

**Document D – Contract**

Executed and entered into in Tel Aviv on the \_\_\_\_\_ day of \_\_\_\_\_ 2026

Between

**Environmental Services Company Ltd., Company No. 520036450**

**of 40 Yitzhak Sadeh Street, Tel Aviv**

**(hereinafter: the “Company” or the “Employer”)**

**of the first part;**

and

\_\_\_\_\_  
**Corporation/Sole Trader No. \_\_\_\_\_**

**of \_\_\_\_\_**

**(hereinafter: the “Contractor” or the “Supplier”)**

**of the second part;**

**WHEREAS** the Company published Automated Public Tender No. A47/2026 for subsurface remediation using In-Situ Thermal Remediation (ISTR) technology at the IMI (Taas) Beit HaKerem Site;

**WHEREAS** the Contractor submitted its Bid for performance of the Works and was selected as the Successful Bidder in the Tender; and

**WHEREAS** the Parties wish to set out in this Contract their agreements concerning performance of the Works by the Contractor;

Annexes to the Contract:

- Appendix A – Contents of the Contractor's Bid in the Tender
- Appendix B – Deleted
- Appendix C – Insurance Provisions – TBD
- Appendix C1 – Certificate of Insurance – TBD
- Appendix C2 – Certificate of Insurance – TBD
- Appendix D – Undertaking of Confidentiality and Avoidance of Conflicts of Interest
- Appendix E – Affidavit Concerning Compliance with Labour Laws under the Public Bodies Transactions Law
- Appendix F – Affidavit Concerning Adequate Representation of Persons with Disabilities under the Public Bodies Transactions Law
- Appendix G – General Affidavit Concerning Compliance with Labour Laws
- Appendix H – Consent to Disclosure of Criminal Information
- Appendix I – Supplier's Declaration and Undertaking
- Appendix J – Affidavit Concerning Non-Coordination of Bids
- Appendix K – Affidavit and Undertaking Concerning Prevention of Bribery
- Appendix L – Certificate of Corporate Registration and Signing Authority
- Appendix M – Affidavit of Absence of Conflict of Interest and Personal/Business Connection
- Appendix N – Request for Transfer of Funds to a Bank Account
- Appendix O – Form of Guarantee

**NOW, THEREFORE, the Parties hereby declare, agree and stipulate as follows:**

**1. General Conditions**

**1.1. Definitions**

- 1.1.1. **"Site"** means the IMI (Taas) Beit HaKerem Site, the location and boundaries of which are delineated on the Site Map.
- 1.1.2. **"Person"** ("**Persons**"), **"Individual"** ("**Individuals**") includes a corporation or an Administrative Authority.
- 1.1.3. **"Disclosure of Information"** includes inspection of information.
- 1.1.4. **"Law", "Israeli Law"** means any statute, regulation or administrative provision, as defined in the Interpretation Law, 5741-1981; any official standard under the Standards Law, 5713-1953, or any standard made mandatory by legislation; and any licence, permit, approval, instruction, circular, procedure or guideline issued by an Administrative Authority, including any standard prescribed thereunder.

- 1.1.5. **“Labour Laws”** means the enactments specified in the Second Schedule to the Labour Court Law, 5729-1969.
- 1.1.6. **“Notice of Award”** means the letter delivered by the Company to the Contractor notifying it of its award of the Tender.
- 1.1.7. **“Subcontract”** means a contract between the Contractor and a Subcontractor.
- 1.1.8. **“Company or Anyone on its Behalf”** means the Company, its directors, personnel, representatives, consultants, subcontractors, officers and controlling shareholder, and the Ministry, its employees and its consultants.
- 1.1.9. **“Materials” (“Material”)** means materials of every kind, other than Equipment and Facilities, whether on the Site or otherwise allocated to the Project, required by the Contractor for performance of the Works, including materials which the Contractor is required to provide to the Company under the Contract.
- 1.1.10. **“Contractor’s Goods”** means Materials, Equipment and Facilities, or any of them or any part thereof, as applicable, whether on the Site or otherwise allocated to the Project, required by the Contractor for performance of the Works.
- 1.1.11. **“Day” (“Days”)** means a calendar day and not a Working Day.
- 1.1.12. **“Tender”** means Tender No. A47/2026 for subsurface remediation using ISTR technology at the IMI (Taas) Beit HaKerem Site.
- 1.1.13. **“Ministry”** means the Ministry of Environmental Protection.
- 1.1.14. **“Works”** means all works, services and activities which the Contractor is required to perform under the Specification of Works, the Tender and the Contract.
- 1.1.15. **“Contract Guarantees” (“Contract Guarantee”)** means the Performance Guarantee, the Warranty Guarantee and the Advance Payment Guarantee.
- 1.1.16. **“Performance Guarantee”** means the performance guarantee under Clause 7.2.
- 1.1.17. **“Warranty Guarantee”** means the warranty guarantee under Clause 7.3.

- 1.1.18. **“Advance Payment Guarantee”** means the advance payment guarantee under Clause 7.4.
- 1.1.19. **“Project”** means the project for subsurface remediation using ISTR technology at the IMI (Taas) Beit HaKerem Site.
- 1.1.20. **“Party”, “Party to the Contract”** means the Company or the Contractor.
- 1.1.21. **“Parties”, “Parties to the Contract”** means the Company and the Contractor.
- 1.1.22. **“Other Party”** means the Company or the Contractor, as the context requires.
- 1.1.23. **“Third Party” (“Third Parties”)** means a Person who is not a Party to the Contract.
- 1.1.24. **“Equipment and Facilities”** means all equipment, facility, apparatus, machinery, infrastructure, systems, tools, vehicles and other items, including their components, whether on the Site or otherwise allocated to the Project, required by the Contractor for performance of the Works.
- 1.1.25. **“Price Proposal”** means the final Lump Sum Price Proposal submitted by the Contractor in the Price Proposal Form in the Tender.
- 1.1.26. **“Contractor’s Bid”, “Bid”** means the contents of the Final Bid submitted by the Contractor in the Tender.
- 1.1.27. **“Subcontractor”** means a Person with whom the Contractor has entered into a contract for performance of part of the Works.
- 1.1.28. **“Stage of the Works”** means the Design Stage, Construction Stage, Operation Stage or Demobilisation Stage, as applicable.
- 1.1.29. **“Control”** has the meaning assigned to it in the Securities Law, 5728-1968.
- 1.1.30. **“Tender Date”** means the final date for submission of Final Bids in the Tender.
- 1.1.31. **“Contractor’s Plan” (“Contractor’s Plans”)** means a plan which the Contractor is required to prepare under the Contract or Law.
- 1.1.32. **“Period for Performance of the Works”** means the period from the date of commencement of the Works until the date of completion of the Works.

## **1.2. Interpretation of the Contract**

- 1.2.1. This Contract shall be deemed to have been drafted jointly by both Parties, and neither Party shall be regarded as having had any advantage in determining its terms.
- 1.2.2. Where this Contract is susceptible to different interpretations, the interpretation favouring the Company or imposing the greater liability or obligation on the Contractor, as applicable, shall prevail. Accordingly, where one provision specifies the Contractor's liability or obligations and another provision limits its liability or obligations in respect of the same matter, the provisions shall not be regarded as conflicting and shall be read together so as to give the broadest effect to the Contractor's liability or obligation, as applicable.
- 1.2.3. Terms defined in the Tender shall have the same meaning in the Contract, and vice versa. However, where an identical term is defined in both the Tender and the Contract, the definition in the Tender shall apply during the tender stage, and the definition in the Contract shall apply during performance of the Contract.
- 1.2.4. The headings of the Clauses of the Contract shall not affect its interpretation.
- 1.2.5. The Tender conditions concerning the rights and obligations of the Parties under the contractual engagement shall be deemed incorporated into the Contract.
- 1.2.6. The Specification of Works and the Annexes to the Contract form an integral part of the Contract, and every condition contained therein shall be deemed a condition of the Contract.
- 1.2.7. Where the Parties agree in this Contract to confer a right on a Third Party or to waive a right against a Third Party, such right or waiver shall be enforceable by the Third Party and by a Party to the Contract.
- 1.2.8. Unless expressly stated otherwise in the Contract: (a) all costs of performing any express or implied obligation of the Contractor under the Contract shall be borne by the Contractor; and (b) the Contractor shall be responsible for

obtaining every permit, approval or licence required by Law for performance of the Works.

- 1.2.9. Each Contractor's Plan shall bind the Contractor and shall be in addition to its obligations under the Contract. No Contractor's Plan shall derogate from or amend any obligation of the Contractor under the Contract.

### **1.3. Periods**

- 1.3.1. Where the Contract prescribes a period stated in Days, weeks or months from a specified day, that day shall not be included in calculating the period.
- 1.3.2. Days of statutory rest or cessation of work shall be included in calculating a period, unless they are the final Days of the period.
- 1.3.3. Where the Contract entitles the Company to require or instruct the Contractor to perform any act, whether at any time or from time to time, the Contractor shall perform such act within seven (7) Days after receipt of the requirement or instruction, unless expressly stated otherwise in the Contract.

### **1.4. Effect of the Contract**

- 1.4.1. This Contract shall enter into force upon signature by both Parties.
- 1.4.2. The date on which the contractual engagement between the Parties commences shall be the date on which the Contract enters into force.
- 1.4.3. This Contract constitutes the entire agreement between the Parties in relation to the Project and supersedes any prior agreement between them concerning the Project, if any.
- 1.4.4. No variation or amendment of the Contract shall be valid unless set out in a written instrument signed by both Parties.
- 1.4.5. If any provision of this Contract is held to be unlawful, unenforceable or invalid, the legality, enforceability and validity of the remaining provisions shall not be affected.

### **1.5. Notices and Other Communications**

- 1.5.1. Any notice, demand, approval, certificate or other communication which a Party is required or entitled to give to the Other Party under the Contract shall be made by Written Communication.

1.5.2. Unless expressly stated otherwise in the Contract, a Written Communication may be delivered by any of the following methods: (a) by sending it to the Other Party's e-mail address and retaining the e-mail; (b) by personal delivery to the Other Party's address and retaining a delivery-verification notice containing written confirmation of receipt; or (c) by registered post to the Other Party's address and retaining the delivery confirmation.

1.5.2.1. Where a Party sends a Written Communication to the Other Party's e-mail address, it shall be deemed received by the Other Party at the time it was sent, unless: (a) the sending Party receives an automated notice of transmission failure; or (b) the electronic communication exceeds ten (10) megabytes (MB), and the Other Party provides the sending Party with an affidavit stating that the communication was not received or was received at a later time.

1.5.2.2. Where a Party delivers a Written Communication personally to the Other Party's address, it shall be deemed received by the Other Party at the time stated in the delivery-verification notice.

1.5.2.3. Where a Party sends a Written Communication by registered post to the Other Party's address, it shall be deemed received by the Other Party at the time stated in the delivery confirmation.

1.5.3. Each Party shall notify the Other Party of any change in its e-mail address or physical address within three (3) Days after the change. Following receipt of such notice, each Written Communication shall be delivered to the updated address, as applicable.

## **1.6. Language of the Contract**

1.6.1. The language of the Contract shall be Hebrew. Every amendment or addition to the Contract shall be prepared in Hebrew. If there are or will be additional versions of the Contract in a language other than Hebrew, the Hebrew-language version shall prevail and bind the Parties. If any part of the Contract is originally in a language other than Hebrew and no agreed Hebrew-language version of that part exists, the language in which that part was written shall prevail and bind the Parties.

- 1.6.2. Any Written Communication which a Party is entitled or required to give to the Other Party under the Contract shall be prepared in Hebrew.
- 1.6.3. Every dispute between the Parties, including in judicial proceedings, shall be conducted in Hebrew.
- 1.6.4. Wherever practicable, teams, Key Personnel and Subcontractors shall communicate with one another in Hebrew.

#### **1.7. Assignment of the Contract**

- 1.7.1. The Contractor shall not assign the Contract, including any right or liability thereunder, to another Person unless it has provided the Company with a draft assignment agreement and obtained the Company's written consent to the assignment. The Company may withhold or grant its consent in its sole discretion and may make its consent subject to conditions. For this purpose:
  - (a) a transfer of Control in the Contractor shall be deemed an assignment of the Contract;
  - (b) a transfer of the majority of the Contractor's assets, business or employees to another Person shall be deemed an assignment of the Contract;
  - and (c) the Contractor's entry into a partnership with another Person shall be deemed an assignment of the Contract.

- 1.7.2. The Company may assign the Contract, including any right or liability thereunder, to any Third Party.

- 1.7.2.1. If the Company assigns the Contract, the Contractor shall, at the Company's request and within fourteen (14) Days, provide the Company with the Contract Guarantees and the Contractor's Insurances in favour of the assignee, in the form in effect on the date of the request. The Contractor shall take all actions necessary to ensure that the Contract Guarantees and the Contractor's Insurances operate for the benefit of the assignee. The Contractor shall be entitled to reimbursement by the Company solely for direct and reasonable costs incurred as a result of changing the name of the beneficiary under the securities and insurance policies. For the avoidance of doubt, the Contractor shall not be entitled to reimbursement of financing costs or security or insurance commissions.

## **1.8. Non-Exclusivity**

- 1.8.1. The Contractor shall have no exclusivity in the performance of the Works. The Company may permit other contractors to perform similar works.

