.

- 37.2. The parties undertake to maintain absolute confidentiality regarding the Contract/Order and its execution, including the Information or any part thereof, and to keep secret all Information in connection there with, whether prepared by the party and/or on its behalf and/or at its expense or whether prepared by others for the party. The parties also undertake not to publish in any way or transfer to other parties, without exception, anything related to the Contract/Order, including the Information or any part thereof, unless it has received the express consent of the other party, in advance and in writing.
- 37.3. Notwithstanding the above, it is hereby clarified that the obligation of confidentiality does not apply to Information that falls into one or more of the following categories:
- Information that the receiving party will prove based on written evidence that as in its possession prior to signing this Contract/Order and was not obtained in violation of the provisions of the Contract/Order by the receiving party or anyone on its behalf, provided that prior to the transfer of information, the receiving party will notify the disclosing party in writing in advance and delay the transfer of information by 7 working days to allow the disclosing party to act to prevent the transfer of information;
 - Information that, based on written evidence, is considered public domain, provided that it did not become public domain as a result of violating the provisions of the Contract/Order by the receiving party or anyone on its behalf;
 - Information whose disclosure is required according to legal provisions, government decisions, orders, judicial decisions, competent authorities and/or by the regulators or any other authority authorized by law to demand the Information, provided that the disclosure is limited to the minimum scope expressly required.
 - Information that reached the receiving party from a third party, not by violating the provisions of the Contract/Order, by the receiving party and/or anyone on its behalf.
 - Each Party is authorized to disclose Information to its professional advisors, auditors or as maybe required for compliance with any legal or fiscal requirement, or as otherwise reasonably required for the purpose of performing its obligations under the Contract/Order provided that it limits such disclosure to what in good faith is reasonably necessary for legitimate purposes and requires such of its professional advisors, auditors, contractors or subcontractors to enter into similar confidentiality obligations.

Without derogating from the generality of the above, the Contractor hereby acknowledges that the Information, may be considered either in whole or in part to be "Insider Information", as such term is defined under the Securities Law – 1968 and the

Contractor is aware of the applicable legal restrictions imposed by this law on the use of Insider Information. The Contractor hereby undertakes not to make any use of the Information in any manner that will breach the provisions of the Securities Law.

38. **DUTY TO MITIGATE**

In all cases the Party establishing or alleging a breach of Contract or a right to be indemnified in accordance with the Contract shall be under a duty to take all reasonable measures to mitigate the loss which has occurred or may occur provided that it can do so without unreasonable inconvenience or cost.

39. **LANGUAGE**

The language of this Contract and all related communications and documentation shall be in English, except as otherwise specifically set forth in the Contract.

40. **INTENDED USE**

The Equipment shall not be used for purposes other than those intended for in this Contract and/or the Purchaser shall not transfer it to a third party (except as set out under Article 23 above and subject to acceptance by said third party of the limitations of liability provisions as set forth in Article 24 above), and/or shall not be entitled to use the Equipment for any site outside of Israeli jurisdiction, in all cases without Contractor's prior written consent, which consent shall not be unreasonably withheld.

By the Signature of the Contract, Purchaser automatically certifies and undertakes that the Equipment supplied or any part thereof or any information or technical data related to such Equipment, except for power generation and transmission purposes, shall not be used in any way in the development or manufacture of weapons of any type or for any form of military use.

41. **IMPROPRIETY**

The Contractor hereby acknowledges that it has been informed of and agrees to abide by the IEC's Impropriety clause as that clause is set forth on IEC's website at the following link: <https://www.iec.co.il/en/content/suppliers/filespages/general-terms-conditions-and-annexures>

42. **SURVIVAL OF CONTRACT**

Subject to the provisions of the governing law specified in Sub-article 32.1 above (including, *inter alia* laws pertaining to legal prescription or statute of limitations), Articles 10 (Force Majeure), 24 (Limitation of Liability and Indemnity), 27 (Intellectual Property Rights), 30 (Termination for Insolvency or Other Breach), 32 (Settlement of Disputes), 33 (Waiver), 37 (Confidentiality), 38 (Duty to Mitigate) and 41 (Impropriety) of these General Conditions will survive the completion, expiration, termination or cancellation of this Contract.

43. **TERMS OF THE TENDER/RFP:**

Terms and conditions of a contractual nature, set forth in the tender/RFP documents, shall be a part of the Contract (even if not inserted in or attached to the Contract), unless excluded by express and specific provision/s of the Contract.

For the removal of doubt, in the event of conflict between the provisions of the tender/RFP documents including the Specification and these General Terms and Conditions (as well as any amendments agreed with the Contractor) **and** the provisions of the Order, the former provisions shall prevail.