## **2. Project Documents**

### **2.1. Contractor's Documents and Copyright therein**

- 2.1.1. The Contractor's Documents shall comprise documents prepared by or for the Contractor for purposes of performing the Project (hereinafter: the "Contractor's Documents"), including, inter alia:
- 2.1.1.1. calculations, digital files, computer programs and other software, drawings, manuals, reports, records, memoranda, opinions, models, specifications and other documents of a technical nature, including documents which are not final, documents in preparation and drafts.
- 2.1.1.2. the Contractor's Plans, documents which the Contractor is required to prepare under the Specification of Works, documents required for obtaining licences, permits and/or approvals, as-built documents, and operation, maintenance and training documents.
- 2.1.2. Copyright in the Contractor's Documents shall vest in the Company.
- 2.1.3. The Company hereby grants the Contractor a non-exclusive licence in respect of the copyright in the Contractor's Documents. The licence shall be irrevocable, perpetual, transferable and royalty-free. The licence permits the Contractor to copy, use and transmit the Contractor's Documents, including to correct and modify them and to use such modifications, including by electronic or digital media.
- 2.1.4. Any breach, termination or expiry of the Contract shall not affect the validity of the Company's copyright or the Contractor's licence.

### **2.2. Right to Use the Company's Documents**

- 2.2.1. Copyright in documents prepared by or for the Company, including plans, reports and specifications (hereinafter: the "Company's Documents"), shall vest in the Company. The Contractor may, at its own cost, use, copy and transmit the Company's Documents solely for the purpose of performing its

obligations under the Contract. Except where a document has been published on the Company's website, the Contractor shall not transmit all or any part of the Company's Documents to a Third Party without the Company's prior written consent.

### **3. The Contractor**

#### **3.1. General Obligations of the Contractor**

- 3.1.1. The Contractor shall perform all the Works in accordance with the Contract, including the Specification of Works and the Contractor's Plans.
- 3.1.2. The Contractor shall perform all the Works professionally, carefully, skilfully and efficiently, and to the satisfaction of the Company.
- 3.1.3. Where the nature or standard of a Contractor obligation is not specified, the Contractor shall perform it to a high standard. Performance in accordance with standards or specifications generally accepted in Europe or the United States, or accepted by the Ministry, shall be deemed performance to a high standard.
- 3.1.4. The Contractor shall provide and arrange, at its own cost, everything required for performance of the Works, including all equipment, materials, tools, facilities, services and personnel, whether or not expressly specified in the Contract.
- 3.1.5. The Contractor warrants that all its activities, plans and methods of erection, installation, construction and operation shall be fit for the purpose of performing and completing the Works. At any time and at the Company's request, the Contractor shall provide the Company with particulars of the activities, plans and methods it intends to implement for purposes of performing the Works.

#### **3.2. Site Data and Site Conditions**

- 3.2.1. The Contractor represents that, before the Tender Date, it reviewed and examined all information concerning the Site which the Company included in the Tender. The Company is not and shall not be responsible for the Contractor's interpretation of the information provided concerning the Site,

or for the completeness of that information for purposes of preparing the Contractor's Bid and performing the Works.

3.2.2. The Contractor represents that, before the Tender Date, it was given sufficient opportunity to collect relevant information concerning the Site and to investigate and examine the Site's topography, geology, subsurface, hydrology and environmental conditions, in order to form its own independent opinion concerning the Site conditions and the feasibility of performing the Works; to the extent that it did not do so, it did so at its own risk. The Contractor further represents that, before the Tender Date, it was given sufficient opportunity to submit the information concerning the Site, whether provided by the Company or collected by the Contractor, for review and examination by experts and consultants; to the extent that it did not do so, it did so at its own risk.

3.2.3. The Contractor shall be deemed to have inspected and examined the Site, the means of access to it, its surroundings and all other available data and information concerning the Site, and to have satisfied itself, before the Tender Date, as to all matters relevant to performance of the Works, including: (a) the form and nature of the Site, including subsurface conditions; (b) the hydrological and climatic conditions and their effects on the Site; (c) the scope and nature of the Works, including the Equipment and Facilities and personnel required for performance of the Works; (d) the Laws, procedures and practices relating to employees' rights; and (e) the Contractor's needs for access, accommodation, facilities, personnel, power supply, transport, water and any other service or resource.

3.2.4. The Contractor shall be deemed to have obtained all necessary information concerning risks, contingencies and other circumstances which may affect the Contractor's Bid, the Works or their cost, and to have verified that its Bid takes all such matters into account and it is correct and complete, including as to calculations and parameters. The prices in the Contractor's Bid shall be deemed to cover all costs of the Contractor's obligations under the Contract and everything necessary for the full and proper performance of the Works.

### **3.3. Licences, Permits and Approvals**

- 3.3.1. The Contractor shall apply for and obtain all licences, permits and/or approvals required by Law for performance of its obligations under the Contract. The Contractor shall bear all payments required for obtaining them, including fees and the provision of guarantees or other security.
- 3.3.2. The Company shall, to the extent within its capability and upon the Contractor's request, assist the Contractor in obtaining any licence, permit and/or approval. The Contractor shall have no claim or demand against the Company alleging that the Company's assistance was unreasonable, failed to contribute to, or prevented the obtaining of, any licence, permit and/or approval which the Contractor was responsible for obtaining.
- 3.3.3. Where the Company is required to apply for and obtain licences, permits and/or approvals required by Law for performance of the Contractor's obligations under the Contract, the Contractor shall prepare the application and all accompanying documents on the Company's behalf and shall be responsible for the submission timetable, submission of the application and any amendments required. The Contractor shall provide the application to the Company for review and, where required, for signature by the Company or anyone on its behalf, sufficiently in advance of the final date for submission. The Company may refuse to sign an application if it determines that the application is inconsistent with the Contract or Law, incomplete or negligently prepared.
- 3.3.4. The Contractor shall maintain the validity of all licences, permits and approvals issued to the Contractor or the Company and shall renew or extend them from time to time as required.
- 3.3.5. The Company shall provide the Contractor with a copy of every licence, permit or approval obtained by the Company for purposes of performance of the Contractor's obligations under the Contract.
- 3.3.6. The Contractor shall perform its obligations under the Contract in accordance with the licences, permits and approvals issued to the Contractor or the Company.

- 3.3.7. The Contractor shall provide the Company, immediately and upon request, with a copy of every licence, permit or approval issued to the Contractor or the Company.

#### **3.4. Cooperation**

- 3.4.1. The Contractor shall cooperate with the Company and the Ministry.
- 3.4.2. In accordance with the Contract or the Company's instructions, the Contractor shall cooperate with the Company's personnel, representatives of the Ministry, monitoring companies engaged by the Ministry, other contractors engaged by the Company, and personnel of competent authorities or utility companies who perform tasks or work on or near the Site. Such cooperation shall include providing a reasonable and proper opportunity to perform such tasks or work, assistance with orientation and movement on the Site, reasonable and appropriate use of the Contractor's equipment, services and facilities on the Site, and access and assistance in reaching places and areas on the Site.
- 3.4.3. As required, or in accordance with the Contract or the Company's instructions, the Contractor shall coordinate the Works with other contractors engaged by the Company on or near the Site.

#### **3.5. Disclosure of Information**

- 3.5.1. The Contractor shall disclose to the Company all information in its possession or effective control, including the Contractor's Documents, in order to enable verification that the Contractor has complied or is complying with the Contract, and as the Company may require from time to time.
- 3.5.2. The Company may engage Third Parties to verify that the Contractor has complied or is complying with the Contract and may, for that purpose, disclose to them information provided by the Contractor.
- 3.5.3. Disclosure of information by the Contractor to the Company shall not constitute the Company's approval or acceptance that the Contractor is complying with the Contract, or evidence or corroboration thereof. The Company's knowledge shall not give rise to any liability of the Company to

the Contractor or any joint liability with the Contractor, and shall not diminish the Contractor's liability to the Company.

### **3.6. Integrity**

- 3.6.1. The Contractor shall act loyally, honestly and fairly towards the Company. The Contractor shall maintain the highest standards of integrity and shall conduct itself in a manner consistent with the Company's Code of Ethics ([https://enviro-services.co.il/wp-content/uploads/2022/12/enviro-services\\_code\\_eti\\_03.pdf](https://enviro-services.co.il/wp-content/uploads/2022/12/enviro-services_code_eti_03.pdf)).
- 3.6.2. The Contractor shall not perform the Works while having an interest that conflicts with the Company's interest in performance of the Project. The Contractor shall notify the Company of any concern that such a conflict of interest exists.
- 3.6.3. The Contractor shall not accept money or any other benefit from a Third Party in consideration for any act connected with performance of the Project. The Contractor shall not give money or any other benefit to an employee of the Company or a public employee in consideration for any act connected with that employee's position.

### **3.7. Capacity and Authority**

- 3.7.1. The Contractor warrants that no legal restriction applies to its entry into or performance of the Contract, and that no legal right required for such performance shall be denied to it. The Contractor warrants that entry into or performance of the Contract does not and shall not constitute a breach of Law or of any other agreement.
- 3.7.2. The Contractor warrants that it entered into the Contract after obtaining all necessary corporate approvals and that the persons signing the Contract on its behalf are duly authorised by their signatures to bind it under the Contract.

### **3.8. Compliance with Law**

- 3.8.1. The Contractor shall comply with all provisions of Law relating to performance of the Project.
- 3.8.2. The Contractor shall maintain all books of account and records which it is required to maintain under the Income Tax Ordinance and the Value Added

Tax Law. The Contractor shall report its income to the Assessing Officer and shall report to the Director all transactions subject to tax under the Value Added Tax Law, 5736-1975.

- 3.8.3. The Contractor shall comply with the Labour Laws, protect the rights of its employees and ensure that the rights of Subcontractors' employees are protected.

### **3.9. Confidentiality**

- 3.9.1. The Contractor undertakes to maintain absolute confidentiality and not to disclose, transfer, provide or bring to the attention of any Third Party, or make any use, whether for itself or jointly with or for others, directly or indirectly, in Israel or abroad, of any knowledge and/or information belonging to or concerning the Company, including, without limiting the generality of the foregoing, information concerning the Company's activities, business, customers, suppliers, financial condition, special working methods and similar matters, and any information which comes into the Contractor's possession in connection with this Contract, without the Company's prior express written authorisation.
- 3.9.2. The Parties agree that this Clause shall apply throughout the term of the Contract and thereafter, including following termination of the Contract for any reason.
- 3.9.3. This Clause shall not derogate from the provisions of the Annex concerning the Undertaking of Confidentiality and Avoidance of Conflicts of Interest.

## **4. Period for Performance of the Works**

### **4.1. Commencement, Continuity and Completion of the Works**

#### **Commencement and Continuity of the Works**

- 4.1.1. The Company shall issue the Contractor a Notice to Commence if and when the following conditions have been satisfied:
- 4.1.1.1. the Contractor has provided the Company with a compliant Performance Guarantee;

4.1.1.2. the Contractor has provided the Company with a compliant Advance Payment Guarantee, unless it has notified the Company that it waives the Advance Payment; and

4.1.1.3. the Contractor has provided the Company with compliant certificates of insurance.

4.1.2. The Contractor shall commence performance of the Works within five (5) Days after receipt of the Notice to Commence and shall thereafter proceed with the Works expeditiously, continuously and without delay or interruption. Unless expressly stated otherwise in the Contract, the Contractor's obligations are independent and are neither conditional nor interdependent, and nothing shall entitle the Contractor to make any obligation conditional or interdependent or to suspend performance of any obligation.

#### **Time for Performance of the Works**

4.1.3. The Contractor shall perform and complete the Works in accordance with the stages and periods specified in the Specification of Works and the programme forming part of the Remediation Plan.

#### **4.2. Rate of Progress**

4.2.1. If the Company determines that the progress of the Works is delayed, or is highly likely to become delayed, relative to the programme forming part of the Remediation Plan, the Company may instruct the Contractor to submit a plan describing the methods which the Contractor proposes to adopt in order to expedite progress and complete the Works in accordance with the programme.

4.2.1.1. The Contractor shall adopt, inter alia, methods requiring extended working hours and/or an increase in the number of the Contractor's personnel and/or equipment, at the Contractor's own cost and risk. If such methods cause the Company to incur additional costs, the Company shall be entitled to recover those costs from the Contractor, in addition to any Agreed Compensation for delay.

#### **4.3. Extension of Time for Completion of a Stage of the Works**

4.3.1. Circumstances beyond the Contractor's control which the Contractor did not foresee and which could not reasonably have been foreseen on the Tender Date by a skilled and prudent contractor experienced in remediation works using ISTR technology shall constitute force majeure (hereinafter: "Force Majeure").

4.3.1.1. The Parties agree that the following circumstances shall, inter alia, constitute Force Majeure: (a) war, a large-scale military operation, a terrorist attack or a missile or unmanned-aerial-vehicle attack; (b) a brush or forest fire, flood or other natural disaster; (c) an epidemic or movement restrictions imposed due to an epidemic; (d) discovery of archaeological findings, utilities or buried objects in the ground concerning which no information was available to the Contractor on the Tender Date; (e) prevention by the Company, contrary to Law or the Contract, of the Contractor's Access Rights to the Site, or prevention of such Access Rights by the owner of the Site land; (f) a breach of the Contract by the Company; (g) a Variation ordered by the Company; or (h) unreasonable delay by an authority in granting a licence, permit or approval.

4.3.1.2. The Parties agree that the following circumstances shall, inter alia, not constitute Force Majeure: (a) a dispute between the Contractor and a Subcontractor, between the Contractor and any of its employees, or between the Contractor and an Administrative Authority; (b) business or financial difficulties of the Contractor or a Subcontractor; (c) breach of a Subcontract, or the resignation, suspension or unpaid leave of an employee of the Contractor or a Subcontractor; (d) delay in the design, manufacture, import or transport of Equipment and Facilities or Materials; (e) delay in bringing employees into Israel, including in obtaining residence or work permits in Israel, or the revocation of such permits; (f) delay in entering the Site or in performance of the Works due to the need to comply with an instruction or procedure of the Jerusalem Municipality; or (g) circumstances caused by the Contractor or anyone on its behalf.

4.3.2. The Contractor shall be entitled to an Extension of the Time for completion of a Stage of the Works if delay in completing that Stage is caused as a direct and exclusive result of Force Majeure.

4.3.2.1. As a condition precedent to entitlement to an Extension of Time, the Contractor shall submit a request for such extension to the Company within sixty (60) Days after the occurrence of the Force Majeure event. Under no circumstances shall the Contractor be entitled to an extension of time unless it has submitted the request in respect thereof within the prescribed period.

4.3.2.2. If the Company approves the Contractor's request for an Extension of Time, the relevant completion date shall be extended by the period of delay directly and exclusively caused by the Force Majeure event.

4.3.2.3. The Contractor shall not be entitled to an Extension of Time where delay was or would have been caused concurrently by an event which is not a Force Majeure and by a Force Majeure.

4.3.2.4. In all cases, the Contractor shall not be entitled to an Extension of Time for delay which does not affect the critical path of the Works.

4.3.2.5. Under no circumstances shall the Contractor be entitled to stop, suspend or delay performance of all or any part of the Works while awaiting the Company's decision concerning an Extension of Time, or because the Company has not issued such decision.

4.3.2.6. The Company may defer its decision concerning an Extension of Time until the Final Statement is prepared.

4.3.3. The Company may, in its sole discretion, extend the time for completion of a Stage of the Works by giving written approval to the Contractor, notwithstanding that no Force Majeure event has occurred. If the Company grants such an extension, it may deduct the period of that extension from any extension of time for the same Stage of the Works to which the Contractor is or may become entitled due to Force Majeure.

4.3.4. In every case of delay in completing a Stage of the Works, including delay resulting from Force Majeure, the Contractor shall use reasonable endeavours

to minimise the duration of the delay, without entitlement to additional payment, including by increasing working hours and supplementing personnel, tools and equipment, and by accelerating works unaffected by the delay. The revised or final date for completion of the Stage of the Works shall be adjusted having regard to the Contractor's mitigation efforts and the circumstances of the delay.

4.3.5. If delay resulting from Force Majeure continues for an aggregate period of six (6) months, the Company may terminate the Contract, and the Contractor shall have no claim or demand against the Company other than entitlement to payment for Works performed up to the date on which the notice of termination is received.

4.3.6. The Company may instruct the Contractor to suspend performance at any time and for any period.

4.3.6.1. If the Company instructs the Contractor to suspend design, construction, operation of the System or demobilisation, the Contractor shall protect the condition of the Works and/or the System against deterioration, wear, loss or damage.

4.3.6.2. Where an instruction to suspend is issued, the time for completion of the relevant Stage of the Works shall be extended by a period equal to the period of suspension, unless the instruction was issued due to a breach of the Contract by the Contractor.

4.3.6.3. Upon notice by the Company that the suspension has ended, the Contractor shall resume performance of the Works immediately and in any event within three (3) Working Days.

4.3.6.4. The Contractor shall be entitled to the following payments in respect of an instruction to suspend: (a) during the Design Stage – NIS 1,000 per Day; (b) during the Construction Stage – NIS 5,000 per Day; (c) during the Operation Stage – NIS 3,000 per Day; and (d) during the Demobilisation Stage – NIS 2,000 per Day. These amounts shall constitute agreed and predetermined payments in respect of expenses incurred by the Contractor as a result of the instruction to suspend. The Contractor shall not be entitled to any additional remedy in

respect of the instruction to suspend, other than payment of such expenses.

Payment shall be subject to: (a) the Contractor having incurred or being due to incur expenses arising directly from the instruction to suspend which would not have been incurred in the absence of that instruction; and (b) the instruction to suspend not having been issued due to a breach of the Contract by the Contractor.

## **5. The Works and the Site**

### **5.1. Access to the Site**

- 5.1.1. The Company grants the Contractor the right to enter the Site and to use the land within the Site boundaries for purposes of performing the Works (hereinafter: the “Access Rights”), solely for the Period for Performance of the Works and until demobilisation from the Site.
- 5.1.2. The Contractor may permit Third Parties to enter the Site solely for purposes of performing its obligations under the Contract.
- 5.1.3. At any time and upon request, the Contractor shall provide the Company with an up-to-date list of persons authorised by the Contractor to enter the Site.
- 5.1.4. At any time, the Company may instruct the Contractor to suspend or permanently prevent the entry to the Site of any member of the Contractor’s personnel or anyone on its behalf if the Company determines, in its sole discretion, that such person performed work negligently, breached any Law relating to the Works, made an untrue report to the Company, impaired or is impairing performance of the Works, or presents a safety or security risk to the Site or its occupants. The Contractor shall comply with the Company’s instruction immediately.
- 5.1.5. The grant of Access Rights to the Contractor shall not derogate from the Company’s rights to enter, possess and use the land, and shall not prevent the Company from granting similar or other rights to a Third Party, including other contractors and authorities. The Contractor shall not prevent or interfere with the exercise of such rights by the Company or any Third Party.

- 5.1.6. The Company may revoke, prevent, suspend or impose conditions on the Contractor's Access Rights if the Contractor has not provided the Performance Guarantee or certificates of insurance required under the Contract, if they have expired, or if the Contractor has committed a fundamental breach of the Contract.
- 5.1.7. The Contractor acknowledges that the Company is not the owner of the Site land and that the owner may amend or revoke the Access Rights.
- 5.1.8. The Contractor shall bear all costs and charges for any special and/or temporary rights of way required for purposes of the Works, including those required for access to the Site. The Contractor shall, at its own risk and cost, use any additional facilities outside the Site required for purposes of the Works.
- 5.1.9. The Contractor represents that, before submitting the Bid, it inspected the access routes to and within the Site and found them suitable and available for performance of the Works. The Contractor shall take all necessary measures to prevent damage to any road or bridge as a result of movements by the Contractor or its personnel. Such measures shall include proper use of suitable vehicles complying with all lawful load and width restrictions, if any, and any other restrictions. The Contractor shall be responsible for repairing all damage caused and for any maintenance required as a result of its use of the access routes. The Contractor shall provide all required signs or directions along the access routes and shall obtain all permits or approvals required from the relevant authorities for the Contractor's use of the roads, signs and directions. All costs arising from the unsuitability or unavailability of the access routes for the Contractor's required use shall be borne by the Contractor, including the costs of adding, repairing, upgrading or strengthening roads.

## **5.2. Transport to the Site**

- 5.2.1. The Contractor shall give the Company not less than twenty-one (21) Days' notice of the date on which any item of Equipment and Facilities or any other major item of goods is expected to arrive at the Site, and shall include in the

weekly meeting minutes a report of the planned and actual dates of arrival of such goods.

- 5.2.2. The Contractor shall be responsible for the packing, loading, transport, receipt, unloading, storage and protection of all Equipment and Facilities, Materials and other items required for performance of the Works. The Contractor shall be responsible for customs clearance, permits and payment of all amounts and charges connected with the import, transport and handling of all such items, including all obligations required for their arrival at the Site.

- 5.2.2.1. The Contractor releases the Company from liability and shall indemnify it against all damage, loss and expense, including legal fees and costs, which the Company incurs due to the import, transport or handling of any such item.

### **5.3. Contractor's Goods**

- 5.3.1. The Contractor shall be responsible for all Contractor's Goods.
- 5.3.2. When any Contractor's Goods have been brought to the Site, they shall be deemed to be intended exclusively for performance of the Works and shall not be used for any other purpose.
- 5.3.3. The Contractor shall not remove any major item of its Equipment and Facilities from the Site without the Company's consent. The Contractor shall include in the weekly meeting minutes a list of the Contractor's major items present on the Site, identifying the owner of each item – the Contractor, a Subcontractor or another Person – and, if the item is leased or loaned, the lessor or lender.

### **5.4. Protection of the Environment**

- 5.4.1. During the Period for Performance of the Works, the Contractor shall take all necessary measures to: (a) protect the environment on and outside the Site; (b) comply with any environmental impact assessment, where required; and (c) limit damage and disturbance to persons and property resulting from pollution, noise and other consequences of the Contractor's operations and/or activities.

- 5.4.2. The Contractor shall remove from the Site any Person whose conduct damages or endangers the environment.
- 5.4.3. The Contractor shall ensure that emissions, effluent, runoff and any other pollutant resulting from the Contractor's activities do not exceed the values specified in the Specification of Works, where specified, or any binding values under Law or under any licence, permit or approval issued by an authority.

## **5.5. Utilities and Utility Coordination**

- 5.5.1. The Contractor shall be responsible for arranging all utilities required for performance of the Works, including electricity, gas, communications, water and any other utility which the Contractor may require, including obtaining every approval, permit or licence required for use of the utility.
  - 5.5.1.1. For the avoidance of doubt, no electricity connection is available at the Site. The Contractor shall be responsible for supplying electricity for performance of the Works.
  - 5.5.1.2. The Contractor shall be responsible for connecting the Site to electricity and/or installing power-generation facilities, including gas- or fuel-powered facilities, for purposes of performing the Works.
- 5.5.2. The Contractor shall provide, at its own risk and cost, all equipment required for connection to and use of utilities and for metering quantities consumed. The Contractor shall be liable for the quantities of utilities consumed and shall pay all amounts due to each utility provider in full and on time.
- 5.5.3. If charges for any utility and/or its use cannot be transferred from the Company into the Contractor's name, the Company shall provide the Contractor with reports and notices received from the utility provider, and the Contractor shall reimburse the Company for utility charges and/or quantities consumed for purposes of the Works. The Company may set off such charges against payments due to the Contractor.
  - 5.5.3.1. If charges for any utility and/or its use cannot be transferred from a Third Party into the name of the Contractor or the Company, the

Contractor shall be responsible for coordinating the charges with that Third Party and shall pay the Third Party for all utility charges and/or quantities consumed for purposes of the Works.

- 5.5.4. The Contractor shall be responsible for opening and maintaining a utility-coordination file and for obtaining all approvals and permits required from utility entities. Overground and underground utilities exist at the Site. The Contractor shall coordinate with the owners of the utilities to prevent damage to them during performance of the Works and to ensure that the Works are performed safely.

## **5.6. Drainage**

- 5.6.1. Old and unmaintained drainage channels exist at the Site, and the Site is subject to a risk of flooding.
- 5.6.2. The Contractor shall be responsible for all drainage at the Site. This responsibility includes installing drainage channels, cleaning and maintaining drainage channels, and installing suitable facilities to prevent flooding and water hazards which may delay performance of the Works, cause malfunctions in operation of the ISTR System, create safety risks or cause nuisance.

## **5.7. Safety**

- 5.7.1. The Contractor shall comply with: (a) all safety Laws relating to performance of the Works, including the Work Safety Ordinance [New Version], 5730-1970, the Labour Inspection Organisation Law, 5714-1954, and the regulations made thereunder; (b) the safety requirements specified in the Specification of Works; (c) the Safety Management Plan; (d) the instructions of the Safety Officer; and (e) any instructions issued by the representative of the Company's Safety Division. Instructions of that representative shall in no event constitute a Variation.

- 5.7.1.1. The Contractor releases the Company from liability and shall indemnify it against all damage, loss and expense, including legal fees and costs, which the Company incurs as a result of any such non-compliance.

- 5.7.2. The Contractor shall comply with the Work Safety Regulations (Construction Works) (Amendment), 5786-2025. The Contractor shall cooperate with and fully assist the Company in complying with its obligations under the safety regulations, including the amendment, and shall cooperate with the Safety Controller appointed by the Company. The Contractor shall not be entitled to any additional payment from the Company for compliance with the amendment, including any costs involved.
- 5.7.3. The Company may require the Contractor to produce any licence, permit or approval required under the safety Laws, including in relation to the safety of the Contractor's Goods and their suitability for safe performance of the Works, and the safety training and certification of the Contractor's personnel and Subcontractors. If the Contractor does not respond to the Company's requirement within three (3) Working Days, the Company may instruct and require the Contractor to suspend the operation of, or remove from the Site, any equipment, facility or Person to which the requirement relates. The Contractor shall not be entitled to additional payment or to an Extension of Time for completion of a Stage of the Works as a result of such instruction or compliance therewith.
- 5.7.4. The Contractor shall ensure and maintain the safety of employees and visitors at the Site and shall ensure that the Site, its contents and the Works do not present a danger to persons on or near the Site.
- 5.7.5. The Contractor shall provide all Site personnel, and visitors where required, with complete personal protective equipment, including proper, intact and clean work clothing, safety footwear, protective eyewear, ear defenders or earplugs, safety harnesses for work at height, gloves, gas/CBRN masks and any other equipment required for safety.
- 5.7.6. The Contractor shall install fencing, signs and lighting and shall provide every other precaution necessary to protect the safety of employees and visitors at the Site. Throughout the Period for Performance of the Works, the Contractor shall provide safe access, supervision and guarding at the Site.
- 5.7.7. The Contractor shall ensure that all process piping, wiring and similar elements are inaccessible to the public.

- 5.7.8. The Contractor shall notify the Company immediately of any alarm or abnormal event in the System which may endanger the public or persons at the Site.
- 5.7.9. The Contractor shall document all safety incidents occurring at the Site, including their circumstances and causes. The Contractor shall immediately report to the Company in writing every safety accident at the Site involving personal injury or material damage to property.
- 5.7.10. The Contractor shall provide the Company with the name and contact details of an emergency contact available twenty-four (24) hours a day, seven (7) Days a week.
- 5.7.11. The Contractor shall be responsible for paying all fines and other amounts imposed for safety offences relating to performance of the Project.

#### **5.8. Limits of Operations at the Site**

- 5.8.1. The Contractor shall confine its operations to the Site and to any additional area obtained by the Contractor and recognised by the Company as a work area.
- 5.8.2. The Contractor shall take all necessary measures to keep the Contractor's Goods and its personnel within the Site and recognised work areas and to prevent their entry onto adjacent land.
- 5.8.3. At all times, the Contractor shall keep the Site free from unnecessary obstruction and shall properly store or remove from the Site surplus Contractor's Equipment and Facilities and/or surplus Materials. The Contractor shall remove from the Site without delay all waste, scrap, hazardous materials, hazardous waste and Contractor's Goods which are no longer required.
- 5.8.4. At the end of each working day, the Contractor shall leave the Site free of surplus Equipment, surplus Materials, scrap, waste, hazardous materials and hazardous waste. The Contractor shall dispose of all such items solely at authorised facilities and shall leave the Site clean and safe for the commencement of the next working day.

#### **5.9. Supervision and Non-Conformity**

5.9.1. The Company may appoint supervisors over the Contractor and maintain supervision at the Site in order to verify that the Contractor's Works comply with the Contract.

5.9.1.1. For this purpose, the Company may: (a) conduct independent sampling at the Site, including stack or PID sampling; (b) monitor pressure and temperature wells; (c) arrange for an authorised sampler on its behalf to accompany the Contractor on sampling days; and (d) instruct the Contractor to split subsurface samples for additional laboratory analysis to be conducted by the Company.

5.9.2. If the Company determines that the Contractor's Works do not comply with the Contract, including any part thereof and including any Contractor's Plan, Contractor's Goods, personnel or Subcontractor (hereinafter: a "Non-Conformity"), the Company may notify the Contractor of the Non-Conformity. If the Contractor does not respond to the Company's notice within seven (7) Days, or responds but does not reasonably satisfy the Company that the Works comply with the Contract, the Company may instruct and require the Contractor to remedy the Non-Conformity. The Contractor shall not be entitled to additional payment or to an Extension of Time for completion of a Stage of the Works as a result of such instruction or compliance therewith.

5.9.3. Neither the existence nor the exercise of the Company's power shall release the Contractor from any obligation under the Contract or Law. The Contractor shall have no claim or demand against the Company concerning the exercise or non-exercise of any supervisory power, including any allegation that the Company is a joint tortfeasor with the Contractor or jointly liable with it under Law.

## **5.10. Interference with the Public**

5.10.1. The Contractor shall not unnecessarily, unlawfully or unreasonably interfere with: (a) the convenience of the public; or (b) access to and use of roads and pavements, whether public, owned by others or in the Company's possession.

5.10.1.1. The Contractor releases the Company from liability and shall indemnify it against all damage, loss and expense, including legal

fees and costs, which the Company incurs as a result of any such unnecessary, unlawful or unreasonable interference.

#### **5.11. Public Engagement and Media**

- 5.11.1. The Company shall be responsible for sharing information with the public in relation with the Project.
- 5.11.2. The Contractor shall not undertake any public-engagement, public-relations or spokesperson activities without the Company's approval.
- 5.11.3. The Contractor shall not approach the media in relation with the Project.
- 5.11.4. A contact telephone number available twenty-four (24) hours a day for community feedback or emergencies shall be displayed at every entrance to the Site area in a location visible from the street and pavement.
- 5.11.5. The Contractor shall not respond directly to enquiries or complaints from the public and shall refer all such enquiries or complaints to the Company within twenty-four (24) hours. Notices to the Company shall state the nature of the enquiry or complaint, identify the Person who made it and describe the actions taken to resolve the matter.
- 5.11.6. The Contractor shall not provide information to the media, give media interviews or permit media access to the Project or the Site without the Company's approval.

#### **5.12. Security and Guarding**

- 5.12.1. The Contractor shall be responsible for the security and guarding of the Site and its occupants. The Contractor alone shall be responsible for preventing theft from the Site and vandalism of the Contractor's Goods. The provision of any guarding or security at the Site by the Company and/or a Third Party shall not diminish the Contractor's responsibility.
- 5.12.2. At its own cost, the Contractor shall engage a licensed security company to provide security and guarding services for the Site and the Contractor's Goods, and in accordance with the requirements of the Specification of Works, if any.

5.12.2.1.If the Company determines that the Contractor's security and guarding services are inadequate, it may instruct the Contractor to increase the security and guarding, including by adding personnel, personnel hours and/or equipment, all at the Contractor's cost.

5.12.3. The Contractor shall be responsible for safeguarding the Works, the Contractor's Goods and the Contractor's Documents. If any of them is damaged, the Contractor shall, at its own cost and risk, repair the damage so that the Works, the goods or the Contractor's Documents, as applicable, comply with the Contract.

5.12.4. The Contractor shall be responsible for safeguarding roads, routes, paths, pavements, water, sewerage, telephone, internet, communications and electricity networks, fuel and gas pipes and conduits, and any other utilities at the Site. If any of them is damaged, the Contractor shall, at its own cost and risk, repair the damage and reinstate the affected item to its previous condition.

### **5.13. Waste, Leachate, Contaminated Soil and Rock Fragments Removal**

5.13.1. The Contractor shall remove waste, leachate/liquids (for example, liquids generated by the moisture separator), and contaminated soil and rock fragments excavated during the drilling works, solely to facilities authorised by Law, and in accordance with the type of waste/liquid and the contamination level of the soil and rock (based on stockpile sampling).

5.13.2. The Contractor shall provide on-Site storage for the waste/liquids/soil/rock fragments until their removal from the Site. The Contractor shall stockpile the soil and rock fragments excavated from the boreholes and shall conduct stockpile sampling to determine the appropriate disposal destination.

5.13.3. The Contractor shall remove hazardous soil and rock fragments to the designated destination only after obtaining the approval of the Director pursuant to the Business Licensing Regulations (Disposal of Hazardous Materials Waste), 5751-1990, or the Ministry.

5.13.4. The Contractor shall transport the waste/liquids/soil/rock fragments solely using suitable and authorised vehicles and drivers, in accordance with the type and weight of the waste/liquids/soil/rock.

5.13.5. At the Company's request, the Contractor shall provide copies of waste/liquids/soil/rock consignment notes and bills of lading, weighing certificates, certificates confirming receipt of the loads by the authorised facilities to which they were removed, vehicle and driver licences, and any other supporting documents evidencing disposal in accordance with applicable Law.

#### **5.14. Discovery of Archaeological Findings**

5.14.1. All fossils, coins, articles of value or antiquity, structures and other findings of archaeological interest discovered on the Site shall be placed under the care and authority of the Company. The Contractor shall take all reasonable measures to prevent its personnel or other Persons from removing or damaging any such finding.

5.14.2. As soon as practicable after discovery of an archaeological finding, the Contractor shall give the Company notice sufficiently promptly to allow the Company to inspect and/or investigate the finding before it is altered. The notice shall describe the finding, and the Company shall instruct the Contractor as to its handling and preservation.

5.14.3. In all cases, the Contractor shall comply with the Antiquities Law, 5738-1978, including the requirements to notify the Director of the Israel Antiquities Authority and to stop work.

#### **5.15. Additional Soil Remediation**

5.15.1. If additional contaminated-soil hotspots are discovered in the upper soil layer at the Site during performance of the Works, the Contractor shall act in accordance with the Company's instructions.

5.15.2. The Company may remediate additional contaminated-soil hotspots through Persons acting on its behalf. The Contractor shall cooperate fully with such Persons and shall provide them with convenient and available access to the Site for purposes of their work.

#### **5.16. Site Demobilisation**

5.16.1. Immediately after completion of the Operation Stage, the Contractor shall: (a) remove from the Site all Contractor's Goods, scrap, waste, hazardous

materials and hazardous waste; (b) reinstate to their previous condition all parts of the Site affected by the Contractor's activities during the Period for Performance of the Works; and (c) leave the Site in the condition specified in the Specification of Works and the Remediation Plan, and in a clean and safe condition.

- 5.16.2. If the Contractor does not comply with these requirements within three (3) months after completion of the Operation Stage, the Company may dispose of the remaining items by any other means and/or itself perform the required removal and cleaning operations, at the Contractor's cost. The Company shall be entitled to recover from the Contractor all costs incurred in relation with or as a result thereof.

#### **5.17. Variations**

- 5.17.1. At any time until the actual date of completion of the Works, the Company may order the Contractor to perform work constituting a change in the scope of the Works (hereinafter: a "Variation"). The Contractor shall submit a proposal for every Variation initiated by the Company and shall perform every Variation ordered by the Company.

- 5.17.2. A Variation may include, inter alia: (a) a new item of work; (b) material changes to the parameters or other characteristics of an item of work; or (c) supplemental tests, additional boreholes, additional or special reports, and any other testing or investigation work.

- 5.17.3. Under no circumstances shall an item of work or obligation constitute a Variation if:

5.17.3.1. it was priced in the Contractor's Bid. For this purpose, all items of work under the Contract and all obligations of the Contractor under the Contract shall be deemed included in the Contractor's Lump Sum Price Proposal, irrespective of the quantities or actual scope of performance. All activities expressly or impliedly required for performance of an item of work or fulfilment of an obligation shall likewise be deemed included in the Price Proposal;

5.17.3.2. its performance or fulfilment is expressly or impliedly required of the Contractor under the Specification of Works, the Contractor's

Bid, a Contractor's Plan, the Contract, or any licence, permit or approval issued by an authority;

5.17.3.3. The performance or fulfilment thereof is required due to a breach of the Contract by the Contractor.

5.17.3.4. its performance or fulfilment concerns improvement and/or upgrading of monitoring of the treatment system's operation;

5.17.3.5. its performance or fulfilment is required of the Contractor under Law; or

5.17.3.6. its performance or fulfilment is required in order to perform the Works to a high standard, or to perform them professionally, carefully, skilfully and efficiently.

5.17.4. Before ordering a Variation from the Contractor, the Company shall provide the Contractor with a request describing the required work.

5.17.4.1. The Contractor shall respond to the request as soon as practicable, and urgently in urgent cases, by submitting a price proposal which includes: (a) a description of the added or changed work to be performed, including particulars of the resources and methods which the Contractor intends to use; (b) a programme for performance of the work and any required changes to a Contractor's Plan and the time for completion of a Stage of the Works; and (c) a detailed analysis of the basis of the price proposal, including estimated quantities and the identification and specification of the required personnel, Equipment and Facilities and Materials.

5.17.4.2. The Contractor warrants that the amount of its price proposal shall not exceed the reasonable and fair cost of performance plus a profit margin of five percent (5%).

5.17.4.3. The Company may require the Contractor to submit proposals based on payment according to quantities actually performed and/or on a fixed, final lump-sum payment.

5.17.4.4. The Company may require the Contractor to submit proposals based on technical specifications and special conditions prescribed by the Company for that purpose.

5.17.4.5. The Contractor shall provide the Company with any additional particulars, evidence and clarifications concerning the proposal which the Company requires.

5.17.5. If a Variation requires work to be performed through a subcontractor of the Contractor, the Company may require the Contractor to submit up to three (3) proposals based on three (3) quotations from Subcontractors.

5.17.5.1. The Company may require the Contractor to submit more than three proposals, simultaneously or in sequel order, in its sole discretion.

5.17.5.2. If the Company identifies another subcontractor capable of performing the work at a price lower than the Contractor's lowest proposal, the Contractor shall either match that subcontractor's price in its proposal or engage the subcontractor identified by the Company, with an overhead mark-up not exceeding ten percent (10%).

5.17.5.3. The Company may select one of the Contractor's proposals on the basis of price and/or quality criteria and the weights prescribed by the Company for that purpose. The Company may elect not to select the Contractor's lowest-priced or highest-quality proposal, or any proposal.

5.17.5.4. The Company may instruct the Contractor to conduct negotiations to improve the proposal with all subcontractors proposed by it, or with the most competitive subcontractor or subcontractors, in the manner prescribed by the Company. The Company may participate in and supervise the negotiation meetings.

5.17.6. After reviewing the Contractor's proposal for performance of a Variation, the Company may proceed in any of the following three ways:

5.17.6.1. reject the proposal and not order the Variation from the Contractor;

5.17.6.2. accept the proposal, in which case the Company shall order the Variation from the Contractor; or

5.17.6.3. if the Company determines that the Contractor's proposal exceeds the reasonable and fair cost of performance plus a profit margin of five percent (5%), accept the proposal subject to reservation and order the Variation while: (a) preserving its rights to set off and/or require the Contractor to refund any payment exceeding the reasonable and fair payment plus a profit margin of five percent (5%); or (b) deciding to pay the Contractor the reasonable and fair payment plus a profit margin of five percent (5%), as determined by the Company. The Contractor may appeal this decision to the Company. A decision of the Company, whether before or after the Contractor's appeal, shall not derogate from the Contractor's right to challenge that decision in judicial proceedings.

5.17.7. The Contractor shall not delay any work while awaiting the Company's response to its proposal.

5.17.8. The Contractor shall perform every Variation ordered by the Company as soon as practicable and without delay.

5.17.9. If the Company orders a Variation from the Contractor, it may require the Contractor to provide a performance guarantee in the amount of up to ten percent (10%) of the Variation price proposal. The Contractor may provide such guarantee by amending the existing Performance Guarantee or by providing an additional, separate performance guarantee. Every additional performance guarantee shall be governed by the same provisions as the Performance Guarantee.

5.17.10. The Contractor shall not perform any work constituting a Variation unless it has received a Variation order from the Company. If the Contractor performs such work without a Variation order, it shall not be entitled to any payment from the Company and shall have no claim or demand against the Company in respect thereof.

5.17.10.1. If the Contractor is of the opinion that the performance of any work constitutes a Variation, it may request a Variation order from the Company prior to performing such work.

5.17.10.2. After reviewing the Contractor's request for a Variation order, the Company may proceed in any of the following three ways:

5.17.10.2.1. reject the request and instruct the Contractor to perform the work;

5.17.10.2.2. defer its decision on the request until the Final Statement is prepared, and instruct the Contractor to perform the work;

5.17.10.2.3. initiate the Variation Order procedure as detailed above.

5.17.10.3. Under no circumstances shall the Contractor be entitled to stop, suspend or delay the performance of the work because of the rejection of a request or the deferral of a decision.

5.17.10.4. If, after the performance of the work that was the subject of a request for a Variation, the Company or a competent court determines that such work constituted a Variation, the Contractor shall be entitled, as its sole remedy, to reimbursement of the reasonable and fair costs of performing the work, plus a profit margin of five percent (5%).

5.17.11. At any time, the Contractor may, and in cases of material significance shall, submit to the Company a written proposal for a Variation which, in the Contractor's opinion, if adopted would: (a) accelerate performance of the Works; (b) reduce the Company's cost of performing, maintaining or operating the Works; (c) improve the efficiency or value of the Works for the Company or the public; or (d) otherwise benefit the Company or the public. The proposal shall include the particulars required for a Variation proposal. The Contractor shall provide any additional particulars concerning the proposal which the Company requires, including for purposes of assessing the benefit, costs and/or extension of the time for completion of a Stage of the Works.

- 5.17.12. If the Company determines that a Variation requires work for which an item exists in the “Dekel” price list or the Ministry of Housing price list, the Company may, irrespective of quantities and in its sole discretion, order the Contractor to perform the required work at the price stated for that work in either price list on the date of the order, less a discount of fifteen percent (15%), or at a lower price agreed by the Parties.
- 5.17.13. The Company does not undertake to order any Variation from the Contractor.
- 5.17.14. If a Variation is assigned for performance by another Third Party, the Contractor shall cooperate with that Third Party as required.
- 5.17.15. An order for additional quantities of an item of work priced in the Contractor’s Bid shall not constitute a Variation, and the Contractor shall perform such quantities at the unit rate stated in its Bid.
- 5.17.16. The omission of or waiver of any part of the Works shall not constitute a Variation.
- 5.17.17. If the Contractor submits particulars of a Variation proposal which contain misleading or materially inaccurate information, constitute manipulative bidding, or clearly contradict the Contract or the Specification of Works, the Contractor shall be liable to pay the Company Agreed Compensation equal to the proposed or stated Variation price multiplied by 0.3.

#### **5.18. Additional Payment for Change in Law**

- 5.18.1. If Israeli Law changes after the Tender Date, and the change was neither foreseen nor reasonably foreseeable by the Contractor on the Tender Date and is not a change in a tariff prescribed by Law, the Contractor may request additional payment from the Company for reasonable costs imposed on it as a direct and exclusive result of the change in Law. In making its decision, the Company may also take into account costs saved as a result of that change and other changes in Law.

### **6. Personnel and Subcontractors**

#### **6.1. Project Manager and ISTR Expert**

- 6.1.1. The Contractor shall appoint as Project Manager the project manager proposed by it in the Tender. The Project Manager shall be authorised to

perform the Contract on behalf of the Contractor and to execute the Works. The Project Manager shall be authorised on behalf of the Contractor to issue and receive notices and demands under the Contract.

- 6.1.2. The Contractor shall appoint as expert the ISTR Expert proposed by it in the Tender. The ISTR Expert shall provide ongoing support for the Works, advise the Contractor and the ISTR Contractor in connection with preparation and implementation of the Remediation Plan and achievement of the Performance Targets, supervise its implementation, serve as a source of expertise for the Contractor and the Company, and attend meetings as determined by the Company.
- 6.1.3. The Contractor shall not replace the Project Manager or the ISTR Expert during the Period for Performance of the Works except in exceptional circumstances and with the Company's prior written approval.
- 6.1.4. With the Company's prior written approval, the Contractor may appoint a suitable temporary replacement for the Project Manager or the ISTR Expert for periods not exceeding ten (10) Days each, provided that at least three (3) months elapse between any two such periods.

## **6.2. Subcontractors**

- 6.2.1. The Contractor may perform parts of the Works through Subcontractors. Nevertheless:
  - 6.2.1.1. the Contractor shall not subcontract the performance of all the Works to one or more Subcontractors; and
  - 6.2.1.2. the Contractor shall not subcontract any part of the Works which the Contract or the Specification of Works prohibits from being subcontracted.
- 6.2.2. The Contractor shall perform the Works through the Subcontractors proposed in its Bid, where any were proposed.
- 6.2.3. The Contractor shall be responsible for the work of all Subcontractors, for managing and coordinating the work of all Subcontractors, and for the acts and omissions of all Subcontractors and their representatives and employees as if they were acts or omissions of the Contractor.

- 6.2.4. The Contractor shall ensure that the Subcontractors comply with all instructions which the Company is entitled to issue to the Contractor.
- 6.2.5. The Contractor shall obtain the Company's prior approval for every proposed Subcontractor, other than a supplier of Materials or a Subcontractor named in the Bid.
- 6.2.6. Where the Contractor is required to obtain the Company's approval of a proposed Subcontractor, the Contractor shall provide the Company with that Subcontractor's name, address, full particulars and relevant experience, particulars of the work intended to be subcontracted, and any additional information which the Company may reasonably require, including information concerning any potential conflict of interest. If the Company does not respond within fourteen (14) Days after the information, or any requested additional information, is provided by issuing a notice objecting to the proposed Subcontractor, the Company shall be deemed to have approved the Subcontractor. The Company may refuse to approve a Subcontractor for any reason and in its sole discretion.
- 6.2.7. Every Subcontractor engaged by the Contractor shall: (a) have relevant and successful experience in performing works of the scope and type for which the Subcontract is entered into; (b) have and maintain a financial condition which raises no concern of insolvency and is sufficient to finance its business and activities for the Contractor; and (c) hold every licence, permit or approval required by Law for its business and activities for the Contractor.
- 6.2.8. Without prejudice to any other right or remedy, the Company may instruct the Contractor to remove, or act to remove, any Subcontractor who: (a) persists in misconduct or carelessness; (b) performs its duties incompetently or negligently; (c) fails to comply with, or causes the Contractor to fail to comply with, any provision of the Contract; (d) persists in conduct prejudicial to safety, health or environmental protection; (e) is found, on the basis of reasonable evidence, to have engaged in any corrupt, fraudulent or coercive practice or anti-competitive arrangement; (f) presents a reasonable concern of a conflict of interest; or (g) should be removed for any other justified reason. In lieu of removal, the Company may impose conditions on the Subcontractor's continued activity. The Contractor shall not be entitled to

additional payment or to an Extension of Time for completion of a Stage of the Works as a result of such instruction or conditions or the need to comply with them.

- 6.2.9. The Contractor shall notify the Company of the planned date on which each Subcontractor will commence work at the Site at least one month before that date.
- 6.2.10. Where justified by the circumstances, the Company may require the Contractor, at its own cost, to appoint a Person on its behalf to provide dedicated supervision of a Subcontractor.
- 6.2.11. The Contractor warrants that every Subcontract shall: (a) reflect and incorporate the provisions of the Contract relating to performance of the Works entrusted to the Subcontractor; (b) require the Subcontractor to comply with all instructions which the Company is entitled to issue to the Contractor; (c) include a provision entitling the Contractor to assign all or part of the Subcontract to the Company if the Company terminates the Contract; and (d) include a governing-law and jurisdiction provision governing the relationship between the Contractor and the Subcontractor in accordance with this Contract.

### **6.3. Personnel**

- 6.3.1. The Contractor shall be responsible for arranging the engagement of all Contractor's personnel and for paying their wages and providing their accommodation, meals, transport and welfare.
- 6.3.2. The Contractor shall pay wages and provide working conditions which comply with Law. In all cases, the Contractor shall pay wages and provide working conditions no less favourable than the general level of wages and conditions provided by employers in a trade or industry similar to that of the Contractor.
- 6.3.3. During the Period for Performance of the Works, the Contractor shall not recruit or attempt to recruit employees or personnel from among the personnel of the Company or the Ministry. The Company shall not recruit or attempt to recruit employees or personnel from among the Contractor's personnel. Nothing in this provision permits the recruitment, after the Period for

Performance of the Works, of employees or personnel from among the personnel of the Company or the Ministry where such recruitment is contrary to Law.

- 6.3.4. The Contractor shall comply with all Labour Laws applicable to the Contractor's employees, including Laws relating to employment – including wages and working hours – health, safety, welfare, immigration and departure from the country, and shall afford them all statutory rights. The Contractor shall require its personnel to comply with all relevant Laws, including occupational health and safety Laws.
- 6.3.5. Foreign workers, including non-resident personnel employed by the Contractor or any relevant Subcontractor, shall hold valid work visas, appropriate health certificates, immigration and tax approvals, and every other approval which may be required for them to work at the Site or any other location where part of the Works is performed. The Company may require the Contractor to produce official evidence that every foreign worker holds the required documents and permits before that worker is employed in performance of the Works.
- 6.3.6. The personnel of the Contractor and each Subcontractor shall have appropriate training, skill, experience and qualifications in their respective trades or professions.
- 6.3.7. Without prejudice to any other right or remedy, the Company may require the Contractor to remove, or act to remove, any Person employed at the Site or on the Works, including the Project Manager and any Key Personnel, who:
- (a) persists in misconduct or carelessness; (b) performs duties incompetently or negligently; (c) fails to comply with any provision of the Contract; (d) persists in conduct prejudicial to safety, health or environmental protection; (e) is found, on the basis of reasonable evidence, to have engaged in any corrupt, fraudulent or coercive practice or anti-competitive arrangement; (f) was recruited from among the personnel of the Company or the Ministry; (g) presents a reasonable concern of a conflict of interest; or (h) should be removed for any other justified reason. In lieu of removal, the Company may impose conditions on that Person's continued activity. The Contractor shall not be entitled to additional payment or to an extension of time for completion

of a Stage of the Works as a result of such instruction or conditions or compliance with them.

- 6.3.8. Where required, the Contractor shall appoint, or act to appointment, a suitable replacement without delay. The applicable provisions shall govern replacement of the Project Manager and replacement of Key Personnel, if any.

#### **6.4. Key Personnel**

- 6.4.1. The Contractor shall appoint the Key Personnel specified in the Specification of Works, if any. The Contractor shall appoint as Key Personnel the Persons named in the Contractor's Bid and the Contractor's Plans. If no names were specified, or if an appointed Person ceases to serve as Key Personnel, the Contractor shall submit for the Company's approval the name and particulars of a Person proposed for that position. If approval is not granted or is subsequently withdrawn, the Contractor shall similarly submit the name and particulars of a suitable replacement.
- 6.4.2. If the Company does not respond within fourteen (14) Days after the information is provided by issuing a reasoned notice objecting to the appointment of that Person or replacement, the Company shall be deemed to have approved the appointment. The Company shall not unreasonably withhold approval of Key Personnel.
- 6.4.3. The Contractor shall not, without the Company's prior approval, terminate the appointment of any Key Personnel or appoint a replacement, unless the Person is unable to perform the role due to death, illness, disability or resignation. In such case the appointment shall be deemed terminated immediately, and the replacement appointment shall be regarded as temporary until the Company approves it or another suitable replacement is appointed.
- 6.4.4. The Key Personnel shall be present at the Site as required and in accordance with good professional practice, or, where Works are performed outside the Site, at the location where the Works are performed, throughout the Period for Performance of the Works. If any Key Personnel is expected to be temporarily absent during that period, the Contractor shall appoint a suitable

replacement for the period of absence, subject to prior approval. No temporary absence shall exceed fourteen (14) Days unless otherwise approved by the Company.

6.4.5. All Key Personnel shall be proficient in Hebrew, other than Key Personnel of a foreign Subcontractor.

6.4.6. The Contractor shall use at least all reasonable endeavours to ensure that the Key Personnel remain employed in their designated positions for as long as required by the Works.

#### **6.5. Relationship between the Parties**

6.5.1. The Contractor's status in relation to the Company shall in all respects be that of an independent contractor. Neither this Contract nor any other agreement shall create an employer-employee relationship between the Company and the Contractor, any Contractor employee, Subcontractor or any other contractor, or any of their employees. The Contractor represents that, in performing its obligations under this Contract, it acts as an independent contractor and shall be responsible, as between it and the Company, for every injury, bodily harm, disability, death, damage or loss suffered or sustained by it or its employees, directly or indirectly, while travelling to or from work, including as a result of a breach of this Contract by the Contractor, its employees or anyone on its behalf, or any tort committed by them.

6.5.2. The Parties declare and confirm that all employees who perform the Contractor's obligations under this Contract are solely employees of the Contractor or of its Subcontractors, if any, and shall be subject to the Contractor's full direction, supervision and control. The Contractor shall bear all expenses and payments connected with their employment under every agreement, applicable collective agreement, extension order, custom, statute and Law.

6.5.3. Without prejudice to the foregoing, if any competent authority subsequently determines that an employer-employee relationship existed during the term of this Contract between the Company and the Contractor or anyone on its behalf, and that the Company is required to pay the Contractor, its employees, anyone on its behalf or any Third Party any salary, additional employment

conditions, payment, right or benefit required by Law, the Contractor shall indemnify the Company against every expense, damage or financial loss incurred by the Company or anyone on its behalf as a result.

6.5.4. The Contractor shall pay all damages or compensation due under Law to any employee or other Person in the Contractor's service as a result of any accident or damage occurring during performance of the Works.

6.5.5. The Parties agree that this Clause shall apply throughout the term of the Contract and thereafter, including following termination of the Contract for any reason.

## **7. Guarantees and Payments**

### **7.1. Guarantee Issuer**

7.1.1. The Contractor may provide a Contract Guarantee issued by any of the following:

7.1.1.1. an Israeli licensed bank under the Banking (Licensing) Law, 5741-1981; or

7.1.1.2. an Israeli licensed insurer under the Control of Financial Services (Insurance) Law, 5741-1981, provided that: (a) the insurer has a minimum international credit rating of A- with a positive or stable outlook from S&P or Fitch, or a minimum international credit rating of A3 with a positive or stable outlook from Moody's; (b) the security is signed by the insurer and not by an insurance agent acting on its behalf; (c) the insurer attaches to the security an official notice specifying the authority of the signatories to the security and an address in the Tel Aviv or Central District for service of a demand to call the security; and (d) the insurer attaches to the security a letter explaining why its licence authorises it to issue the security, together with a copy of the licence.

7.1.1.2.1. If the Company is not satisfied that the foregoing conditions have been met, including in relation to any extension of a guarantee, the Company may, in its sole discretion, require the Contractor to provide a guarantee

issued by a licensed bank. The Contractor shall have no claim or demand against the Company in this respect.

7.1.1.2.2. The Company may, in its sole discretion, approve amendments to the form of guarantee in order to adapt it to a guarantee issued by a licensed insurer. The Contractor shall have no claim or demand against the Company in this respect.

## **7.2. Performance Guarantee**

7.2.1. As a condition for fulfilment of the Contract, the Contractor shall provide the Company with a Performance Guarantee. The Performance Guarantee shall be an original, autonomous and unconditional Guarantee in the form set out in Annex O to the Contract, valid for a period of not less than twenty-four (24) months from its date of issue and in an amount equal to ten percent (10%) of the Contractor's Price Proposal.

7.2.2. The Performance Guarantee shall secure full performance of all the Contractor's obligations under the Contract, and the Company may call it, in whole or in part, to recover any debt owed by the Contractor to the Company.

7.2.3. The Contractor shall maintain the validity of the Performance Guarantee until two months after completion of Site demobilisation.

7.2.4. If the Contractor has not completed Site demobilisation and two months remain before expiry of the Performance Guarantee, the Contractor shall extend its validity by an additional four (4) months by issuing a new guarantee or an extension instrument for the existing guarantee. The Contractor shall provide the Company with the original new guarantee, the original extension instrument or the digital extension instrument, as applicable, no later than fourteen (14) Days before expiry of the Performance Guarantee. The Contractor shall repeat this process whenever two months remain before expiry of the Performance Guarantee.

7.2.5. The Company shall return the Performance Guarantee to the Contractor within twenty-one (21) Days after completion of Site demobilisation, provided that the Contractor has provided the Company with the Warranty Guarantee.

- 7.2.5.1. Notwithstanding the foregoing, where a dispute exists between the Parties, including in judicial proceedings, the Company may notify the Contractor of the dispute and retain the Performance Guarantee.
- 7.2.5.2. If the Contractor receives notice from the Company of an existing dispute and less than two months remain before expiry of the Performance Guarantee, the Contractor shall extend its validity by an additional four (4) months by issuing a new guarantee or an extension instrument for the existing guarantee. The Contractor shall provide the Company with the original new guarantee, the original extension instrument or the digital extension instrument, as applicable, no later than fourteen (14) Days before expiry of the Performance Guarantee. The Contractor shall repeat this process whenever two months remain before expiry of the Performance Guarantee.
- 7.2.5.3. The Company shall return the Performance Security to the Contractor within forty-five (45) Days after the dispute is resolved by agreement between the Parties or after a final and conclusive judgment, provided that the Contractor has discharged its debt to the Company in accordance with the agreement or judgment, as applicable.
- 7.2.6. If the Contractor fails to extend the Performance Guarantee as required under the Contract, including following receipt of notice of a dispute between the Parties, the Contractor shall be liable to pay the Company Agreed Compensation equal to the amount of the Performance Guarantee.
- 7.2.7. The Company may call the Performance Guarantee, in whole or in part, without prior notice. If the Company calls the Performance Guarantee, in whole or in part, it shall notify the Contractor and identify the liability against which the amount called has been applied, stating whether it has been applied in respect of Agreed Compensation, actual damage or another monetary liability.
- 7.2.8. If the Company calls the Performance Guarantee, in whole or in part, the Contractor shall, within seven (7) Days after receipt of notice of the call,

provide the Company with a new Performance Guarantee equal to ten percent (10%) of the Price Proposal if the security was called in full, or sufficient to restore the guarantee to ten percent (10%) of the Price Proposal if it was called in part. If the Contractor fails to provide such new guarantee, it shall be liable to pay the Company Agreed Compensation equal to one and one-half (1.5) times the amount called by the Company.

7.2.9. The return of the Performance Guarantee to the Contractor shall not, in itself, give rise to any estoppel, waiver or preclusion against the Company in respect of any debt of the Contractor or any dispute between the Parties.

7.2.10. Subject to verification, the Company may accept a digital Performance Guarantee or a digital extension of the Performance Guarantee.

### **7.3. Warranty Guarantee**

7.3.1. The Warranty Guarantee shall be an original, autonomous and unconditional guarantee in the form set out in Annex O to the Contract, valid for a period of not less than twelve (12) months from its date of issue and in an amount equal to two percent (2%) of the Contractor's Price Proposal.

7.3.2. The Warranty Guarantee shall secure the full performance of all the Contractor's obligations under the Contract, and the Company may call it, in whole or in part, to recover any debt owed by the Contractor to the Company.

7.3.3. If the Contractor receives notice from the Company of an existing dispute and two months remain before expiry of the Warranty Guarantee, the Contractor shall extend its validity by an additional four (4) months by issuing a new security or an extension instrument for the existing guarantee. The Contractor shall provide the Company with the original new security, the original extension instrument or the digital extension instrument, as applicable, no later than fourteen (14) Days before expiry of the Warranty Guarantee. The Contractor shall repeat this process whenever two months remain before expiry of the Warranty Guarantee.

7.3.3.1. The Company shall return the Warranty Guarantee to the Contractor within forty-five (45) Days after the dispute is resolved by agreement between the Parties or after a final and conclusive judgment,

provided that the Contractor has discharged its debt to the Company in accordance with the agreement or judgment, as applicable.

7.3.4. If the Contractor fails to extend the Warranty Guarantee following receipt of notice of a dispute between the Parties, the Contractor shall be liable to pay the Company Agreed Compensation equal to the amount of the Warranty Guarantee.

7.3.5. The Company may call the Warranty Guarantee, in whole or in part, without prior notice. If the Company calls the Warranty Guarantee, in whole or in part, it shall notify the Contractor and identify the liability against which the amount called has been applied, stating whether it has been applied in respect of Agreed Compensation, actual damage or another monetary liability.

7.3.6. If the Company calls the Warranty Guarantee, in whole or in part, the Contractor shall, within seven (7) Days after receipt of notice of the call, provide the Company with a new Warranty Guarantee equal to two percent (2%) of the Price Proposal if the security was called in full, or sufficient to restore the security to two percent (2%) of the Price Proposal if it was called in part. If the Contractor fails to provide such new security, it shall be liable to pay the Company Agreed Compensation equal to one and one-half (1.5) times the amount called by the Company.

7.3.7. The return of the Warranty Guarantee to the Contractor shall not, in itself, give rise to any estoppel, waiver or preclusion against the Company in respect of any debt of the Contractor or any dispute between the Parties.

7.3.8. Subject to verification, the Company may accept a digital Warranty Guarantee or a digital extension of the Warranty Guarantee.

#### **7.4. Advance Payment Guarantee**

7.4.1. As a condition for fulfilment of the Contract, the Contractor shall provide the Company with an Advance Payment Guarantee. The Advance Payment Guarantee shall be an original, autonomous and unconditional guarantee in the form set out in Annex O to the Contract, valid for a period of not less than twelve (12) months from its date of issue and in an amount equal to twenty percent (20%) of the Contractor's Price Proposal.

- 7.4.2. The Advance Payment Guarantee shall secure the full repayment of the Advance Payment to the Company.
- 7.4.3. The Contractor shall maintain the validity of the Advance Payment Guarantee until two months after full repayment of the Advance Payment to the Company. Subject to the Company's prior written approval, the Contractor may reduce the amount of the guarantee in accordance with the amount of Advance Payment repayments made to the Company and approved in Payment Applications.
- 7.4.4. If the Contractor has not repaid the Advance Payment in full and two months remain before expiry of the Advance Payment Guarantee, the Contractor shall extend its validity by an additional four (4) months by issuing a new guarantee or an extension instrument for the existing guarantee. The Contractor shall provide the Company with the original new guarantee, the original extension instrument or the digital extension instrument, as applicable, no later than fourteen (14) Days before expiry of the Advance Payment Guarantee. The Contractor shall repeat this process whenever two months remain before expiry of the Advance Payment Guarantee.
- 7.4.5. If seven (7) Days remain before expiry of the Advance Payment Guarantee and the Company has not received a new guarantee or an extension instrument for the existing guarantee as required, the Company may call the guarantee up to the amount of the outstanding balance of the Advance Payment not yet repaid by the Contractor.
- 7.4.6. If the Company terminates the Contract and the Contractor does not repay the Advance Payment in full within fourteen (14) Days after receipt of the notice of termination, the Company may call the Advance Payment Guarantee up to the amount of the outstanding balance of the Advance Payment not yet repaid by the Contractor.
- 7.4.7. The Company shall return the Advance Payment Guarantee to the Contractor within twenty-one (21) Days after full repayment of the Advance Payment. The return of the guarantee shall not give rise to any estoppel, waiver or preclusion against the Company in respect of any debt of the Contractor.

- 7.4.8. Subject to verification, the Company may accept a digital Advance Payment Guarantee or a digital extension of the Advance Payment Guarantee.

## **7.5. Advance Payment**

### **Payment of the Advance Payment**

- 7.5.1. If the Contractor provides the Company with a compliant Performance Guarantee and Advance Payment Guarantee, it shall be entitled to receive an Advance Payment from the Company.
- 7.5.2. The Advance Payment shall equal twenty percent (20%) of the Contractor's Price Proposal.
- 7.5.3. The Advance Payment shall constitute an interest-free loan for financing the Contractor's expenses.
- 7.5.4. The Contractor may notify the Company in writing that it waives the Advance Payment. In that case, the Contractor shall be exempt from providing the Company with an Advance Payment Guarantee.

### **Repayment of the Advance Payment**

- 7.5.5. The Contractor shall repay the Advance Payment by deducting its amount from the Milestone payment due upon completion of the Construction Stage, subject to Retention Money and set-offs. The deduction shall be made as part of the approval of the relevant Payment Application.
- 7.5.6. If the Company terminates the Contract, the Contractor shall repay the outstanding balance of the Advance Payment to the Company within ten (10) Days after receipt of the notice of termination.

## **7.6. Payment and Payment Terms**

- 7.6.1. In consideration for the full and proper performance of all the Contractor's obligations, the Company shall pay the Contractor in accordance with the Payment Milestones set out in Document C(1), or by any other method specified in a Variation order.
- 7.6.2. If the Contractor achieves a Milestone under the Contract in a particular month, it shall submit the related Payment Application to the Company in the following month, no later than the tenth day of that month. A Payment

Application submitted after the tenth day of a month shall be deemed submitted at the beginning of the next month.

- 7.6.3. Each Payment Application shall be submitted electronically and shall specify the payment to which the Contractor claims entitlement after deduction of Retention Money and set-offs notified by the Company, together with supporting information and documents containing sufficient detail to enable the Company to examine the entitlement to payment. The Contractor is responsible for attaching such supporting information and documents, and failure to do so may result in the Company rejecting or delaying payment.
- 7.6.4. After the Company has reviewed and approved the entitlement to payment, the Contractor shall issue and send the Company a lawful account and tax invoice in the amount approved, addressed to: Environmental Services Company Ltd., 40 Yitzhak Sadeh Street, Tel Aviv 6721210, P.O. Box 51631, and to an e-mail address designated by the Company. The tax invoice shall be issued immediately after the Company's written approval of the Payment Application.
- 7.6.5. After the Contractor issues a lawful tax invoice, the Company shall submit a payment request, together with the tax invoice, to the Ministry of Environmental Protection. Payment shall be made to the Contractor within five (5) Business Days after the Company receives full payment from the Ministry and subject to receipt of that payment. The Contractor acknowledges that, under the executive arm agreement, the payment terms are up to sixty (60) Days from the date on which the Company submits the payment request. The Contractor shall have no claim or demand against the Company as a result of any early or delayed transfer of payment from the Ministry to the Company and, consequently, to the Contractor.
- 7.6.6. The Company may reject a Payment Application if it determines that the Contractor did not perform the Works or achieve the entitlement or Milestone for which payment is requested, or that the Works for which payment is requested were performed only in part or were defective.
- 7.6.7. The Company shall deduct withholding tax from every payment to the Contractor at the rate applicable to the Contractor under a valid certificate

provided by the Contractor, or, in the absence of such certificate, at the maximum rate. The Company shall withhold tax from the payment in accordance with Law unless the Contractor provides, at the commencement of the contractual engagement and at the beginning of each calendar year, a valid withholding-tax certificate and certificate of proper bookkeeping.

7.6.8. Payments shall be made to the Contractor by bank transfer to the Contractor's bank account specified in Annex N or by bank cheque, as determined by the Company.

7.6.9. If the Company determines, in its sole discretion, that payments were made to the Contractor to which it was not entitled, the Company shall demand repayment of the overpaid amounts, and the Contractor shall repay the amounts specified in the demand within thirty (30) Days after the Company's demand. If the Contractor does not repay all or part of the amounts specified in the demand, the Company may recover them by set-off against payments due to the Contractor.

7.6.10. Indexation: twelve (12) months after the date of the Notice of Award, and every twelve (12) months thereafter – once annually – the Contractor's Price Proposal shall be adjusted prospectively. The adjusted prices shall be calculated according to the change between the Consumer Price Index known on the final date for submission of Bids in the Tender – the Base Index – and the Consumer Price Index known on the adjustment date (hereinafter: the "Indexation Mechanism"). The Supplier alone shall be responsible for submitting to the Company an invoice which includes the calculation under the Indexation Mechanism. The Company shall not pay retrospective indexation additions after submission of the invoice, and the Contractor shall have no claim or demand against the Company in this respect. The Company shall review the Supplier's indexation calculation and determine whether to approve it.

## **7.7. Final Statement**

7.7.1. Immediately after receipt of the Company representative's written approval confirming completion of the Demobilisation Stage, and no later than fifteen (15) Days thereafter, the Contractor shall submit a Final Statement for the

Company's approval, setting out all Works performed since commencement of the Works.

7.7.2. As a condition for review of the Final Statement, the Contractor shall attach:

7.7.2.1. a certificate signed by the Company representative confirming completion of all Milestones;

7.7.2.2. every additional approval required under the Contract;

7.7.2.3. a confirmation, in the form provided by the Company, that the Contractor has no claims or demands against the Company; and

7.7.2.4. the Warranty Guarantee.

7.7.3. The Company shall deduct from the Final Statement all interim payments previously made to the Contractor, if any, and shall make every deduction and/or set-off permitted under the Contract, including fines, compensation for actual damage and Agreed Compensation.

#### **7.8. Retention**

7.8.1. The Company shall have a right of retention. The Contractor shall have no right of retention.

7.8.2. The Company shall retain an amount equal to ten percent (10%) of every payment due to the Contractor under the Contract.

7.8.3. The Retention Money shall secure the full performance of all the Contractor's obligations under the Contract, and the Company may forfeit all or any part thereof in satisfaction of any debt owed by the Contractor to the Company.

7.8.4. If the Company forfeits all or part of the Retention Money, it shall notify the Contractor and identify the liability against which the amount has been forfeited, stating whether it has been forfeited in respect of Agreed Compensation, actual damage or another monetary liability.

7.8.5. Upon completion of Site demobilisation, the Contractor may submit a request to the Company for release of the Retention Money. The Company shall return the Retention Money to the Contractor within twenty-one (21) Days after submission of the request. The Retention Money shall be returned without interest or indexation. The return of the Retention Money shall not

give rise to any estoppel, waiver or preclusion against the Company in respect of any debt of the Contractor.

7.8.6. Notwithstanding the foregoing, where a dispute exists between the Parties, including in judicial proceedings, the Company may notify the Contractor of the dispute and retain the Retention Money.

7.8.6.1. The Company shall return the Retention Money to the Contractor within forty-five (45) Days after the dispute is resolved by agreement between the Parties or after a final and conclusive judgment, provided that the Contractor has discharged its debt to the Company in accordance with the agreement or judgment, as applicable.

7.8.7. If the Contract is terminated due to a breach by the Contractor, the Company may retain any facility, equipment, tool and/or goods at the Site belonging to the Contractor, in whole or in part, and may use them as required to complete the Works, without payment to the Contractor.

#### **7.9. Set-Off**

7.9.1. The Company shall have a right of set-off. The Contractor shall have no right of set-off.

7.9.2. The Company may set off any debt owed by the Contractor to the Company, whether liquidated or unliquidated, against any payment due to the Contractor under the Contract or any other debt owed by the Company to the Contractor, whether liquidated or unliquidated.

7.9.3. If the Company sets off a debt of the Contractor, it shall notify the Contractor and identify the liability against which the amount has been applied, stating whether it has been applied in respect of Agreed Compensation, actual damage or another monetary liability.

#### **7.10. Insurance**

7.10.1. Without prejudice to the Contractor's liability under this Contract or Law, the Contractor shall arrange the insurance specified in the Insurance Provisions attached to the Contract as Annex C and shall provide the Company with the certificates of insurance attached to the Contract as Annexes C1 and C2, duly

signed by an Israeli insurance company (hereinafter: the “Contractor’s Insurances”).

- 7.10.2. The Contractor shall maintain the Contractor’s Insurances in force until completion of all its obligations to the Company under this Contract and any individual engagements, including the Insurance Provisions attached as Annex C. The Contractor shall provide the Company with valid certificates of insurance from time to time and upon request, in the forms of Annexes C1 and C2.
- 7.10.3. The insurance required under this Clause constitutes the minimum insurance required by the Company, and the Contractor may, at its own cost, arrange any additional insurance it considers appropriate.
- 7.10.4. Whenever required by the Company, the Contractor shall provide the insurance policies which it is required to arrange under the Contract. Upon each payment of premium, the Contractor shall provide the Company without delay with a copy of the receipt or confirmation from the insurers that the premium has been paid.
- 7.10.5. If the Contractor fails to arrange or maintain in force any insurance which it is required to arrange, the Company may arrange and maintain that insurance, pay the required premiums and recover the amounts paid from the Contractor from time to time, whether by set-off against money due to the Contractor or otherwise as a debt owed by the Contractor.
- 7.10.6. If the Contractor fails to comply with any condition of the insurance arranged under the Contract, it shall indemnify the Company against every loss and claim, including legal fees and costs, arising from such non-compliance.
- 7.10.7. The Contractor shall also be responsible for: (a) notifying the insurers of every change in the nature, scope or programme of the Works, with a copy to the Company; and (b) ensuring at all times that the insurance remains valid and complies with the requirements of the Contract.

#### **7.11. Taxes and Other Mandatory Payments**

- 7.11.1. The Contractor shall bear and pay all taxes, fees, levies and other mandatory payments required by Law for performance of, or imposed on, the Works.

The Contractor shall bear and pay all fines, financial sanctions and interest imposed due to any failure to make such payment, whether at all or on time.

7.11.2. The Contractor shall investigate whether it is entitled to any customs exemption or relief, where applicable.

## **8. Liability, Breaches and Remedies**

### **8.1. Liability**

8.1.1. The Contractor shall bear absolute liability for every damage, loss, expense or deprivation, direct or indirect, to person, property or right, suffered by the Contractor, the Company or any Third Party as a result of a breach by the Contractor or anyone on its behalf of any contractual, tortious or statutory obligation in connection with performance of the Works or performance of its obligations under the Contract. The Contractor releases and discharges the Company and anyone on its behalf from liability for every such damage, loss, expense or deprivation and shall compensate and indemnify them against every claim by the Contractor or any other Person in that respect, including legal fees and costs, and against every judgment, fine or financial sanction imposed on them in that respect.

8.1.2. In this Clause, "Intellectual Property Infringement" means any infringement, or allegation of infringement, of any patent, registered design, copyright, trademark, trade name, trade secret or other intellectual or industrial property right relating to the Works.

8.1.2.1. The Contractor releases the Company from liability for every Intellectual Property Infringement arising out of or connected with: (a) performance of the Works by the Contractor; or (b) use of the Contractor's Goods or the Contractor's Documents. The Contractor shall compensate and indemnify the Company and anyone on its behalf against every claim by the Contractor or any Third Party, including legal fees and costs, alleging Intellectual Property Infringement arising out of or connected with: (a) performance of the Works by the Contractor; or (b) use of the Contractor's Goods or the Contractor's Documents.

8.1.2.2. If the Company is entitled to compensation or indemnification from the Contractor under the preceding Sub-Clause in respect of a Third-Party claim, and provided that the Contractor has given the Company an undertaking to compensate or indemnify it in respect of the claim, the Contractor may, at its own cost, assume full responsibility for settlement negotiations and/or any judicial or arbitral proceedings arising from the claim. At the Contractor's request and cost, the Company shall assist in the defence of the claim. The Company shall not make any admission which may prejudice the Contractor unless the Contractor fails to assume full responsibility for the negotiations, judicial proceedings or arbitration after being requested by the Company to do so.

8.1.2.3. If performance of any Works or use of the Contractor's Goods or the Contractor's Documents is restricted or prohibited due to infringement of a Third Party's intellectual property rights, the Contractor shall, at its own cost, take one of the following actions: (a) obtain a licence to use the relevant Third Party rights; (b) replace the relevant item with a non-infringing alternative which performs the same function as the infringing item; or (c) modify the relevant infringing item so that it ceases to infringe while retaining the same functionality.

8.1.3. The Contractor shall have no claim or demand against the Company or anyone on its behalf alleging that they: (a) caused the Contractor to breach an obligation to a Third Party; (b) committed a tort jointly with the Contractor against a Third Party; and/or (c) contributed by fault or contributory negligence to the Contractor's breach of an obligation to the Company or to any damage caused to the Company as a result of such breach.

## **8.2. Breach**

8.2.1. For purposes of a breach by the Contractor: (a) it shall be immaterial whether the breach was in fact committed by the Contractor, a Subcontractor or another Person; (b) it shall be immaterial whether the breach was committed by act or omission; and (c) it shall be immaterial whether the breach was

committed in good faith or without fault or negligence on the part of the Contractor.

### **8.3. Fundamental Breach**

- 8.3.1. The Contractor shall be in fundamental breach of the Contract if the breach is of a kind which may be presumed to be one for which the Company would not have entered into the Contract had it foreseen the breach and its consequences. A breach shall also constitute a fundamental breach where the Contract expressly provides that it is fundamental.
- 8.3.2. If the Contractor commits a non-fundamental breach capable of remedy and does not remedy it within fourteen (14) Days after receipt of notice of the breach from the Company, the Company may give the Contractor written warning that failure to remedy the breach and perform the Contract will cause the breach to become fundamental. If the Contractor does not remedy the breach within fourteen (14) Days after receipt of that warning, the breach shall constitute a fundamental breach.
- 8.3.3. If the Contractor commits ten (10) non-fundamental breaches which are incapable of remedy, the Contractor shall be deemed to have committed a fundamental breach, provided that, in respect of each breach, the Company gave the Contractor written notice that the breach would be counted among the Contractor's non-fundamental breaches incapable of remedy.
- 8.3.4. The Parties agree that the Contractor shall be in fundamental breach of the Contract if:
  - 8.3.4.1. the Contractor abandons the Site during the Period for Performance of the Works, notifies the Company that it is suspending the Works or in fact suspends them, asserts that the Contract is not binding on it, or demonstrates an intention not to perform the Contract;
  - 8.3.4.2. the Contractor fails to submit a draft Contractor's Plan within two months after receipt of the Notice to Commence;
  - 8.3.4.3. the Contractor fails to commence performance of the Works within ten (10) Days after receipt of the Notice to Commence, or fails to resume performance of the Works within fourteen (14) Days after

receipt of notice that a suspension of the Works has ended, unless a delay event occurs during the relevant period which entitles the Contractor to an Extension of Time for completion of a Stage of the Works under the Contract, mutatis mutandis;

- 8.3.4.4. the Contractor delays completion of a Stage of the Works and the Agreed Compensation for delay in completion of the Works reaches the maximum amount of compensation for such delay;
- 8.3.4.5. the Contractor fails to provide a Contract Guarantee, extend a Guarantee, replenish the amount of a Guarantee or increase the amount of a Guarantee, in breach of the Contract;
- 8.3.4.6. the Contractor fails to maintain the insurance in force and in compliance with the requirements of the Contract;
- 8.3.4.7. the Contractor assigns the Contract to another Person without the Company's consent;
- 8.3.4.8. the Contractor subcontracts all the Works;
- 8.3.4.9. the Company determines, on the basis of reasonable evidence, that the Contractor, any of its Subcontractors, or any controlling shareholder or officer thereof, has engaged in bribery, fraud, coercion, an anti-competitive arrangement, money laundering or organized crime in relation with the Works or the Contract;
- 8.3.4.10. the Contractor becomes insolvent or is declared insolvent; a temporary or permanent receiver is appointed over the Contractor's property; a liquidator or temporary liquidator is appointed to the Contractor; a resolution is adopted for the Contractor's liquidation, economic rehabilitation or dissolution; the Contractor enters into an arrangement with creditors; or an order for commencement or stay of proceedings is made in respect of the Contractor; or
- 8.3.4.11. an attachment is imposed on the Contractor's property or any enforcement action is taken by the enforcement and collection authority in respect of the Contractor's property, and the attachment or action is not removed within thirty (30) Days.

#### **8.4. Termination due to the Contractor's Breach**

- 8.4.1. If the Contractor commits a fundamental breach of the Contract, the Company may terminate the Contract with immediate or deferred effect.
  - 8.4.1.1. If the Company elects to terminate the Contract with immediate effect, the termination shall take effect on the date on which the Company delivers the notice of termination to the Contractor.
  - 8.4.1.2. If the Company elects to terminate the Contract with deferred effect, the termination shall take effect on the calendar date specified in the notice of termination delivered to the Contractor, or upon occurrence of an event or completion of an action required under the Contract and specified in the notice. The Contractor shall continue performing the Works until the event occurs or the action is completed.
- 8.4.2. If the Company does not notify the Contractor of termination of the Contract within thirty (30) Days after becoming aware of the fundamental breach, the Contractor shall be granted an additional thirty (30) Days to remedy the breach and perform the Contract. If the Contractor does not remedy the breach within that additional period, the Company may terminate the Contract at any time.
- 8.4.3. A ground for termination specified in a notice of termination shall not derogate from the Company's right to terminate the Contract on any alternative, additional and/or cumulative ground.
- 8.4.4. Termination of the Contract: (a) shall not derogate from any other right or remedy of the Company; and (b) shall not affect the validity of any Contract provision which by its nature, customary operation, express wording or implication is intended to continue in effect after termination or completion of the Works, including governing law and jurisdiction, interpretation, language, dispute resolution, intellectual property and Intellectual Property Infringement, compensation, securities, set-off, retention, confidentiality and conflicts of interest. This Sub-Clause shall also apply to termination on other grounds.
- 8.4.5. Upon termination of the Contract, the Contractor shall: (a) comply immediately with every Company instruction concerning assignment of a

Subcontract to the Company and/or delivery to the Company of any copy of a Subcontract; (b) comply immediately with every Company instruction concerning protection of life, property or the safety of the Works; (c) deliver to the Company all property belonging to the Company, all Contractor's Documents and/or other design documents prepared by or for the Contractor in relation with the Project; and (d) remove its personnel from the Site, without removing any facilities, equipment, tools, goods and/or other items used by the Contractor for performance of the Works. If the Contractor does not remove its personnel from the Site, the Company may remove them.

8.4.6. If the Contract is terminated, the Company may complete the Works and/or arrange for other Persons to perform and complete them. In such case, the Contractor hereby grants the Company and/or such Persons full and irrevocable authorisation to use, without payment to the Contractor, all facilities, equipment, tools and/or goods at the Site, together with the Contractor's Documents and any other design documents prepared by or for the Contractor, for purposes of completing the Works.

8.4.6.1. After completion of the Works, the Company shall notify the Contractor that the facilities, equipment, tools and goods at the Site have been released for collection by the Contractor at or near the Site. The Contractor shall then remove them without delay, at its own cost and risk. However, if the Contractor has not discharged a debt due to the Company by that time, the Company may, subject to Law and Third-Party rights, sell the Contractor's items in order to recover the debt. Any surplus proceeds of sale shall be paid to the Contractor.

8.4.7. Upon termination of the Contract, the Company shall prepare a statement of account between the Parties taking into account, inter alia: on the one hand, Agreed Compensation payable to the Company by the Contractor and/or damage suffered by the Company as a result of the Contractor's breach and termination of the Contract, including the costs, expenses and losses arising from the need to complete the Works itself and/or through other Persons and the delay to completion resulting from the breach and termination; and, on the other hand, items completed and Milestones achieved by the Contractor before termination for which payment has not yet been received. In valuing

Works performed by the Contractor before termination, the Company may take into account the extent and quality of the Contractor's Documents delivered, the degree of cooperation by the Subcontractors for purposes of completing the Works, and the ability to continue using the facilities, equipment, tools and/or goods at the Site to complete the Works. It is agreed that Works performed towards a Milestone which was not achieved in full and/or items which were not completed in full shall be valued at zero.

8.4.7.1. In the statement of account, the Company may set off debts of the Contractor, including repayment of the Advance Payment or its outstanding balance, against payments due to the Contractor and, where required, recover the Contractor's debts by forfeiting the Retention Money and/or calling the Performance Security or the Advance Payment Guarantee.

8.4.7.2. The Company may defer preparation or execution of the statement of account until all the Contractor's liabilities and all damage, costs, expenses and losses suffered by the Company as a result of the breach and termination have fully materialized and/or been determined, including until the Company and/or Persons acting on its behalf have completed the Works.

## 8.5. Agreed Compensation

8.5.1. Without prejudice to any other rights and remedies of the Company, the Parties agree that the Company shall be entitled to Agreed Compensation in the amount stated in Column B for each breach by the Contractor described opposite it in Column A of the following table:

|    | Column A                                                                                                      | Column B                              |
|----|---------------------------------------------------------------------------------------------------------------|---------------------------------------|
|    | Description of the Contractor's Breach                                                                        | Amount of Agreed Compensation         |
| 1. | Performance of an activity or conduct of an occupation without an approval, permit or licence required by Law | NIS 10,000 per activity or occupation |
| 2. | A breach causing material personal injury                                                                     | NIS 50,000 per breach                 |

|     |                                                                                                                                                    |                                                                                            |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| 3.  | A breach causing material property damage                                                                                                          | NIS 10,000 per breach                                                                      |
| 4.  | Exceedance of prescribed emission values                                                                                                           | NIS 3,000 for each Day of exceedance                                                       |
| 5.  | Exceeding the permitted transport weight or disposing of waste at an unauthorised destination                                                      | NIS 5,000 per transport                                                                    |
| 6.  | Safety offence                                                                                                                                     | NIS 1,000 per offence                                                                      |
| 7.  | Failure to submit a draft Contractor's Plan by the prescribed date                                                                                 | NIS 3,000 per Day for each plan                                                            |
| 8.  | Delay in completion of the Design Stage                                                                                                            | NIS 5,000 per Day                                                                          |
| 9.  | Delay in completion of the Construction Stage                                                                                                      | NIS 7,000 per Day                                                                          |
| 10. | Delay in completion of the Operation Stage                                                                                                         | NIS 7,000 per Day                                                                          |
| 11. | Delay in completion of the Demobilisation Stage                                                                                                    | NIS 2,000 per Day                                                                          |
| 12. | Delay in a date specified in the programme forming part of the Remediation Plan which is not listed above                                          | NIS 500 per Day                                                                            |
| 13. | A non-fundamental breach capable of remedy which is not listed above                                                                               | NIS 1,000 for each Day on which the breach remains unremedied                              |
| 14. | A non-fundamental breach incapable of remedy which is not listed above                                                                             | NIS 5,000 per breach                                                                       |
| 15. | A fundamental breach following which the Contract is not terminated                                                                                | NIS 500,000 per breach                                                                     |
| 16. | A fundamental breach following which the Contract is terminated                                                                                    | 40% of the Price Proposal and of the price proposals for Variations ordered by the Company |
| 17. | Failure to repay the outstanding balance of the Advance Payment by the prescribed date after termination of the Contract due to fundamental breach | 1.5 times the outstanding balance of the Advance Payment                                   |

|     |                                                                                               |                                                                                                                                                                                                                          |
|-----|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18. | Remediated Volume Credit for less than 100% of the Total Remediation Volume, but at least 85% | 15% of the Price Proposal                                                                                                                                                                                                |
| 19. | Remediated Volume Credit for less than 85% of the Total Remediation Volume, but at least 70%  | 30% of the Price Proposal                                                                                                                                                                                                |
| 20. | Remediated Volume Credit for less than 70% of the Total Remediation Volume                    | 100% of all payments made to the Contractor under the Project plus 100% of all payments due to the Contractor from the Company under the Project in respect of achievement of Milestones and credited remediation volume |

8.5.2. The Parties have considered every provision for Agreed Compensation under this Contract and agree that the compensation prescribed in each such provision bears a reasonable relationship to the damage to the Company which could have been foreseen as a probable consequence of the breach in respect of which the compensation is payable.

8.5.3. The Company may claim compensation for actual damage suffered as a result of the Contractor's breach of one or more obligations. Subject to the applicable limitation periods and the prohibition on double recovery, any demand, claim or recovery by the Company of Agreed Compensation under this Contract shall not constitute a waiver of its right to claim compensation for actual damage and shall not give rise to any estoppel or preclusion against it.

8.5.4. The right to Agreed Compensation, or any demand, claim or recovery thereof by the Company, shall not release the Contractor from its obligation to complete the Works or from any other obligation under the Contract.

#### 8.6. Termination for Convenience

8.6.1. The Company may, in its sole discretion and for any reason, terminate the Contract for convenience during the Design Stage, Construction Stage, Operation Stage or Demobilisation Stage.

8.6.2. If the Company terminates the Contract for convenience, the Contractor shall be entitled solely to the following payments:

8.6.2.1. payment for Milestones achieved by the Contractor prior to termination of the Contract and approved by the Company, for which the Contractor has not yet received payment from the Company.

8.6.2.2. subject to the Reimbursement Cap set out below, reimbursement of reasonable expenses incurred by the Contractor and costs arising from commitments reasonably entered into by the Contractor for the purpose of achieving Milestones for which entitlement to payment has not yet arisen and which had not been approved by the Company as of the date of receipt of the notice of termination, plus a profit margin of five percent (5%) on such reasonable expenses. In no event shall the reimbursement of the Contractor's expenses exceed the following amounts, depending on the stage at which the Contract is terminated (the "Reimbursement Cap"): (a) if the Contract is terminated during the Design Stage – the Milestone payment for the Design Stage; (b) if the Contract is terminated during the Construction Stage – the Milestone payments for the Construction Stage and the Demobilisation Stage; (c) if the Contract is terminated during the Operation Stage – 70% of the Milestone payment for the Operation Stage, plus the Milestone payment for the Demobilisation Stage; or (d) if the Contract is terminated during the Demobilisation Stage – the Milestone payment for the Demobilisation Stage.

8.6.2.3. The Contractor shall not be entitled to any additional remedy or relief beyond the foregoing payments.

8.6.3. Upon receipt of such notice of termination, the Contractor shall:

8.6.3.1. immediately cease the performance of the design, the construction works or the operation of the System, as applicable and subject to the safety requirements. The Contractor shall use its best endeavours to avoid additional expenses and/or reduce its expenses. Expenses which the Contractor could reasonably have avoided and/or reduced shall be deducted from the reasonable expenses taken into account. Reasonable expenses incurred by the Contractor in taking such avoidance or mitigation measures shall be taken into account.

8.6.3.2. submit to the Company, in the manner, at the time and in the form directed by the Company, particulars of the expenses incurred and commitments entered into for the purpose of performing items of work in respect of which entitlement to payment has not yet arisen and which had not been approved by the Company as of the date of receipt of the notice of termination; and

8.6.3.3. unless otherwise instructed by the Company in writing, demobilise from the Site in accordance with the Contract and the Specification of Works.

## **8.7. Unjust Enrichment**

8.7.1. If the Contractor performs Works of a quality, scope or quantity exceeding that required under the Contract, including by achieving results exceeding the Performance Targets, using equipment, materials, tools, facilities or personnel exceeding the required standard, or completing any work earlier than scheduled, such Works shall be deemed performed under the Contract and subject to the Company's rights thereunder. The Contractor shall not be entitled to additional payment from the Company and shall have no claim or demand in unjust enrichment against the Company, the Ministry or anyone on their behalf in respect thereof.

## **8.8. Tort**

8.8.1. The Contractor shall have no claim or demand in tort against the Company, the Ministry or anyone on their behalf in connection with any representation and/or expression of opinion made before or during the contractual engagement.

# **9. Guaranteed Remediated Volume Credit and Failure to Achieve It**

## **9.1. Guaranteed Remediated Volume Credit**

9.1.1. The Contractor undertakes to obtain Remediated Volume Credit for one hundred percent (100%) of the Total Remediation Volume.

## **9.2. Failure to Achieve the Guaranteed Remediated Volume Credit**

9.2.1. If the Company determines, on the basis of the Confirmatory Clean-Up Survey Report submitted and approved by the Company and the Ministry

following completion of the Confirmatory Sampling Plan, that the Contractor has not achieved the Guaranteed Remediated Volume Credit, the Contractor shall continue remediation activities in those parts of the Total Remediation Volume in which the Performance Targets were not achieved.

9.2.2. If the Contractor does not achieve the Guaranteed Remediated Volume Credit within four (4) months after the date for completion of the Operation Stage, the Company may, in its sole discretion, decide to take either of the following actions:

9.2.2.1. extend the Operation Stage and instruct the Contractor to continue remediation activities in those parts of the Total Remediation Volume in which the Performance Targets were not achieved. The Company may, in its sole discretion, limit the number of times the Contractor is required to continue remediation activities in any part of the Total Remediation Volume in which the Performance Targets were not achieved; or

9.2.2.2. end the Operation Stage, require the Contractor to perform the Demobilisation Stage, and require the Contractor to pay Agreed Compensation for failure to achieve the Guaranteed Remediated Volume Credit. For the avoidance of doubt, the Contractor shall pay the Agreed Compensation in addition to not receiving payment for any part of the Total Remediation Volume for which Remediated Volume Credit was not obtained.

9.2.3. For as long as the Performance Targets have not been achieved in particular areas and the Operation Stage has not ended, the Contractor shall resubmit an updated Supplemental Remediation Plan and, after carrying out additional remediation, an updated Confirmatory Clean-Up Survey Report.

9.2.4. The foregoing shall not derogate from the Contractor's obligation to pay Agreed Compensation for delay in completion of the Operation Stage, where such delay occurs.

## **10. Disputes**

### **10.1. Governing Law and Jurisdiction**

10.1.1. This Contract and every dispute in connection with it shall be governed exclusively by Israeli Law. The courts of competent jurisdiction in the Tel Aviv-Jaffa District, Israel, shall have sole, exclusive and local jurisdiction to determine every dispute in relation with this Contract. No court outside Israel shall have jurisdiction to determine any dispute in relation with this Contract.

10.1.1.1. For purposes of this provision, a “dispute in relation with the Contract” includes a dispute concerning formation of the Contract, its contents or interpretation, or its performance or breach, and includes any dispute arising in tort, unjust enrichment, administrative law or under any enactment.

10.1.1.2. For the purposes of this provision, a “dispute in connection with the Contract” shall also include a dispute in connection with the Contract with any Israeli person, corporation or authority. This provision shall be for their benefit and may be enforced by them.

10.1.2. The Contractor shall include the following written provision in every agreement between it and any foreign Person supplying goods, services or works in relation with this Contract: “The governing law applicable to any dispute between a party to this agreement and an Israeli person, corporation or authority (hereinafter: the ‘Israeli Party’) in relation with this agreement shall be exclusively the law of the State of Israel. The courts of competent jurisdiction in the Tel Aviv-Jaffa District, State of Israel, shall have sole, exclusive and local jurisdiction to determine every such dispute. No court outside the State of Israel shall have jurisdiction over any such dispute. This provision is for the benefit of the Israeli Party and shall be enforceable by it.” At any time, the Company may require the Contractor to provide evidence that such written provision has been included.

## **10.2. Preliminary Review of Payment Claims**

10.2.1. The Contractor shall not commence judicial proceedings for any payment claim against the Company unless it has submitted to the Company a written payment demand stating and detailing the basis of the claim, and forty-five (45) Days have elapsed after delivery of that demand.

## **10.3. No Waiver of the Company’s Rights**

- 10.3.1. Any failure by the Company to exercise or insist upon a right under the Contract, or any delay in exercising or insisting upon such right: (a) shall not constitute a waiver of the Company's right and shall not diminish the validity of the Contractor's obligation; and (b) shall not constitute a waiver of any other Company right or diminish the validity of any other Contractor obligation.
- 10.3.2. A right under the Contract, or its exercise, shall not derogate from any additional right conferred on the Company under the Contract, Law or another agreement.
- 10.3.3. Any waiver by the Company of a right, including a partial waiver by relaxation of an obligation or extension of the time for its performance, shall be valid only if made in writing and signed by both Parties.
- 10.3.4. Payment by the Company to the Contractor shall not constitute a waiver of any allegation of a defect in the work for which payment was made and shall not release the Contractor from responsibility for full and proper performance of that work.

**IN WITNESS WHEREOF, the Parties have executed this Contract:**

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**The Company**

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**The Contractor**

Position with the Contractor: