



Petroleum & Energy Infrastructures Ltd.  
Oil Products Pipeline Ltd.

Finance Division - Procurement & Engagements Department

October 1, 2020  
Ref.: 250782

**Public Tender No. 034-20**  
**Invitation to Submit Bids**

**To: All Tender Participants**

Dear Sir / Madam,

Re: **Public Tender No. 034-20**

Petroleum and Energy Infrastructures Ltd. and/or Oil Products Pipeline Ltd. (the "**Company**") hereby invites the submission of bids for the supply of Induction Bends 5D as specified in the Technical Specifications and Bill of Quantities attached hereto (the "**Goods**"), according to the following terms and conditions.

In this Tender, "**NIS**" means New Israeli Shekels, "**USD**" or the "\$" symbol means United States Dollars, and "**Euro**" or the "€" symbol means Euros. Price quotes may be provided in NIS, USD or Euro; however, the currency provisions of Section 17.5 shall apply. Each price quote includes all costs, expenses and taxes, as further described in Section 17.6 below.

1. **The Tender Documents**

This invitation to bid (this "**Invitation**") together with the documents listed below and attached hereto (the "**Tender Documents**"), together form one integral unit, comprising a single invitation to bid under the terms described herein and therein (which invitation to bid as expressed in the Tender Documents may hereinafter be referred to as the "**Tender**"):

- 1.1. Form of the bidder's declaration – Annex A;
- 1.2. Form of Manufacturer's declaration – Annex B;
- 1.3. A bill of quantities of the Goods – Annex C (the "**Bill of Quantities**");
- 1.4. Technical specifications regarding the Goods – Annex D (the "**Technical Specifications**"); and
- 1.5. Form of the engagement contract, including the Exhibits attached thereto – Annex E (collectively, the "**Contract**").

Any capitalized term in the other Tender Documents shall have the meaning ascribed to that term in this Invitation, unless specifically indicated otherwise therein; and any capitalized term in this Invitation which is defined only in another Tender Document shall have the meaning ascribed to that term in that Tender Document.

In the case of any conflict between the Tender Documents, the following rules of interpretation shall apply, in the following order of precedence:





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- (a) The executed contract between the Company and the winning bidder(s) shall comprise the entire agreement between those parties and shall supersede and replace any previous documents, agreements or understandings between them;
- (b) In the event of a conflict between any other Tender Document and the Technical Specifications or Bill of Quantities (including a bidder's price quotes as described in the completed Bill of Quantities), the terms of the Technical Specifications or Bill of Quantities shall prevail;
- (c) In the event of a conflict between the Contract and any other Tender Document, the terms of the Contract shall prevail;
- (d) In the event of a conflict between this Invitation and any other Tender Document, the terms of this Invitation shall prevail; and
- (e) In the event of any other conflict, discrepancy, or question of interpretation, the reasonable construction or interpretation which is most conducive to ensuring that, in consideration of the price quoted by the selected bidder, the Company shall receive, in a lawful and efficient manner, the entire amount of Goods ordered to its satisfaction, shall prevail.

**2. The Goods, Location and Date of Supply**

- 2.1. The Goods shall meet the requirements of the Technical Specifications and the Bill of Quantities, and shall be manufactured in a country which is a member of the EU or the OECD.
- 2.2. The Goods will be supplied DDP (Incoterms 2010) Company's Ashkelon warehouse (including for this purpose, unloading the Goods at such warehouse).
- 2.3. The supply of all Goods will be performed to Ashkelon warehouse (including for this purpose, unloading the Goods at such warehouse) no later than 16 weeks after receipt of an order from the Company. It is emphasized that any delay in supply of Goods which deviates from this deadline will be considered a fundamental breach of contract, and will cause the supplier to be liable for liquidated damages as described in the Contract.
- 2.4. It is clarified that the terms of supply provided in this Section 2 are for the sake of convenience only. The full and actual terms and conditions of supply shall be in accordance with the provisions of the Contract.

**3. Preconditions**

A bid or bidder which does not meet each of the conditions specified below on the date of that bid's submission (the "**Submission Date**") will be disqualified:





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- 3.1. A true and authentic copy of the bid, including all documents required to be submitted pursuant to Section 4 of this Invitation, has been received by the Company, by no later than **October 27, 2020** at 23:59 Israel time (the "**Submission Deadline**"), and all conditions of the Submission Protocol described in Section 18 below have been fulfilled. **Bids submitted other than as per the Submission Protocol may be disqualified.**
- 3.2. The bidder is eligible to participate in the Company's tenders, and has not, as of the Submission Date, been notified by the Company in writing of any suspension of its participation in accordance with the Company's procedures.
- 3.3. (a) For non-Israeli bidders: The bidder is not subject to sanctions, investigations, or other restrictions by a governmental authority of its home jurisdiction which would render it ineligible to participate in tenders of governmental corporations or other public bodies in its home jurisdiction.  
  
(b) For Israeli bidders: The bidder is eligible to participate in the Tender and enter into the Contract in accordance with the relevant provisions of Israeli law concerning transactions with public bodies; and the bidder has a valid approval pursuant to the provisions of the Public Bodies Transactions Law, 5736-1976.
- 3.4. The bid indicates that it shall be for supply of Goods: (a) which are manufactured in a country which is a member of either the EU or the OECD; **and** (b) which meet the requirements of the Technical Specifications and the Bill of Quantities, as evidenced by the bidder's and Manufacturers' respective signatures in conformance with Sections 4.2 and 4.3 below.
- 3.5. For Israeli bidders: The bidder is registered in any registry as may be required by law and holds all licenses as may be required by law with respect to the subject matter of the engagement, and if there is an official Israeli standard (within the meaning thereof in the Standards Law, 5713-1953) on the subject matter of the engagement, the bidder meets the requirements of such standard.
- 3.6. The bidder must have successfully supplied Induction Bends 5D conforming to the API-5L standard, with an aggregate minimum value of USD 100,000 (One Hundred Thousand US Dollars), in the five (5) years preceding the Submission Deadline (i.e., from **October 27**, 2015 to the Submission Deadline) – as shall be evidenced by the bidder in Annex A.
- 3.7. Each proposed Manufacturer (i) has successfully manufactured and supplied, in the course the five (5) years preceding the Submission





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Deadline (i.e., from **October 27**, 2015 to the Submission Deadline), Induction Bends 5D manufactured according to the API-5L standard in an aggregate value of not less than USD 150,000 (One Hundred Fifty Thousand US Dollars) – as shall be evidenced by the Manufacturer in Annex B – and (ii) has undertaken that all Goods will be Manufactured in a country which is a member of either the EU or the OECD.

- 3.8. In this Tender, "**Manufacturer**" means a person or entity responsible for any stage, portion or process relating to the manufacture of Goods, from raw materials to finished form as described in the Technical Specifications.
- 3.9. The bidder's net shareholder's equity for fiscal year 2019 was positive.

4. **Documents Required to be Attached to the Bid**

The documents described in Sections 4.1 through 4.7 below, shall be included in the bid:

- 4.1. For Israeli bidders, a copy (certified by a lawyer as true to original) of a valid approval pursuant to the provisions of the Public Bodies Transactions Law, 5736-1976.
- 4.2. A copy of the Bill of Quantities, showing the bidder's price quote in the appropriate space(s) provided, signed by the bidder.
- 4.3. A copy of the Technical Specifications, signed by the bidder (for each item) as well as by each Manufacturer of each item, indicating thereby: (a) each Manufacturer's acknowledgement of the Technical Specifications and that its actual manufacture of the Goods will take place in an EU or OECD member country; (b) the bidder's undertaking to supply the Goods in conformance with such Technical Specifications, unused and as manufactured by the relevant Manufacturers; and (c) the bidder's representation that a complete report of all relevant Manufactures has been provided therein.
- 4.4. For Israeli bidders: Confirmation regarding (1) registration of the bidder in any registry as may be required by law, (2) the bidder's holding all licenses as may be required by law and (3) bidder's compliance with each official Israeli standard that may exist, all of the above with respect to the subject matter of the engagement.
- 4.5. One of the following:
  - (a) The bidder's audited financial statement(s) for the fiscal year ending 31 December 2019, showing that as of that date the bidder's net shareholders' equity was positive;





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(b) The bidder's audited financial statement(s) for a different period ending no earlier than 31 December 2019, showing that as of the end of such period the bidder's net shareholders' equity was positive, *provided that* such statement(s) is accompanied by the confirmation of a certified public accountant licensed in the bidder's jurisdiction identifying such financial statement(s) as the bidders' latest existing audited financial statement(s); or

(c) If the bidder is not required by applicable law to release its audited financial statements to the public, a letter addressed to the Company and signed by a certified public accountant licensed in the bidder's jurisdiction and responsible for the bidder's accounting, stating that the bidder's net shareholders' equity as of 31 December 2019 was positive.

4.6. The following Tender Documents, completed and duly executed by the bidder's authorized signatories:

4.6.1. Annex A.

4.6.2. Annex B, completed and duly executed by each such Manufacturer and confirmed by a certified public accountant licensed in that Manufacturer's jurisdiction and engaged as that Manufacturer's accountant.

4.6.3. Annex E, signed by the bidder's authorized signatory in acceptance of the contractual terms and conditions therein. It is clarified that acceptance of such contractual terms and conditions forms an essential and integral part of the bid.

4.7. Bids for supply of Goods made in Israel must also be submitted together with the documents required in Section 11 in order to gain the benefit of the Preference Regulations.

4.8. A bid which does not include each of the relevant documents specified above may be automatically disqualified, with or without regard to its content; *however*, the Company may, in its sole discretion, request a particular bidder to supply one of the documents above following submission within a given period of time. If such bidder fails to supply the requested documents to the satisfaction of the Company, within such period of time as is given thereto for such purpose, the Company may disqualify its bid. If a bidder submits documentation in excess of the requirements of this Section 4, the Company reserves the right to treat such excess documentation in the manner described in Section 6.2 below, which shall apply to such excess documentation, *mutatis mutandis*. Without derogating from any other provision herein, it is clarified that failure of a winning bidder to deliver a complying Bank Guarantee as described in Section 15.1 below within 14 days of being





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notified of its award is a fundamental breach of this Tender, and grounds for retraction of the award, in the Company's discretion.

**5. Clarifications**

- 5.1. Bidders in the Tender are required to check thoroughly all of the Tender Documents. Any bidder who finds ambiguities, discrepancies or inconsistencies in or between the various Tender Documents or various provisions thereof, or any other inconsistency, may address the Company with a written request for clarification. Such written request must be delivered to the Company by email to [purchasebid@pei.co.il](mailto:purchasebid@pei.co.il), by no later than October 18, 2020.
- 5.2. Any bidder who fails to submit a written request for clarification as described in Section 5.1 above will be barred from raising any claim in the future regarding any ambiguities, discrepancies or inconsistencies in or between the various provisions of the Tender Documents.
- 5.3. It is emphasized that only written responses sent by the Company or its authorized agents are binding.
- 5.4. The bidder is aware and agrees that a written response to any question asked may, at the Company's discretion, be sent to all of the bidders, including as described in Section 5.5 below.
- 5.5. The Company may, in its discretion, publish any and all notices, updates, announcements and/or clarifications regarding this Tender to bidders who have registered at the Company's website ([www.pei.co.il](http://www.pei.co.il)), which registration is each bidder's sole responsibility. Any update, announcement, clarification or other notice so published to registered bidders (a "**Notice to Bidders**") shall be deemed received by all bidders, effective immediately upon such publication.

**6. Modification of or Reservations to the Tender Documents**

- 6.1. It is clarified that the bidder may not modify, add to, omit from, or make any reservations or conditions to the Tender Documents in any way. The Company emphasizes that in any case in which the bidder believes that any clarification is required with respect to the terms and conditions of the Tender, it must address the Company in the manner and within the timeframe set forth in Section 5.1 above.
- 6.2. If, despite the provisions of Section 6.1, the bidder modifies, adds to, omits from, or makes any reservations or conditions to, the Tender Documents in any way, the Company may, in its sole discretion, act in accordance with any one or a combination of the following options:





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- 6.2.1. Ignore any reservation, modification or condition, and require the bidder to meet its bid as if it had been submitted without such reservation, modification or condition, and if the bidder refuses to do so, the Company shall be entitled to demand Liquidated Damages;
- 6.2.2. Accept any modification comprising or implying an additional undertaking, representation or guarantee by the bidder as part of the bid, *provided that* such additional condition shall not be considered in the comparison of bids or the award of contract;
- 6.2.3. Disqualify the bid, in whole or in part; and/or
- 6.2.4. Make any other decision that the Company may deem appropriate under the circumstances.

By submitting its bid, the bidder represents that it is aware that the Company may take any of the actions described above, whether with respect to its bid or other bids, and irrevocably waives any claim or argument against the Company in this regard.

- 6.3. It is clarified that by submitting its bid, each bidder (i) represents that its price quotes have taken into account all terms and conditions of the Contract and this Tender, including without limitation the terms regarding split bids and partial orders, and further including any terms and conditions regarding payment, currency, tax and expenses, and (ii) irrevocably waives any claim or argument to the contrary.

**7. Split Bids and Partial Orders**

- 7.1. Subject to the terms of this Section 7, the Company will be entitled, in its sole discretion, to split the award of contract for supply of different items in the Bill of Quantities between several bidders.
- 7.2. Any bidder who wishes to modify its price quote in the event that its bid is split must specify an adjustment surcharge in case of a split, clearly and legibly in the space provided in the bidder's declaration submitted in the form of Annex A. If a bidder fails to act as stated in this Section 7.2: the Company may split its bid without any additional surcharge; that bidder's price quote for the various components will be binding despite any split the Company may elect to make regarding such bid; and such bidder, by submitting its bid, irrevocably waives any claim or argument against the Company in this regard.
- 7.3. The Company may, at its discretion, reduce the quantity of Goods in its order, in accordance with its needs, and all relevant provisions of the Tender shall apply in such reduced quantity (including the price quote per unit).





- 7.4. At any time within the timeframe set forth in Section 5.1 above, the Company reserves the right to amend the quantity of any Goods specified to the Bill of Quantities, by written notice to all potential bidders, including by Notice to Bidders as described in Section 5.5 above. In such event, each bid shall be regarded as if the quantities specified in that bid's signed Bill of Quantities (as per Section 4.2 above) were so amended.

**8. Inspection of the Bids**

- 8.1. The Company may, in its sole and absolute discretion, allow a bidder whose bid is incomplete or flawed to amend, supplement or clarify its bid (including for the purpose of demonstrating the bidder's compliance with the threshold conditions), in such manner and under such conditions as may be determined by the Company in its discretion and in keeping with applicable law.
- 8.2. The Company reserves the right to refrain from considering or to disqualify the bid of any bidder who fails to provide the Company with required information or who provides inaccurate information.
- 8.3. The bidder is required to update the Company in writing and without delay regarding any change that may occur, if and when such change occurs, in the information delivered to the Company at any time from the Submission Date until the date of publication of the Company's decision regarding the award of contract, and if such bidder is awarded the contract, until the execution of the Contract.

**9. Disqualification of Bids**

- 9.1. The Company may disqualify any bid in accordance with the provisions of the Tender Documents and/or applicable law. Without derogating from the generality of the aforesaid, the Company may, in its discretion, disqualify any bid which is incomplete, mistaken, or based on any incorrect assumption or misunderstanding regarding the Tender, or any bid which may create a conflict of interest with other engagements of the bidder, including engagements of the bidder with the Company on other matters contemplated in the Tender. The aforesaid does not derogate from the Company's right to waive or correct technical flaws which may occur in a bid in good faith, pursuant to the provisions of applicable law.
- 9.2. Without derogating from the generality of the aforesaid, the Company may disqualify, in its sole discretion, the bid of a bidder with whom the Company has had a bad experience in a previous engagement, including any dissatisfaction or non-compliance with the required standards in any manner of performance of work, supply of goods or provision of services, any breach of undertakings vis-à-vis the Company, any suspicion of fraud, and/or other similar matters.





- 9.3. If at least five bids are submitted which meet the threshold conditions, the Company may, in its discretion, disqualify bids whose quote prices are in an amount whose value is less than 90% of the Qualified Average Amount of all bids which have met the threshold conditions. For purposes of this calculation, the "**Qualified Average Amount**" is the average amount of those bids meeting the threshold conditions after excluding the lowest such bid and the highest such bid, provided that if there are two identical lowest or highest such bids, those bids shall not be excluded from the computation of such average.
- 9.4. An estimate of this Tender's value will have been made prior to the inspection of bids. The Company may, in its discretion, disqualify any bid which deviates significantly from that estimate.

## 10. Award of Contract

- 10.1. Subject to the other terms and conditions of this Tender, the bidder whose bid meets the threshold requirements and bears the lowest price quote shall be awarded the contract, subject to the terms and conditions of this Tender and applicable law.
- 10.2. Notwithstanding anything to the contrary, the Company may award the contract to a bidder other than as described in Section 10.1 above in any of the following circumstances:
- 10.2.1. In accordance with another provision of this Tender which mandates or grants the Company discretion to consider and/or award the contract to a different bid or bids;
- 10.2.2. If the winning bidder has failed execute the Contract within seven (7) days of being notified of its award, or has failed to deliver a complying Bank Guarantee as described in Section 15.1 below within 14 days of being notified of its award, or if the provisions of Section 13.3 otherwise apply; or
- 10.2.3. Under special circumstances, and for special reasons which the Company shall commit to writing, after having given the bidder who would otherwise have been awarded the contract reasonable opportunity to present its case.
- 10.3. If a single qualifying bid is submitted, or a single bid remains for the tender committee's consideration, at a price which is significantly less favorable to the Company than the estimated value described in Section 9.4 above, then the Company may inform such bidder accordingly, and may, in its sole and absolute discretion: (a) allow that bidder to submit a more favorable bid by no later than a date which the Company may determine, (b) award contract as per that bid in accordance with the terms and conditions of this Tender, or (c) cancel this Tender.





10.4. It is further clarified that the Company is free to refuse any bid and/or to cancel the Tender at any stage, in its discretion.

11. **Priority for Goods made in Israel**

11.1. The Company will give preference to bids for goods made in Israel according to the provisions of the Mandatory Tenders Regulations (Preference for Israeli Products and Mandatory Business Cooperation), 5755-1995 (the "**Preference Regulations**"), with regards to bids to supply Israeli goods whose quote price does not exceed the quote price of bids to supply imported goods by more than 15%.

11.2. In order to benefit from the preference stated in Section 11.1 above, a bidder is required to attach to its bid each of the following documents:

11.2.1. A declaration signed by the bidder's authorized signatories confirming that the value of the Israeli Price Component of the goods in question constitutes at least 35% of the Bid Price of those goods. The meaning of "**Israeli Price Component**" is as defined in the Preference Regulations: meaning the price of the goods, *ex works* of the Israeli Manufacturer, net of the costs of any raw materials, parts, consulting services, planning, manpower and financing that were used in the manufacture of the goods and which originate from outside of Israel.

11.2.2. A certificate that each Manufacturer of the relevant goods is an Israeli citizen or a permanent resident of Israel or a corporation registered in Israel.

11.2.3. A confirmation from an accountant regarding the percentage reflecting the ratio of the Israeli Price Component to the Bid Price of the relevant goods, as specified in the bidder's declaration. The confirmation shall be prepared in accordance with the accepted audit standards in Israel, and the bidder's declaration in Section 11.2.1 above shall be attached thereto, imprinted with the accountant's stamp for identification purposes only.

11.3. The Company reserves the right to investigate each item and determine, solely on the basis of its own professional discretion, whether a particular item is an Israeli Product meeting the requirements of the Preference Regulations, including whether or not manufacturing activities in Israel constitute a "substantial transformation". The Company further reserves the right to request from a bidder additional details or clarifications regarding that bidder's declaration as described in Section 11.2.1 above.





- 11.4. It is clarified that, in keeping with the decision of the Company's tender committee, the coating of goods in Israel will not be considered a "substantial transformation", and therefore will not, in and of itself, create a preference in accordance with the Preference Regulations.
- 11.5. In this Section 11, "**Bid Price**", "**Israel**", "**Israeli Manufacturer**", "**Israeli Product**" and "**substantial transformation**" have the meanings provided in or implied by the Preference Regulations.

## 12. Negotiations or Additional Competitive Process

- 12.1. The Company reserves the right to negotiate with bidders whose bids are found to be adequate, subject to applicable law.
- 12.2. An estimate of the value of the engagement will be made for this Tender. In the event that all of the bids that are submitted in the tender less favorable to the Company than such estimate, the Company may, in its sole discretion, hold an additional competitive process between the bidders who submitted the most appropriate bids.
- 12.3. In the event that the Company elects, in its sole discretion, to hold an additional competitive process ("Best & Final"), the Company may approach such bidders as it may select in its discretion, and notify them that they are entitled to submit, within such timeframe as may be determined, a final bid. If such bidder does not submit another bid pursuant thereto, its first bid shall be deemed as its final bid.

## 13. Execution of Contract with the Winning Bidder(s)

- 13.1. The Company will determine the bidder or bidders to be awarded contract, if any, and notify all bidders as soon as reasonably possible of the results. The notice of the winning bidder will not bind the Company until the Contract has been signed by the persons authorized to bind the Company thereby, and a complying Bank Guarantee has been delivered to the Company.
- 13.2. The engagement with the winning bidder will be based on a written agreement, the form of which is attached hereto as Annex E, and which constitutes an integral part hereof (the "**Contract**").
- 13.3. If a winning bidder fails to fully and accurately fulfill the terms, conditions, undertakings and requirements of the Tender, including if its bid includes any material misrepresentation(s), and/or if it fails to execute the Contract within seven (7) days of being notified of its award, or fails to deliver a complying Bank Guarantee as described in Section 15.1 below within 14 days of being notified of its award, then the Company may, in its sole discretion and without prejudice to any right or remedy otherwise available: (a) require such winning bidder to adhere





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to its bid, as represented therein, as per the terms of the Contract, after adjustment of set-off for the amount described in Section 14.3(a) below; and/or (b) whether or not the Company has previously required the winning bidder to adhere to its bid as described in sub-section (a) above, at any time that a failure or misrepresentation described in this Section 13.3 remains unremedied, disqualify such bid retroactively, decide on a replacement bidder, and demand payment of the Liquidated Damages. The Company will notify such bidder of its decision without unreasonable delay.

- 13.4. Without derogating from the foregoing, the Company shall be entitled, even after determination of the winning bidder(s) and/or notice thereof, to retract such notice and not engage with any of the bidders, including the bidder whose bid was determined to be the winning bid. A reasoned notice of such decision as will be delivered to the winning bidder(s) as early as possible, under the circumstances. For the avoidance of doubt, it is hereby clarified that should the Company retract such notice as aforesaid, it will not be liable for any expense or damage that the winner or any other bidder may have suffered in connection with such determination or notice or otherwise in connection with participation in the Tender, as the case may be.
- 13.5. The Company reserves the right to make adjustments to the Contract that will be signed with the winning bidder, in its sole discretion.

**14. Liquidated Damages**

- 14.1. By submitting its bid, each bidder agrees that, in addition to and without prejudice to any right or remedy otherwise available to the Company, it shall pay Liquidated Damages to the Company in the case of any of the following breaches:
- (a) The retraction of a bid (or the substantial equivalent of the same);
  - (b) Any material misrepresentation in a bid, or any material breach of the Tender; and/or
  - (c) Failure to fulfill any requirement upon an award of contract, including execution of the Contract within seven (7) days of being notified of its award, and delivery of a complying Bank Guarantee within 14 days of being notified of its award.
- 14.2. The Company will be entitled to recover the Liquidated Damages in any manner allowed by applicable law, including by right of set off against any obligation to such bidder, whether by virtue of this Tender or any other past or future tender, agreement or understanding, and shall further be entitled (in its discretion) to initiate proceedings against the breaching





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bidder and otherwise pursue the recovery of Liquidated Damages in any competent court or tribunal of the breaching bidder's jurisdiction.

14.3. In this Tender, "**Liquidated Damages**" means the aggregate of the following amounts:

(a) Regardless of the currency quoted in the bidder's bid, the amount of NIS 25,000;

(b) If the Company elects to disqualify a winning bid due to bidder's breach of the Tender as per Section 13.3(b) above, the difference between the breaching bidder's bid and the replacement bid (as expressed in values reflecting the currency of the breaching bidder's bid, as per the Bank of Israel representative exchange rate on the date of Company's written notification to the breaching bidder), with an additional surcharge of 20% (twenty percent); plus

(c) Penalty interest and/or CPI adjustments as are customarily imposed by courts of the bidder's jurisdiction (and for a bidder whose quote is in NIS, as are customarily imposed by courts in Israel); plus

(d) All expenses reasonably incurred by the Company in the recovery of the amounts aforementioned, including legal expenses and attorneys' fees.

14.4. The Liquidated Damages expressed in this Section 14 are in addition to and independent of the liquidated damages expressed in the Contract for failure or foreseen failure to deliver Goods in a timely fashion (*see* Section 6.2(c) of the Contract).

**15. Performance Guarantee**

15.1. The bidder agrees and undertakes, if its bid is chosen as a winning bid, to provide an autonomous bank guarantee conforming to all of the requirements of this Section 15.1 (the "**Bank Guarantee**"), as soon as reasonably possible, and in any case not later than 14 days following its being notified of its award, as a performance guarantee for the Contract.

15.1.1. The guarantee must be an original document, validly issued by a banking corporation regulated and licensed under Israeli law or by the banking authority of the bidder's home jurisdiction.

15.1.2. The guarantee must be written in either the English language or the Hebrew language.

15.1.3. The guarantee must be addressed to the Company and be for the Company's benefit; however, if the issuing bank's general practice does not allow for issuance of an autonomous guarantee to more than





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one entity, the guarantee may be addressed to and for the benefit of Petroleum and Energy Infrastructures Ltd. alone.

- 15.1.4. The guarantee must be payable upon the beneficiary's first written demand, substantially under the conditions described in this Section 15.1; however, the guarantee may allow for the issuing bank corporation to provide that actual payment of the guarantee can be made at any time within fifteen (15) days of receiving such written demand for payment.
- 15.1.5. The amount guaranteed shall be NIS 25,000 (the "**Guarantee Amount**"). If the award is split between two or more bidders (as contemplated in Section 7 above), the amount of each bidder's guarantee will be a *pro rata* portion of the Guarantee Amount, as per the ratio of the bid price of each bidder's winning award and the aggregate of all winning awards.
- 15.1.6. The guarantee shall be valid until a date no earlier than 30 weeks following notification of award (the "**Guarantee Expiry Date**"), or the actual delivery of all Goods to the Company's satisfaction, as evidenced by an original document issued by the Company for the purpose of demonstrating the occurrence of such event; however, for so long as the Goods have not actually been delivered to the Company's satisfaction, the Company shall have the right to extend the Guarantee Expiry Date by written notice for successive 60-day periods.
- 15.1.7. The guarantee's applicant must be identical to the bidder.
- 15.1.8. The guarantee must be identified by a reference number or code and states that it is made in reference to the Company's "Public Tender No. 034-20" and "Contract No. 034-20" as the underlying relationship.
- 15.1.9. The guarantee must be governed by URDG 758, and must specifically state that the supporting statement under URDG article 15(a) is excluded.
- 15.1.10. The guarantee must provide that a complying presentation requires no additional documentation other than the Company's statement that the amount claimed is due by reason of the bidder's obligation arising from or in connection with this Tender or the Contract.

An autonomous bank guarantee issued by a banking corporation regulated and licensed under Israeli law or by the banking authority of the bidder's home jurisdiction, which conforms in all material respects to the suggested form provided as Appendix C attached to Annex E (including if modified as per any





parameters stated in this Section 15.1), shall be considered a complying Bank Guarantee for purposes of this Tender.

15.2. The Company shall be entitled to demand payment of the Bank Guarantee for the amount stated therein or part thereof, if in its reasonable opinion such amount is payable to the Company for any breach of the Tender or the Contract or on any other grounds. If such demand is made, the Company will provide the bidder with written correspondence stating the grounds by which such amount is payable.

15.3. It is clarified that the Company's rights as specified in this Section 15 do not derogate from any other remedy which would otherwise be available to the Company, including per the Tender Documents and/or applicable law.

## 16. Examination of bids

16.1. Bidders may examine the Tender results, in accordance with the Mandatory Tenders Regulations, 5753-1993 (the "**Regulations**"), for a non-refundable fee of NIS 1,000, to be paid to the Company together with the examination request, which request and payment must be received at the Company's office by no later than 30 days from notice of non-award of contract or disqualification, as the case may be.

16.2. Together with submission of its bid, the bidder must provide a reasoned statement clearly specifying which parts (if any) of its bid constitute, in its opinion, a trade or professional secret which is not to be made available for examination by other bidders. If no such statement is provided, or if such portions of the bid are not clearly and specifically marked, the Company shall be entitled to make the entire bid available for the examination of other bidders.

16.3. It is clarified that a bidder who marks certain parts of its bid as a trade secret, by so doing waives its rights to examine the corresponding parts of other bids.

16.4. Nothing in the aforesaid shall be interpreted as any obligation or undertaking by the Company to treat any information as confidential and/or to prevent exposure of such information, if and to the extent such obligation or undertaking would conflict with any applicable law, including without limitation the Freedom of Information Law, 5758-1998 (the "**Information Law**").

16.5. If and to the extent the Company is required to determine, in consideration of the Information Law and/or other applicable law, which details of a bid must be made available for the examination of other bidders, the Company, shall take into account, amongst other considerations, the bidder's statement as described in Section 16.2





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above. It is clarified, however, that this decision will be made in the Company's sole discretion in keeping with applicable law, and by submitting its bid, the bidder agrees that it shall have no claim or argument whatsoever if its entire bid or any part thereof is made available for the examination of other bidders.

16.6. By submitting its bid, the bidder further agrees that if the Company is of the opinion that there is concern as to whether information in a bid that it requests to examine should or should not be disclosed, the Company may refrain from disclosing any such information, so long as no court order has been issued requiring such disclosure.

**17. General Provisions**

17.1. Any and all expenses involved in preparing the bid are at the bidder's expense only.

17.2. Bidders wishing to purchase the Tender Documents in hard copy may do so in consideration for a fee of NIS 500, to be paid to the Company upon the purchase of the documents at the Company's offices, 3 Hasadnaot St., Herzliya Pituach, on Sundays-Thursdays between 10:00-15:00, and after prior coordination with Ms. Talmor Sela, via the email address listed in Section 17.13 below. The purchase of the Tender Documents in hard copy is not required for participation in the Tender.

17.3. The bid will be valid for 90 days following the Submission Deadline. Throughout this period, the bid shall be irrevocable. If need be, the Company may require bidders to extend the validity of their respective bids, and/or provide bid guarantees and/or performance guarantees complying with the conditions expressed in Section 15.1 above (to be treated in the manner of a Bank Guarantee, *mutatis mutandis*). Bids which are not extended as aforesaid (or for which bid guarantees and/or performance guarantees as described above are not provided as required) shall be disqualified, even if such bid would otherwise have been preferred, and the Company may continue the process of the Tender in accordance with its needs, from amongst the bids which have been so extended and/or for which such guarantees have been provided.

17.4. Bidders may not withdraw their bids in the Tender so long as the bid is valid. A bidder withdrawing its bid in the Tender shall be liable for Liquidated Damages to the Company, as described in Section 14 above, which amount the Company may collect at its first demand.

17.5. The bidder's price quote may be provided in NIS, USD or Euro; however, if prices are quoted by an Israeli bidder in a currency other than NIS, the Company will reserve the right to make payment to such Israeli bidder in NIS in accordance with the exchange rate in effect on the date of invoice, as provided in the invoicing and payment terms of the





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Contract. A price quote expressed in a currency other than NIS, USD or Euro will be considered a modification of the Tender Documents, and the terms of Section 6.2 above will apply. If price quotes are expressed in multiple currencies, the Company may, at its sole discretion, deem the quote to have been provided in any of the currencies so expressed. A price quote expressed as a number without any legible expression of currency will be deemed as if expressed in NIS.

17.6. (a) It is clarified that each price quote is inclusive of all costs, expenses and taxes (including VAT) associated with the provision or delivery of the Goods or fulfilment of any other condition of the Contract.

(b) If and to the extent that Israeli VAT applies to the provision of the Goods, the bidder must indicate such Israeli VAT as a separate item in each relevant price quote and invoice. If, at any time and for whatever reason, the Company determines in its reasonable opinion that Israeli VAT applies to any bid, order, or invoice, the Company may unilaterally amend the amount of such bid, order or invoice such that Israeli VAT appears as a separate item and the total quote or amount due, after the addition of Israeli VAT, is equal to the original amount of such bid, order, or invoice (*i.e.* including Israeli VAT).

(c) In this Tender, "**Israeli VAT**" means value added tax under the Value Added Tax Law, 5736-1975, at the rate current on the date of payment; and "**VAT**" means any tax imposed by a governmental authority of any other jurisdiction in a manner similar to Israeli VAT.

17.7. By submitting its bid, each bidder undertakes to be irrevocably bound by the terms of the Contract expressed in Annex E. It is clarified that each price quote expressed in a bid will be considered as taking into account all relevant provisions of the Contract and Tender, including without limitation any provisions regarding currency, payment, invoices, taxes, expenses, VAT, and delivery, as well as any representation or guarantee expressed therein, effective as of the Submission Deadline and repeated upon execution of the Contract.

17.8. By submitting its bid, each bidder undertakes to be irrevocably bound by the confidentiality provisions of the Contract (as expressed in Section 11 of Annex E), effective as of the Submission Date.

17.9. Unless otherwise specified or implied by context, in this Tender: (a) "**bid**" refers to the entirety of the documents described in Section 4 and submitted to the Company by no later than the Submission Deadline and/or any part thereof, and is further deemed to include (i) any documents or correspondence submitted in response to the Company's request as per Section 4.8, and (ii) any excess documentation which the Company, in its discretion, decides to include in accordance with





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Sections 4.8 and/or 6.2.2; and (b) "**bidder**" means the party submitting a bid or interested in submitting a bid, as the case may be.

- 17.10. Non-fulfillment of one or more of the instructions in this Tender may lead to the disqualification of the bid, at the Company's sole discretion, and without derogating from any other right or remedy otherwise available to the Company.
- 17.11. It is clarified that the Tender is subject to the provisions of Israeli tender law, including the Regulations, and nothing in the provisions of the Tender Documents shall be interpreted to derogate from any mandatory provisions therein or any other mandatory provisions of applicable law.
- 17.12. The Company may, at any time, at its discretion, amend or modify the Tender Documents, provided that it gives written notice thereof to all of the bidders in the Tender, and the bidders in the Tender must prepare, adjust and/or amend their bids based on such amendments or modifications.
- 17.13. Any question may be referred to the undersigned via e-mail to [purchasebid@pei.co.il](mailto:purchasebid@pei.co.il), which references "Tender No. 034-20".
- 17.14. All disputes relating to, arising from or in connection with this Tender and/or the Tender Documents shall be finally adjudicated by the competent courts of Israel, Tel Aviv District. This Tender and each of the Tender Documents are governed by the laws of the State of Israel, without reference to its conflict of laws rules.
- 18. Submission Protocol.** All bids must be submitted in accordance with the instructions provided in this Section 18 (collectively, the "**Submission Protocol**"). *Submission of a bid in any manner other than as per the Submission Protocol may result in disqualification of the bid.*
- 18.1. The bid must be submitted and received, by no later than the Submission Deadline set forth in Section 3.1 above, **either** (a) in a sealed envelope, deposited by hand in the special-purpose tender-mailbox, on the first floor of the Company's offices at: Petroleum and Energy Infrastructures Ltd / Oil Products Pipeline Ltd., 3 HaSadna'ot, Herzliya, Israel (bidders submitting their bid by courier are advised to instruct their courier service of the importance of placing their bid in a sealed envelope in the tender box as per the above instructions), **or** (b) by an email with attachments conforming with Section 18.2 below and addressed to **tender034-20@pei.co.il** (the "**Designated Account**"), with a subject line which states the name of the bidder and the number of this Public Tender, as well as the Company's name (for example: "XYZ Bidder Ltd. -- Submission of bid for Public Tender No. 034-20 (Petroleum and Energy Infrastructures Ltd.)" (a "**Submission Email**"). Bidders must choose to submit their bids by **one** of these two methods. Any bid





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submitted by a bidder by both methods (physical deposit and Submission Email) may be disqualified and/or considered as if not submitted and/or the Company will have a right to choose one of the two bids at its discretion.

18.2. Without derogating from any other provision hereof, Submission Emails are subject to and must also comply with the following terms:

18.2.1. All attachments to a Submission Email must be electronically signed by an individual authorized to submit the bid on bidder's behalf (an "**Authorized Individual**"), by means of a secure electronic signature which: (a) is uniquely connected to the Authorized Individual; (b) identifies the Authorized Individual as the signatory; and (c) is under the exclusive access and control of the Authorized Individual (an attachment meeting such requirements: an "**Electronically Signed Attachment**").

18.2.2. The Company will access the Designated Account in the period that is 24-48 hours prior to the Submission Deadline ("**Pre-Check Period**"), solely (a) to check how many emails have been received in the Designated Account by such time and (b) to respond to each such email received, for the sole purpose of notifying the sender that an email from such account has been received in the Designated Account ("**Email Received Notice**"). As such, it is recommended – if a bidder sends a Submission Email prior to or during such Pre-Check Period but does not receive an Email Received Notice by 24 hours before the Submission Deadline – that such bidder contact the Company. For the avoidance of doubt, the Company will not be opening any Submission Email or checking it for adequacy, compliance, completion or the like, during the Pre-Check Period. For the further avoidance of doubt, bids may be submitted after the Pre-Check Period so long as they are received in the Designated Account before the Submission Deadline, but those bidding in this manner take full responsibility for doing so and acknowledge that they will not receive an Email Received Notice.

18.2.3. The bid will be deemed to consist only of the Electronically Signed Attachment(s) to a Submission Email which is received by no later than the Submission Deadline; however, the Company reserves the right to treat any text, documents and/or information contained in or attached to a Submission Email, which are not Electronically Signed Attachments (whether or not receipt of the Submission Email has been confirmed), as Modifications, and the provisions of Section 6 will apply to them.

18.2.4. The Company represents that Submission Emails received in accordance with this Submission Protocol will be treated as per the Company's policies regarding submission of bids for public tender, as





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if submitted in the customary physical manner, with conforming changes.

18.2.5. By submitting its bid, each bidder: (a) confirms and consents that its correspondence with the Company regarding the Tender (and/or the Contract, if awarded), including without limitation the Submission Email and its attachments, may take place by means of electronic correspondence, by which the bidder shall be legally bound; (b) represents that any documents comprising or included in an Electronically Signed Attachment and bearing the signature, stamp or written acknowledgment of a Manufacturer or any other third party, are true and authentic copies of the original document duly executed by an individual who is, to the bidder's best knowledge, the authorized representative of that third party; (c) represents that the electronic correspondence and signature by which the Submission Email and Electronically Signed Attachments were submitted meet, at a minimum, the legal requirements of a "standard electronic signature" under the laws of the bidder's jurisdiction, and comprise a legally binding signature under those laws; and (d) unconditionally waives, and acknowledges it shall be estopped from advancing, any argument contrary to any of the above.

18.2.6. In its Submission Email, the bidder may include an email address for purposes of future correspondence and/or notifications; if no such email address is indicated, then the Company may assume that the email address from which the Submission Email is sent shall be an acceptable address for future correspondence and/or notifications, until notified otherwise by the bidder.

18.3. Without derogating from the foregoing, and notwithstanding anything else to the contrary, the Company may, in its discretion and by reasoned written notification to the relevant bidder, disqualify any bid or submission, if the Company is of the opinion that acceptance of such bid under the circumstances would be inappropriate for the conduct of a public tender, or would conflict the Company's tender policies, applicable tender laws or regulations, or other applicable law.

**Sincerely,**

**Talmor Sela**

**Procurement & Engagements Department**





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### Annex A – The Bidder's Declaration

To: Petroleum & Energy Infrastructures / Oil Products Pipeline Ltd. (the "**Company**")  
3 Hasadnaot,  
I.Z. Herzliya  
ISRAEL

The undersigned,

(bidder's full name) \_\_\_\_\_ I.D. / Co.No. \_\_\_\_\_ Address  
\_\_\_\_\_ Zip Code \_\_\_\_\_ Country \_\_\_\_\_ Tel:  
\_\_\_\_\_ Mobile phone: \_\_\_\_\_ Fax: \_\_\_\_\_ e-mail:  
\_\_\_\_\_

("we") does hereby confirm, represent and undertake as follows:

#### **PART I – GENERAL DECLARATION**

1. I (the undersigned signatory) am authorized to make and sign this declaration on behalf of the bidder ("**Bidder**") under the terms of the Bidder's organizational documents and any relevant decision or authorization of the Bidder's managers and/or directors.
2. I (the undersigned signatory) am the officer responsible at the Bidder for the bid submitted in this Tender on the Bidder's behalf.
3. We have read and thoroughly understood the provisions of all of the documents of "Public Tender No. 034-20: Invitation to Submit Bids", including the annexes thereto and this form (the "**Tender**", and such documents, the "**Tender Documents**"). Capitalized terms in this declaration, unless otherwise defined, have the meanings ascribed to those terms in the Tender Documents.
4. We agree to and accept all provisions of the Tender, as expressed in the Tender Documents, and we hereby waive any claim with respect to the Tender other than as specifically allowed for therein.
5. If and to the degree our bid is selected as per the procedures and conditions described in the Tender, we undertake to supply the Goods as defined in the Technical Specifications and Bill of Quantities in consideration of our price as quoted therein, in the quantities provided therein and/or as may be amended, all in accordance with and subject to the terms of the Tender and the Contract, and pursuant thereto we agree to sign the Contract and to be bound by its terms.
6. We understand that the supply will be DDP (Incoterms 2010) Company's Ashkelon warehouse (including for this purpose, unloading the Goods at such





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warehouse), on a date to be agreed upon between the Company and the selected bidder, and in any event no later than 16 weeks from the date of receipt of the Order.

7. Our quoted price is as indicated in our bid, and we understand that all conditions regarding payment (including but not limited to invoicing, currency, and the events and/or dates upon which payment is due) shall, subject to the terms of the Tender Documents, be in accordance with the Contract as per our bid, and we do not and shall not request any other manner or form of payment or consideration.
8. We understand that we will be required to deliver the Bank Guarantee to the Company immediately upon award of contract if and to the extent our bid is selected (and in no event later than 14 days of our notification thereof), which will serve as a performance guarantee, and that the Company will be entitled to demand payment from such Bank Guarantee by representing to the guarantor that the amount claimed is due by reason of our obligation arising from or in connection with the Tender or the Contract, without the need for additional documentation; however such entitlement is independent of and shall not prejudice the underlying relationship between us and the Company.
9. We understand that this bid may not be cancelled or revoked and is valid in accordance with Section 17.3 of the Invitation, i.e. for 90 days from the Submission Deadline, and that withdrawal of our bid may result in our being liable for Liquidated Damages. We further understand that the Company may require us either to extend the validity of our bid and/or require an additional bid and/or performance guarantees in order for our bid to remain under consideration.
10. We understand and agree that should our bid be selected as a winning bid, we will be automatically bound by the terms, conditions, and undertakings of the Contract, and that should we fail, following selection of our bid, to comply with the terms of the Tender and the Contract (including the timely execution of the Contract and delivery of the Bank Guarantee), our bid may be disqualified retroactively and we may be required to pay, inter alia, the difference between our bid and the replacement bid with an additional 20% surcharge.
11. We are aware that non-compliance with any of the preconditions described in Section 3 of the Invitation or any part thereof, and/or non-submission of any of the documents required by Section 4 of the Invitation, shall constitute grounds for disqualification of the bid and/or forfeiture of the Bank Guarantee, all at the Company's sole discretion. We understand that our bid comprises a representation that all documents submitted with our bid in this Tender (including documents submitted with our bid in previous tenders as if repeated hereby, if and to the extent relied upon by us in our submission of this bid), including the undertakings, confirmations and acknowledgments made or





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described therein or thereby, are true, valid, and of continued effect in all material ways, unless otherwise indicated in our bid.

12. For sake of clarity, nothing in this our declaration shall be interpreted in a manner that would derogate from our full and unconditional acceptance of all terms of the Tender and the Contract.
13. We engage on an ongoing basis in the manufacture and/or import, export or supply of the Goods described in the Tender, and we undertake, should our bid be selected, to supply all such Goods as we may be requested under the terms of the Contract.
14. To the best of our knowledge, neither (a) submission of our bid according to the terms of the Tender nor (b) entry into or performance of the Contract, if and to the degree our bid is selected, would create a personal or business conflict of interest for any of us, our officers, our agents or our employees who are, have been or would be involved in the bid or performance of the Contract.
15. We undertake to keep confidential any information that may be disclosed, delivered or become known to us in the course of our dealings and undertakings with the Company regarding the Tender, other than information which (a) is or becomes part of the public domain through no fault of our own (including of our directors, agents or employees), (b) reflects general knowledge or experience in our field of business or expertise, or (c) we are permitted to disclose by virtue of an explicit provision of the Tender or the Company's prior written approval. We shall not use, disclose, publish or otherwise allow for exposure of such information as described above to any person by any means whatsoever, without the Company's prior written consent on a case-by-case basis. In the event that our bid is selected, we will also ensure that our employees and any person who provides services on our behalf in any matter regarding the Tender or the Contract shall fulfill the provisions of this undertaking, and shall be bound by confidentiality covenants no less strict than the same.
16. We are aware that in accordance with Section 7 of the Invitation to submit bids, the Company may elect to split its order between one or more bidders, in which case we wish to choose the alternative marked below:

***[Instruction: One of the two options below should be clearly marked:]***

- 16.1.  Our bid may be split, with no additional surcharge.
- 16.2.  If the Company splits our bid, an adjustment surcharge of \_\_\_\_% (in words: \_\_\_\_\_ per cent) will apply to each item ordered.

*[Note: if the adjustment surcharge is not filled in or is illegible, the Company reserves the right to split the bid with no additional surcharge.]*





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17. If we are a person resident or domiciled in Israel, organized under the laws of Israel, or registered in the Companies Registrar or other registry of the Corporations Authority of Israel, then the following representations are included in this our Declaration:
- 17.1. We are eligible to participate in the Tender and enter into the Contract in accordance with the relevant provisions of Israeli law concerning transactions with public bodies; we have a valid approval pursuant to the provisions of the Public Bodies Transactions Law, 5736-1976; we are registered in any registry as may be required by law and hold all licenses as may be required by law with respect to the subject matter of the Tender, and if there is an official Israeli standard (within the meaning thereof in the Standards Law, 5713-1953) on the subject matter of the Tender, then we meet the requirements of such standard.
- 17.2. Neither we nor any of our directors or officeholders have been convicted of a crime involving moral turpitude ("עבירה שיש עמה קלון"), or if any of the above has ever been so convicted, at least 7 years have passed since the complete serving of that person's sentence; and no indictment for a crime involving moral turpitude has been served or is pending against any such individual.
- 17.3. There is no possible conflict of interest, whether direct or indirect, between the affairs of the bidder and/or any interested party ("בעל עניין") of the bidder, and the execution of the works and/or fulfilment of the covenants described herein and/or in the Contract by the bidder or a person acting on bidder's behalf.

**PART II: DECLARATION REGARDING NON-COLLUSIVE TENDERING**

1. The prices and/or quantities stated in this bid were determined by the Bidder independently, without any consultation, arrangement or contact with another bidder or with another potential bidder, and were not presented to any other bidder or potential bidder, with the exception of sub-suppliers whom the Bidder intends to use in the framework of this bid, whose details are: \_\_\_\_\_ (*Instruction: if any – please state the name of the sub-supplier, the field in which it provides services and contact details*).
2. Neither I (the undersigned signatory) nor the Bidder was involved in an attempt to dissuade any competitor from submitting bids in this Tender.
3. Neither I (the undersigned signatory) nor the Bidder was involved in an attempt to cause any competitor to submit a bid higher or lower bid than the Bidder's bid.
4. Neither I (the undersigned signatory) nor the Bidder was involved in an attempt to cause a competitor to submit an uncompetitive bid of any type.





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5. This bid is submitted in good faith, and neither this bid nor any part thereof is the result of or arose from any arrangement or negotiations with another competitor, bidder or potential bidder in this Tender.
6. I (the undersigned signatory) undertake to notify the Company should any change occur in any of the above details from the time of execution of this declaration until the Submission Deadline.
7. I (the undersigned signatory) am aware that the penalty for collusive tendering may be up to five years of actual imprisonment.

**PART III - DECLARATION REGARDING BRIBERY AND "BROKERAGE FEES"**

1. This declaration, representation and undertaking is made without derogating from any duties or prohibitions that may otherwise apply by virtue of applicable law.
2. Neither I (the undersigned signatory) nor the Bidder has, and neither I (the undersigned signatory) nor the Bidder shall:
  - 2.1. offer, give or receive, whether directly or indirectly, any benefit, money, bribe, or brokerage fees or anything of value with the aim of directly or indirectly affecting any decision, act and/or omission of the Company and/or any person acting on the Company's behalf and/or any other person or entity, in connection with the Tender and/or any contract, order or other relationship related thereto or derived therefrom (any or all of the above, the "**Tender Materials**");
  - 2.2. solicit, cooperate or otherwise communicate with, whether directly or indirectly, any officer, agent or employee of the Company, or any other person or entity, with the aim of directly or indirectly obtaining any information relating to the Tender and/or the Tender Materials which is privileged, confidential, or (whether or not privileged or confidential) not available to all of the Tender's bidders; or
  - 2.3. solicit, cooperate or otherwise communicate with, whether directly or indirectly, any officer, agent or employee of the Company, or any other person or entity, with the aim of fixing prices in an artificial and/or uncompetitive manner.
3. If, in the Company's opinion, a reasonable suspicion should arise indicating that either I (the undersigned signatory) or the Bidder may have acted contrary to the provisions of Section 2 above, it is acknowledged and agreed that the Company shall have the right, acting in its sole and absolute discretion, to exclude the Bidder from the Tender or any other procurement process in respect of which such suspicion may arise (a "**Procurement**") and may, in its sole discretion, disqualify the Bidder's bid(s) in any Procurement and/or cancel, at





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any time, the Bidder's winning bid(s) in any Procurement and/or terminate, at any time, any contract or order derived from or otherwise related to any Procurement.

**PART IV – DECLARATION REGARDING BIDDER'S EXPERIENCE**

1. The Bidder has successfully supplied, in the period extending from October 27, 2015 to the Submission Deadline, the goods described below, in the manner described below, in an aggregate value of not less than USD 100,000.

1. Type of Goods, as described in the Bill of Quantities for this Tender, which it is proposed in bid that Bidder shall supply:

\_\_\_\_\_

2. Name of customer [*Instruction: if there is more than one relevant customer, add lines below in this and other relevant sections and indicate each on a separate line*]:

\_\_\_\_\_

3. Country of the customer to which the goods were actually supplied by the Bidder since \_\_\_\_\_, 2015:

\_\_\_\_\_

4. Type of goods which Bidder supplied to customer since \_\_\_\_\_, 2015:

\_\_\_\_\_

5. Production site (including location and country) at which the such goods were produced and from which they were supplied to such customer:

\_\_\_\_\_

**PART V – CONCLUDING DECLARATIONS**

1. I (the undersigned signatory) will bring the content of this declaration and undertaking to the attention of the Bidder's employees, sub-contractors, representatives, agents and any other person who is involved in any way in the Tender on the Bidder's behalf.

2. References to me (the undersigned signatory) in this declaration shall be deemed to include (with regards to the Bidder's declaration and undertaking without reservation, and with regards to my declaration to the extent of my actual knowledge) all employees, representatives, sub-contractors or agents of the Bidder as described in paragraph V(1) above.





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*In witness whereof, the undersigned hereby executes this Declaration:*

Bidder's Name: \_\_\_\_\_

Signatory's Name: \_\_\_\_\_

Signatory's Position: \_\_\_\_\_

Signature: \_\_\_\_\_

Bidder's stamp: \_\_\_\_\_

Date: \_\_\_\_\_

**Authentication (Israeli bidders only)**

**Note:** Israeli bidders must authenticate this declaration by certification of a currently licensed Israeli lawyer according to the form provided below. Non-Israeli bidders may authenticate this declaration in a form and manner customary for authentication of documents or affidavits in their home jurisdiction, such that the non-Israeli bidder is satisfied that a person making such declaration falsely would be subject to punishment for perjury or other similar criminal offense in their home jurisdiction, and submission of this declaration (however submitted by such non-Israeli bidder) constitutes that bidder's representation to the Company that this is the case. Apostille is not required.

I, the undersigned, Adv. \_\_\_\_\_, Lic. No. \_\_\_\_\_, of \_\_\_\_\_, do hereby confirm that on \_\_\_\_\_ appeared before me \_\_\_\_\_, (who identified himself by I.D. No. \_\_\_\_\_ / with whom I am personally acquainted), and did, after I warned him/her to tell the truth, failing which s/he would be liable for the penalties prescribed by law, confirm the veracity of and sign his/her declaration above.

\_\_\_\_\_  
Signature and Stamp





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### Annex B: Form of Manufacturer's Declaration

*Note: this completed form must be submitted by and with regard to each Manufacturer qualified by the parameters described in Section 3.7 of the Invitation.*

Public Tender No.034-20 (the "**Tender**")

The undersigned, \_\_\_\_\_, a *\_[type of entity]\_* registered and domiciled in *\_[Manufacturer's jurisdiction]\_* (the "**Manufacturer**"), does hereby represent and declare to Petroleum and Energy Infrastructures, Ltd. and Oil Products Pipeline Ltd. (the "**Company**"), with respect to that certain Tender by which the Company has invited bids for procurement as described therein, that the Manufacturer has successfully supplied, in the period extending from October 27., 2015 to the Submission Deadline, the goods described below, in the manner described below, in an aggregate value of not less than USD 150,000.

1. Type of Goods, as described in the Bill of Quantities for this Tender, which it is proposed in bid that Manufacturer shall produce (or participate in production of):

\_\_\_\_\_

2. Stage or process of Manufacturer's responsibility for production of such Goods, as proposed in bid (*Instruction: if all stages of manufacture, write "all"*):

\_\_\_\_\_

3. Production site (including location and country) at which it is proposed in the bid that the Manufacturer shall produce (or participate in the production of) such Goods:

\_\_\_\_\_

4. Name of customer [*Instruction: if there is more than one relevant customer, add lines below in this and other relevant sections and indicate each on a separate line*]:

\_\_\_\_\_

5. Country of the customer to which the goods were actually supplied by the Manufacturer since \_\_\_\_\_, 2015:

\_\_\_\_\_

6. Type of goods which Manufacturer produced (or participated in production of) and which were supplied to customer since \_\_\_\_\_, 2015:

\_\_\_\_\_

7. Stage or process of Manufacturer's responsibility for production of such goods supplied to such customer [*Instruction: if all stages of manufacture, write "all"*]:

\_\_\_\_\_

8. Production site (including location and country) at which the Manufacturer produced (or participated in the production of) such goods to such customer:

\_\_\_\_\_





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I, \_\_\_\_\_, a citizen of \_\_\_\_\_ bearing passport number \_\_\_\_\_ of that country [*if Israeli*: bearing ID no.: \_\_\_\_\_], do sign below as the authorized signatory of the Manufacturer, and I do further declare and affirm, after being warned that I must make a truthful declaration and that if I fail to do so I may face punishment as prescribed by law, that the above declaration made by the Manufacturer and executed by my hand is truthful in all material respects.

Name of Manufacturer: \_\_\_\_\_

Signature: \_\_\_\_\_ X \_\_\_\_\_

By (name of authorized signatory): \_\_\_\_\_

Position: \_\_\_\_\_

I, \_\_\_\_\_, a certified public accountant licensed in \_\_\_\_\_ (license no. \_\_\_\_\_), and engaged as the Manufacturer's accountant, do hereby confirm that the above declaration made by the Manufacturer conforms to the Manufacturer's books and accounts.

Signature of accountant: \_\_\_\_\_

**Authentications of Signatures**

**Note:** (a) Israeli bidders must authenticate this declaration by certification of a currently licensed Israeli lawyer according to the forms provided below.

(b) Non-Israeli bidders may authenticate this declaration in a form and manner customary for authentication of documents or affidavits in their home jurisdiction, such that the non-Israeli bidder is satisfied that a person making such declaration falsely would be subject to punishment for perjury or other similar criminal offense in their home jurisdiction. Submission of this declaration by a non-Israeli bidder constitutes that bidder's representation to the Company that this is the case. Apostille is not required.

I the undersigned, Adv. \_\_\_\_\_, Lic. No. \_\_\_\_\_, of \_\_\_\_\_ St., do hereby confirm that on \_\_\_\_\_ appeared before me \_\_[signatory making declaration on Manufacturer's behalf]\_\_, (who identified himself/herself by I.D. No. \_\_\_\_\_ / with whom I am personally acquainted), and did, after I warned him/her to tell the truth, failing which s/he would be liable for the penalties prescribed by law, confirm the veracity of and signed his/her declaration above.

\_\_\_\_\_  
Signature and Stamp





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**Annex C: Bill of Quantities**

|   | P/N   | Description   | qty. /<br>unit | unit price  | total price |
|---|-------|---|----------------|-------------|-------------|
| 1 | 25999 | induction bend, R=5D,90° 12" API 5L<br>X52 SMLS w.t.0.438 inch PSL2 | 20.00          |             |             |
| 2 | 25998 | induction bend, R=5D,45° 12" API 5L<br>X52 SMLS w.t.0.438 inch PSL2 | 20.00          |             |             |
|   |       |   |                | Total price |             |





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## Annex D: Technical Specification



| <b>Induction Bends Specification</b><br><b>(30° 45° 90° 5D NPS 18",12",10",8",6')</b> |                                | Rev:  | P3         |
|---|--------------------------------|---|------------|
|   |                                | Date:   | 17/11/2016 |
| Doc. #  | 2016-PEI-SPC-0013, 168673-v2   |   |            |
| Project   | Maintenance of Kamad Pipelines |   |            |
| Originator  | Ion Mosor                      |  |            |
| Approved  | Doron Regev                    |   |            |
| Approved<br>PEI   |                                |   |            |

### TECHNICAL SPECIFICATION FOR INDUCTION BENDS

This is an enquiry specification for induction bends for the construction of piggable oil pipelines.

This specification details the minimum technical requirements for manufacture, testing, and inspection of induction bends.

#### **1. CODES AND STANDARDS:**

The latest revision of the following Codes, Standards and Specifications shall apply unless otherwise indicated and shall form an integral part of this specification.

The tests shall be executed by SUPPLIER in accordance/compliance with EN 10204 3.1 and this Technical Specifications document.

Further specific details shall be issued in the Scope of Work and shall be approved by PEI.

|                  |  |
|------------------|--|
| ASME B31.4       | Pipe line transportation system for liquid hydrocarbons and other liquids                            |
| ASME V           | Boiler and Pressure Vessel Code Section V: Non Destructive Examination                               |
| BS EN ISO 6507-1 | Metallic materials. Vickers hardness test. Test method   |
| BS EN 10160      | Ultrasonic Testing of Steel Flat Product of Thickness Equal or Greater than 6 mm (Reflection Method) |
| API 5L           | Specification for Line Pipe  |
| ASME B16.49      | Factory-Made, Wrought Steel, Buttwelding Induction Bends for Transportation and Distribution Systems |
| ISO 15590-1      | Petroleum and Natural Gas Industries - Induction   |

|              |  |
|--------------|--|
|              | Bends, Fittings and Flanges for Pipeline Transportation Systems - Part 1; Induction Bends  |
| BSEN 10204   | Metallic Products - Types of Inspection Documents  |
| EN 10204 3.1 | Metallic Products - Inspection Certificate   |
| API RP 5LW   | Recommended Practice for Marine Transportation of Line Pipe on Barges and Marine Vessels   |
| API RP 5L1   | Recommended Practice for Railroad Transportation of Line Pipe                              |
| ASNT-TC-1A   | Recommended Practice. Personnel Qualification and Certification in Non-Destructive Testing |

## 2. BASE PIPE

Manufactured and tested in accordance with the requirements of API 5L .

SUPPLIER shall be responsible for the supply of the base pipe suitable for induction bending to the requirements of this specification. Materials will only be accepted provided that they are accompanied by certificates to EN 10204 3.1 demonstrating that the material offered has equivalent fundamental material mechanical properties to those listed in API 5L.

The Specification of pipe used, Manufacturer and the Laboratories in which the testing is performed shall be approved by PEI.

### 3. MANUFACTURING PROCEDURE

The procedure for induction bending shall be submitted to PEI to approval prior to commencement of production. This procedure shall include all proposed operations and tests, together with all appropriate parameters and acceptance criteria.

Bending shall be carried out without mandrels using progressive local induction heating at the point where the pipe is being bent in accordance with ASME B16.49/ ISO 15590-1.

Once the bending operation has commenced any stoppage shall not be permitted until the entire bend is completed.

Post-bend heat treatment shall be applied over the entire bend and tangent lengths unless the SUPPLIER can demonstrate that the specified properties are achieved in the as-bent condition. Heat treatment procedures shall be submitted to COMPANY for approvals part of the induction bending procedure.

### 4. TEST BENDS

One additional bend for each combination of diameter, wall thickness, material grade and base pipe manufacturing route shall be made for test purposes.

The following examinations and mechanical tests shall be performed on the test bend in compliance with the methods and requirements of the applicable specification for the base pipe. All tests shall be performed on a bend in the final heat treated condition. The results of all mechanical tests shall be in accordance with the requirements of API 5L.

- The bend shall be non-destructively tested in accordance with this Specification.
- The dimensions of the bend shall meet the requirements of this Specification.
- Tensile tests shall be performed on transverse and longitudinal specimens in accordance with the requirements of ASME B16.49.
- Sets of three Charpy V-notch impact test specimens shall be taken in accordance with ASME B16.49 requirements.
- Full wall macro sections of parent metal shall be removed from the locations specified in ASME B16.49. The macro sections shall be polished and Vickers hardness tested in accordance with BS EN 6507 Part 1. The number and location of the hardness indents and the maximum hardness shall be in accordance with the specification for base pipe.

## 5. PRODUCTION BENDS

All production bends shall be manufactured using the approved and qualified manufacturing procedure. Any variation in procedure, or deviation from the bend forming parameters used for the test bend, shall be cause for rejection.

All production bends shall be non-destructively examined in accordance with the requirements of Section 6 of this Specification.

Each production bend shall be tested and results recorded using a gauging pig. The diameter of the gauging plate shall be 95% of the nominal internal diameter. Details of the gauging pig shall be submitted to PEI for approval.

## 6. DIMENSIONS

All bends shall be supplied to the following dimensional tolerances:

- The wall thickness at any location on the finished bend shall not be less than the specified minimum wall thickness as defined in the datasheet. The wall thickness of the sacrificial bend shall be measured ultrasonically at 150 mm intervals along the pipe at eight locations spaced equidistantly around the circumference of the pipe between the start and stop point of bending, the wall thickness of production bends shall be measured in the body and at both ends of each bend at the intrados, extrados and one neutral axis.
- The inside diameter measured at each of the bend tangent ends shall be within the tolerances specified in the specification for base pipe.
- Out of roundness, measured as the difference between maximum and minimum outside diameter, shall not exceed 2.5% of the nominal pipe outside diameter in the body of the bend. At the ends of the bend, out of roundness shall be within the tolerances specified in the specification for base pipe.
- The ends of all bends shall be cut square to the axis of the bend, within a tolerance of 1.5 mm.
- Out of plane tolerance shall be within the limits shown in Figure 3.2.
- The bend angle shall be within  $\pm 0.5$  degrees of the specified value.

- Any irregularities in the surface contour of the bend caused by the bending process shall be minimised. All irregularities shall blend smoothly into the adjoining surfaces.

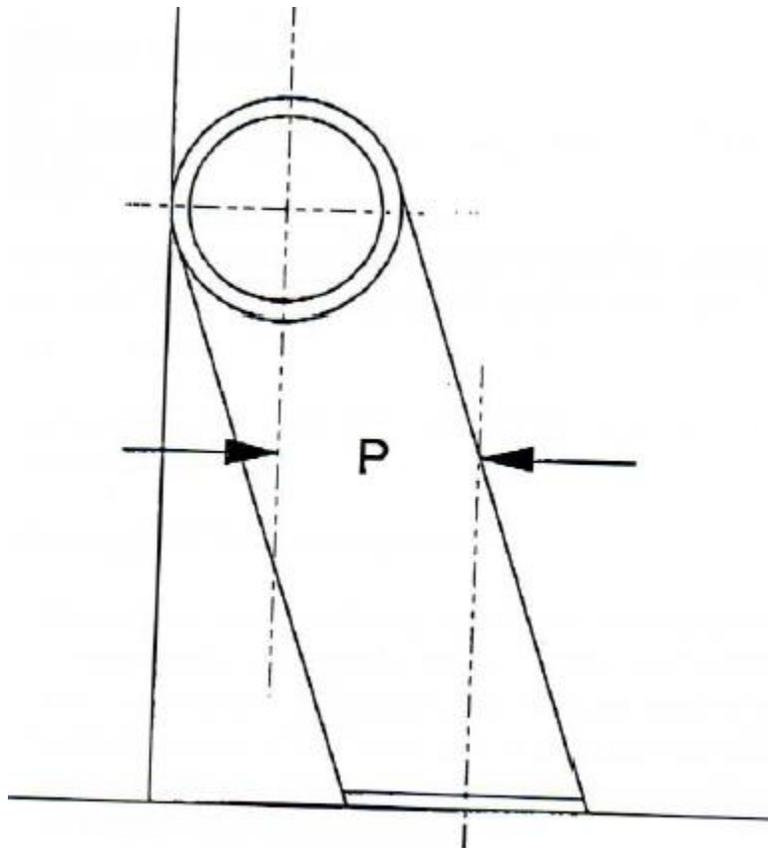


Figure 3.2 Out of Plane of Formed Bends

Out of plane (p) shall not exceed 4.76 mm

**7. PIPE ENDS**

Bends shall be provided with bevel ends.

**8. NON-DESTRUCTIVE TESTING**

Non-destructive testing shall be performed on all bends in the final heat treated condition.

Procedures for all non-destructive testing shall be submitted to PEI and third party inspection for approval prior to commencement of testing and shall include techniques used and acceptance criteria.

SUPPLIER shall only use NDT personnel qualified to ASNT-SNT-TC-1A level 2 or agreed equivalent.

The following NDT shall be performed:

- The entire outer radius of the bend from neutral axis to neutral axis shall be ultrasonically inspected using a shear wave technique. A reference standard with longitudinal and transverse notches equivalent to 5 percent of the nominal wall thickness of the pipe and in accordance with the requirements of API 5L SR 4 shall be used. All discontinuities exceeding the reference standard shall be recorded and investigated.
- A 50 mm wide circumferential band at the final cut ends of the bend shall be ultrasonically tested for laminations in accordance with BS EN 10160.
- The entire outer surface of each bend shall be magnetic particle tested in accordance with ASME Section V Article 7 or approved equivalent. Acceptance limits for the ultrasonic and magnetic particle testing shall be in accordance with the specification for base pipe.

Minor surface imperfections may be removed by grinding and provided that the minimum wall thickness, as specified in the requisition, is maintained and not sharp notch results. The ground area shall be inspected by magnetic particle testing approved procedures to ensure removal! of defects and the wall thickness shall be checked by ultrasonic examination. Surface imperfections which cannot be removed within these limits shall be cause for rejection of the bend.

## 9. MARKING

Marking shall be done in accordance with ASME B16.49, and including the following:

- The original pipe number and bend suffix shall be hard stamped on both ends of each bend.
- Each bend shall be marked internally with the following information using paint stencils:
  - Pipe original individual identification number and bend suffix
  - Purchase order / item number
  - Material grade symbol
  - Nominal pipe size (NPS)
  - Nominal wall thickness

- Bend radius
- Bend angle

Any sections of unused straight pipe shall be marked with the original pipe number and suffix (if more than one).

#### **10. CERTIFICATION**

Materials shall be delivered by the Supplier with Certificates in accordance with EN 10204 3.1 to supplier's account including the information required by ASME B16.49/ ISO 15590-1.

#### **11. RETENTION OF RECORDS**

As API 5L.

#### **12. HANDLING AND STORAGE**

The SUPPLIER shall submit to PEI for approval, procedures for handling, stacking during storage, and stacking and securing bends for shipment, no welding of temporary attachments for handling, stacking or securing shall be permitted.

All handling, loading and unloading shall be done in such a manner as to minimise damage using slings or padded hooks.

Rail cars, trucks, lighters, ships or other conveyances shall be cleaned of debris or any substance that might damage the bends prior to loading and suitable timber and other dunnage shall be used to protect the bends against damage in transit.

Loading onto or into rail cars, trucks, lighters, ships or other conveyances shall be performed in accordance with API RP 5L1 or API RP 5LW as appropriate, and in all cases in accordance with the approved handling procedures. No on-deck overseas shipment shall be permitted.

Finished bends to be stored for a significant period of time at the mill or marshalling yard shall be stored in a manner to prevent corrosion.

Bends shall not rest on projections which could result in point stresses or be allowed to rub on an adjacent object. Pipe stresses shall be limited to prevent loading which results in out-of-roundness.

### 13. BEND DATA SHEET

| Item Description                             | Value   |                          |                            |                            |                | Remarks       |
|--|---|--------------------------|----------------------------|----------------------------|----------------|---------------|
|  | 12"   | 10"                      | 8"                         | 6"                         | 18"            |               |
| Nominal Pipe Size                            | 12"   | 10"                      | 8"                         | 6"                         | 18"            |               |
| Base pipe supplied by                        | Supplier  |                          |                            |                            |                |               |
| Base pipe certification                      | EN 10204 3.1  |                          |                            |                            |                |               |
| Line pipe specification                      | API 5L  |                          |                            |                            |                | See section 2 |
| Material Grade                               | L360 (X52) PSL1/PSL2 SEAMLESS   |                          |                            |                            |                | See section 2 |
| Nominal Outer Diameter                       | 323.9 mm  | 273.1 mm                 | 219.1 mm                   | 168.27 mm                  | 457.2 mm       |               |
| Nominal Wall Thickness                       | 0.375"<br>0.406"<br>0.438"  | 0.365"<br>0.438"<br>0.5" | 0.344"<br>0.375"<br>0.438" | 0.312"<br>0.344"<br>0.375" | 0.438"<br>0.5" |               |
| Minimum Wall Thickness Tolerance             | -1mm  |                          |                            |                            |                |               |
| Minimum Tangent Length                       | Acc to the applicable std above   |                          |                            |                            |                |               |
| Tangent end preparation                      | Internally tapered to match adjacent line pipe                              |                          |                            |                            |                | Note 1        |
| Nominal Wall Thickness of adjacent line pipe | Acc to Nominal Wall Thickness of the induction bend                         |                          |                            |                            |                |               |
| Test Bends                                   | 1-off   |                          |                            |                            |                | See section 4 |
| Inside diameter of bend tangents             | as per API 5L Table B   |                          |                            |                            |                |               |
| Gauging                                      | Gauge diameter plate shall be not less than 95% of minimum ID of pipe bends |                          |                            |                            |                |               |

| Item Description                 | Value                               | Remarks |
|----------------------------------|-------------------------------------|---------|
| Out of Plane tolerance for bends | as shown In Figure 3.2              |         |
| Out of roundness                 | as specified in Section 6           |         |
| Bend angle                       | as specified in Section 6           |         |
| Minimum design temperature       | 0°C                                 |         |
| Hardness                         | as per API 5L for PSL 1 / PSL2 pipe |         |
| Mechanical Properties            | as per API 5L for PSL 1/ PSL2 pipe  |         |
| Charpy Impact Test               | as per API 5L for PSL 1/PSL2 pipe   |         |
| Chemical Composition             | as per API 5L for PSL 1/PSL2 pipe   |         |

**Notes:**

1. Where internal machining is required, the angle of the internal taper, measured from the longitudinal axis, shall be no larger than 14 degrees.



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**Annex E: The Contract**

**Agreement for the Supply of Goods**

Contract No. 034-20

This agreement for the supply of goods (this "**Agreement**") is entered effective as of the \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2020 (the "**Effective Date**"), by and

between: **Petroleum and Energy Infrastructures Ltd. / Oil Products Pipeline Ltd.**

of 3 HaSadna'ot St., Herzliya Pituach,  
ISRAEL  
(the "**Company**")

**of the first part;**

and: \_\_\_\_\_  
of \_\_\_\_\_ St.  
\_\_\_\_\_ (country)  
(the "**Supplier**")

**of the second part;**

each a "**Party**" to this Agreement, and together, the "**Parties**".

**Whereas:** the Company wishes to purchase from the Supplier certain goods as described herein and further specified in the bill of quantities attached hereto as Exhibit A (the "**Bill of Quantities**") and the technical specifications attached hereto as Exhibit B (the "**Technical Specifications**"), in accordance with an Order or Orders issued by the Company as described herein (the "**Goods**"); and

**Whereas:** the Supplier has the necessary knowledge, experience and capability to supply the Goods and wishes to supply the Goods to the Company, all as specified in, and in accordance with the terms and conditions of, this Agreement; and

**Whereas:** the Parties wish to put the agreement between them to writing.

Now therefore the Parties hereby declare, represent and agree as follows, with intent to be legally bound by the same:

**1. Definitions and Interpretation**

1.1. This Agreement is entered by the Parties pursuant to that certain tender for the procurement of goods known as Tender No. 034-20 (the "**Tender**"). This Agreement may be referred to as Contract No. 034-20. Capitalized terms used but not defined herein have the same meanings ascribed to those terms in the





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Tender and/or the Tender Documents (and if defined differently in several Tender Documents, as defined in the Invitation).

- 1.2. An "**Order**" means any order by the Company for the supply of Goods, signed by the Company's authorized signatory(ies), that is sent to the Supplier (by any written means, including via fax or email), and each such Order shall be deemed to incorporate all of the terms and conditions of this Contract relevant thereto, including the Exhibits attached hereto. An Order may be for a portion or all of the Goods and quantities specified in the Bill of Quantities, and subsequent Order(s) may be issued for any remaining Goods and/or quantities, all at the Company's discretion. It is clarified that in the event of a discrepancy between the provisions of the Tender Documents, including this Agreement, and the provisions of the Order, the provisions of the Order shall prevail, unless the Company specifies otherwise in the Order.
- 1.3. The Supplier undertakes to supply Goods conforming to the Technical Specifications, as indicated in each Order per its terms and the terms of this Agreement, as described in the Bill of Quantities, or in other quantities in the case of a partial Order.
- 1.4. The Company reserves the right if necessary, at any time and under the appropriate circumstances, to amend the quantity of any item in the Bill of Quantities, by written notice given reasonably in advance to Supplier as it may see fit, without further adjustment to the quoted price per unit.

## **2. The Supplier's Representations and Warranties**

- 2.1. The Supplier represents that it has read and examined this Agreement, including all documents attached hereto, that all of the provisions, conditions and plans are known and clear, and that it has the knowledge, capability and experience to fulfill the terms of this Agreement and supply the Goods in accordance with each relevant Order which may be issued pursuant to the terms of this Agreement.
- 2.2. The Supplier represents that all conditions of the Tender described in Section 3 of the Invitation are and have been fulfilled, and that all documents and/or written correspondence which it has presented to the Company in the course of the Tender process have been duly executed by the respective authorized signatories or agents of the Supplier and each of the Manufacturers, and are and continue to be valid, true and accurate in all material respects.
- 2.3. The Supplier represents that, to the best of the Supplier's knowledge after ordinary commercial diligence, the manufacture of the Goods by each Manufacturer took place in an EU or OECD member country.





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- 2.4. The Supplier represents and undertakes that any and all Goods shall comply with the Technical Standards, and that it will forward, upon the Company's demand, documents attesting to compliance with such standards.
- 2.5. The Supplier represents and undertakes that the Goods supplied according to each Order will be of the type, quality, dimensions, material and processing specified in the Order which reflect the Technical Specifications and/or any samples, models or instructions provided by the Company related thereto. If the Tender Documents indicate that any item to be provided requires the Company's approval, the Supplier will not supply such item until the Company's approval is received.
- 2.6. If and to the extent that one or more declarations in the form of Annex B (each such declaration, a "**Manufacturer's Declaration**") was submitted by Supplier to Company (whether included in Supplier's bid on the Tender, or relied upon in Supplier's bid on the Tender based on a submission by Supplier to a previous tender), then the Supplier represents that, regarding each Manufacturer relevant thereto, to the best of Supplier's knowledge after ordinary commercial diligence: (i) such Manufacturer's production or participation in production of the Goods took place at the specific production site described in the relevant Manufacturer's Declaration; and (ii) each Manufacturer's Declaration is accurate in all material respects.
- 2.7. **It is clarified** that all Goods supplied must have been produced by the Manufacturers indicated by the Supplier in its bid with respect to each item type and/or production stage or process, and in the manner described in all relevant Manufacturers' Declarations (including with respect to type, production stage or process and/or specific production site), and only by such Manufacturers and in such manner. No deviation from the above will be regarded as *de minimis*. Each such deviation shall be regarded as a material lack of conformity in the Goods, unless specifically approved by the Company in writing, in its sole and absolute discretion (whether or not commercially reasonable) and on a case-by-case basis. Without derogating from any of its other rights or remedies, the Company will be entitled to refuse delivery of and/or invalidate the receipt of any Goods delivered or supplied with such lack of conformity, or return such Goods to Supplier at Supplier's sole expense, even if no other non-conformity exists.
- 2.8. The Supplier is responsible for the quality of the Goods, including all of the parts, components and accessories thereof, and for the working order of such Goods for a period of 18 months from the date of supply thereof or 12 months from the date of commencement of use thereof by the Company, whichever is earlier (the "**Warranty Period**"), excluding Company's failure to follow Manufacturer's instructions, or resulting from the willful or grossly negligent act or omission of the Company or any third party subsequent to the Goods' delivery.





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2.9. Without derogating from any warranty by virtue of applicable law, in the event that any flaws, defects, faults or deficiencies are discovered in the Goods during the Warranty Period, which are not the result of Company's failure to follow the Manufacturer's instructions, or the willful or grossly negligent act or omission of the Company or any third party subsequent to the Goods' delivery (hereinafter: a "**Flaw**"), the following provisions shall apply:

(a) The Supplier will be liable for any damage caused to the Company as a reasonably foreseeable result of any Flaw.

(b) The Supplier will be required as soon as possible and at its expense, to repair any Flaw, or, upon the Company's reasonable demand, to replace any Flawed item with another new item with a corresponding function in accordance with the relevant Order. Any such repair and/or replacement shall be carried out as soon as possible, at the Supplier's expense and to the Company's full satisfaction.

(c) If the Supplier fails to fulfill its undertakings as aforesaid, the Company will be entitled, without prejudice to any of its other rights, to repair or replace the Goods themselves and to charge the Supplier with the expenses of the repair and/or replacement as aforesaid. The Supplier will indemnify the Company for any such expense immediately upon demand.

2.10. The Supplier will indemnify and hold harmless the Company, its officers, employees, agents and sub-contractors, for any damage or expense incurred, including with respect to demands or claims of third parties, resulting from a Flaw or other breach of this Agreement by the Supplier, including due to a delinquency in the date of supply and/or the supply of Goods which do not meet the terms and conditions of this Agreement or the Tender Documents. The Supplier shall indemnify the Company immediately upon receipt of a demand in respect of the aforesaid, without derogating from any other remedy or right available to the Company in such case.

### **3. Supervision and Inspection**

3.1. Without prejudice to any of the other terms and conditions of this Agreement, the Company's representative will be entitled to check the quality of the Goods and their compliance with the Order prior to, upon or after receipt thereof, all at the Company's option and discretion, in order to determine whether the Goods comply with the Order.

3.2. The Company will not be charged for Goods found to be defective or inconsistent with the Order.

3.3. For the avoidance of doubt, the inspections carried out by the Company's representative as aforesaid do not release the Supplier from its full responsibility as per the Supplier's representations and warranties.





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**4. Prices**

- 4.1. The prices of the Goods (including delivery as described in Section 8 below) will be in accordance with the provisions of the Order alongside each unit, which shall be fixed according to the price quotes provided in the Bill of Quantities and subject to no adjustment for any reason whatsoever (other than as per applicable terms and conditions of the Tender, if any), unless agreed by the Parties in advance and in writing.
- 4.2. Supply and delivery will be as described in Section 8 below. Terms of payment and invoicing will be as described in Section 9 below.
- 4.3. It is hereby clarified that the Company will not be charged for items that are supplied other than in accordance with the terms and conditions of the Order.

**5. Changes to the Order**

- 5.1. The Supplier will not be entitled to introduce any change to, or to modify, any Order unless the Company's prior written consent is given thereto.
- 5.2. No change shall be made to any of the terms and conditions or provisions of the Order unless agreed in writing between the Company and the Supplier.

**6. Timing of Delivery**

- 6.1. Delivery of the Goods by no later than the Final Delivery Date (as defined in Section 8.2 below) is a fundamental condition of the Order, and time is of the essence. Failure to deliver the Goods or any part thereof by the Final Delivery Date (or circumstances in which such expected failure is reasonably foreseen) shall constitute a fundamental breach of the Supplier's undertaking according to such Order.
- 6.2. In any case of failure (or foreseen failure) to deliver the Goods in a timely fashion as described in Section 6.1 above, the Company may, in its sole discretion, do any of the following or any combination thereof, as several or concomitant remedies, each of the following remedies being without prejudice to any other such remedy and without prejudice to any other right or remedy otherwise available to the Company:
  - (a) if the delay is at least [4] weeks, cancel the entire Order or such part thereof that was not (or is foreseen likely not to be) performed in a timely fashion as described in Section 6.1 above;
  - (b) if an Order has been cancelled (or partially cancelled) under Section 6.2(a), order the Goods and/or similar products, in whole or in part, from other sources in order to make up the deficiency, and to charge the Supplier for any additional financial expense that the Company may incur thereby,





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which expense the Supplier will be required to reimburse immediately upon demand; and/or

(c) demand liquidated damages as follows:

(1) for a delay of up to two weeks: 0.25% of the value of the Order, for each day of delay;

(2) for a delay of more than two weeks and up to four (4) weeks: 0.5% of the value of the Order, for each day of delay; and

(3) for a delay of more than four (4) weeks: 20% of the value of the Order.

## **7. Partial Supply**

The Supplier will not be entitled to make partial supply of an Order, unless under special circumstances and subject to a prior written approval by the Company for such partial supply. In case of partial supply without the Company's prior confirmation as aforesaid, the Company will be under no obligation to take possession of the Goods, and the Goods shall remain in the possession and responsibility of the Supplier, and such partial supply will not be deemed a partial fulfillment of the Order. Alternatively, the Company may elect to take possession of the Goods as if partial supply were allowed, and conditions of payment for such partial supply as per the terms of this Agreement (mutatis mutandis), after a 10% discount as penalty for partial supply without the Company's prior written consent.

## **8. Supply and Delivery**

8.1. The Goods will be supplied DDP (Incoterms 2010) Company's Ashkelon warehouse (including for this purpose, unloading the Goods at such warehouse), or to a different port specified by the Company in advance, provided that the Supplier is reasonably compensated for any additional costs (the "**Destination**").

8.2. All Goods stated in the Order will reach their Destination by no later than the final date of supply stated in the Order, which shall be no later than 16 weeks following the Supplier's receipt of the Order, or an earlier date if agreed by the Parties (the "**Final Delivery Date**").

8.3. The "delivery" of Goods shall be considered to have occurred once (i) the Goods are actually unloaded and delivered at the Destination, (ii) the Goods are found to be in conformity with the terms of the Order, and (iii) all relevant conditions of this Section 8 have been fulfilled.

8.4. It is clarified that any Goods supplied to a destination other than the relevant Destination without prior coordination shall be considered undelivered, and the Company will not be liable for any payment therefor.





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- 8.5. The Goods shall be delivered new as manufactured, in conformance with the Technical Specifications and all other terms and conditions of the Tender and this Agreement, together with any certificates of quality, manufacture and/or inspection or other documentation which are either: (a) mentioned in the Technical Specifications; or (b) reasonably requested by the Company in connection with the origin, manufacture, shipping, and/or quality of the Goods and/or their conformance with the Technical Specifications or other terms of this Agreement.
- 8.6. It is clarified that no payment will be required upon delivery. The Company will pay the Supplier in response to an Invoice issued by the Supplier in compliance with the terms and conditions of Section 9 below.
- 8.7. The Goods shall be delivered free of any right, claim, or encumbrance of any third party, and, without prejudice to any right or remedy which the Company would otherwise enjoy, the mere existence of any such right, claim or encumbrance shall be sufficient to deem the Goods as not having been delivered.

**9. Terms of Payment**

- 9.1. The Supplier may submit an original written invoice to the Company conforming to the conditions of this Section 9 (an "**Invoice**"), at any time subsequent to receiving the Company's written confirmation that all Goods pertaining to a particular Order have been delivered in full, as per the terms of this Agreement (including Section 8 hereof) and to the Company's satisfaction. It is clarified that the Company is under no obligation to pay the Supplier, other than in response to an Invoice issued by the Supplier and submitted to the Company in compliance with the terms and conditions of this Section 9.
- 9.2. The currency of the Invoice must be in the currency attributed to the price quote relevant to the Order in accordance with Section 17.5 of the Invitation (the "**Invoiced Currency**"). Notwithstanding the above, regarding an Israeli Supplier, if the Invoiced Currency is not NIS, then the Company reserves the right to make payment either in the Invoiced Currency as per the Invoiced Amount, or in NIS as per the amount resulting from the Invoiced Amount after applying the foreign exchange rate for the Invoiced Currency published by Bank of Israel, current as of the date of the Invoice.
- 9.3. The amount indicated on the Invoice must be equivalent to the price quote relevant to the Order, in the Invoiced Currency (such amount, when duly invoiced as per the terms of this Agreement, the "**Invoiced Amount**"). It is clarified that the Invoiced Amount is inclusive of all costs, expenses and taxes (including VAT) associated with the provision or delivery of the Goods or fulfillment of any other condition of this Agreement.
- 9.4. If and to the extent that Israeli VAT applies to the provision of the Goods, the Invoice must indicate such Israeli VAT as a separate item such that the





Invoiced Amount is inclusive of such Israeli VAT. If, at any time and for whatever reason, the Company determines in its reasonable opinion that Israeli VAT applies to any Order or Invoice, the Company may unilaterally amend such Order or Invoice, such that Israeli VAT appears as a separate item and the total amount due, after the addition of Israeli VAT, is equal to the original price quote or Invoiced Amount relevant to such Order or Invoice (*i.e.* including Israeli VAT).

- 9.5. The Company shall pay the Invoiced Amount of each Invoice, by a bank transfer which shall be executed no later than 45 days following the last date of the calendar month on which the Invoice is actually received (the "**Payment Date**").
- 9.6. It is clarified and stipulated that the Company will not be liable for any interest or pricing index differentials for any payment made up to 30 days subsequent to the Payment Date, or for any delay in payment due to either negligence of the Supplier or any Invoice's lack of conformity to the terms of this Section 9.

## **10. Performance Guarantee**

- 10.1. The Supplier shall provide the Company with an autonomous bank guarantee in the form of (or substantially equivalent to the form of) the bank guarantee attached as Exhibit C to this Agreement (the "**Bank Guarantee**"), which shall serve as a performance guarantee for the delivery of the Goods as well as all other provisions of this Agreement, and the Company shall be entitled to demand payment from such Bank Guarantee for any debt, obligation, guarantee or undertaking arising out of or in connection with this Agreement (including without limitation any applicable remedy, whether based on a claim of tort, contract or otherwise), by any presentation complying with the terms of the Bank Guarantee.
- 10.2. The amount guaranteed by the Bank Guarantee shall be NIS 25,000 (the "**Guarantee Amount**"). The Bank Guarantee shall be valid until \_\_\_\_\_ {*expiry date*} (the "**Guarantee Expiry Date**"), or the actual delivery of all Goods to Company's satisfaction in accordance with the terms of this Agreement, as evidenced by an original document issued by the Company for the purpose of demonstrating the occurrence of such event; however, for so long as the Goods have not actually been delivered to the Company's satisfaction, the Company shall have the right to extend the Guarantee Expiry Date by written notice for successive 60 day periods
- 10.3. An autonomous bank guarantee conforming to Section 15.1 of the Invitation shall be considered a complying Bank Guarantee under this Agreement.
- 10.4. If a complying Bank Guarantee is not received by the Company within seven (7) days of the Effective Date, then the Company may, in its discretion, either (a) extend the deadline for receiving such Bank Guarantee for up to an





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additional seven (7) days, and exercise any of the remedies described herein upon the expiry of such extension period; or (b) terminate this Agreement without further penalty to the Company, and demand immediate payment of the Liquidated Damages, in accordance with the terms of Section 14 of the Invitation.

10.5. If the Company demands payment of the Bank Guarantee or any part thereof, the Company will provide the Supplier with a copy of such demand and an indication of the date of presentation of such demand, and the Supplier shall, within 14 days of receipt of such notice (or within 14 days of the date of presentation, if later) cause the Bank Guarantee to be amended such that the amount of the Bank Guarantee is restored to the original Guarantee Amount.

10.6. In this Section 10, "**amendment**" of the Bank Guarantee includes issuance of a new or alternate bank guarantee which meets all the requirements of this Agreement as per such amendment. Upon provision of such validly issued alternate bank guarantee, the Company shall return the prior Bank Guarantee, and such alternate bank guarantee shall be deemed the amended Bank Guarantee for purposes of this Agreement.

## **11. Confidentiality**

The Supplier undertakes to keep confidential any information that may be disclosed, delivered or become known to the Supplier (including, for the purpose of this Section, all affiliates of the Supplier and all Manufacturers), and/or any of its or their respective directors, officers, agents, sub-contractors, representatives or employees ("**Representatives**"), in the course of its dealings, communications and undertakings with the Company, other than information which (a) is or becomes public domain without fault of Supplier or any Representative, (b) reflects general knowledge or experience in Supplier's field of business or expertise, or (c) which Supplier is permitted to disclose by virtue of an explicit provision of this Agreement or the Company's prior written approval. Neither Supplier nor any of the Representatives shall use, disclose, publish or otherwise permit exposure of such confidential information as described above to any person, other than relevant Representatives strictly on a need-to-know basis, by any means whatsoever, without the Company's prior written consent on a case-by-case basis. Supplier shall ensure that each of the Representatives who is exposed to the confidential information as described above shall be bound by confidentiality covenants no less strict than as described in this paragraph. For the sake of clarity it is emphasized that all information of the Company to which Supplier or the Representatives may be exposed shall be assumed to comprise the confidential information and trade secret of the Company, unless specifically indicated otherwise by the Company.

## **12. Miscellaneous**

12.1. Nothing in this Agreement shall be interpreted as granting any right or remedy to any party other than the Supplier and the Company.





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- 12.2. The relationship between the Parties shall not be construed as comprising any partnership, agency or joint venture of any kind.
- 12.3. This Agreement (together with the Exhibits attached hereto) comprises the entire agreement between the Parties regarding the subject matter hereof and supersedes all previous understandings or agreements with respect thereto.
- 12.4. Headings in this Agreement are provided for the sake of convenience only and are not to be referred to in the interpretation of this Agreement.
- 12.5. No forbearance of either Party shall be interpreted or deemed as a waiver of any kind unless explicitly set forth in writing, and no waiver shall be considered or interpreted to comprise any waiver or forbearance other than as strictly construed by the terms thereof.
- 12.6. No amendment or modification to this Agreement shall be of any effect unless clearly set forth by the written agreement of the Parties.

**13. Jurisdiction and Governing Law**

This Agreement shall be governed by the laws of the State of Israel, without reference to its conflict of laws principles. Any dispute arising out of or in connection with this Agreement is irrevocably referred to the exclusive jurisdiction of the competent courts of Israel (Tel Aviv District).

**In witness whereof, the Parties hereto have set their hands and executed this Agreement, effective as of the Effective Date:**

**THE SUPPLIER**

**THE COMPANY**

\_\_\_\_\_

\_\_\_\_\_

By (name): \_\_\_\_\_

By (name): \_\_\_\_\_

Position: \_\_\_\_\_

Position: \_\_\_\_\_

The following Exhibits are considered attached hereto and form an integral part hereof:

Exhibit A: Bill of Quantities [*reference is made to Annex C of the Tender Documents*]

Exhibit B: Technical Specifications [*reference is made to Annex D of the Tender Documents*]

Exhibit C: Form of Bank Guarantee





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**Annex E: the Contract**

**Exhibit C: Form of Bank Guarantee**

[Date]

To: 1. Petroleum and Energy Infrastructures Ltd.  
2. Oil Products Pipeline Ltd. (hereinafter: "**You**")

Re: Guarantee Ref No. \_\_\_\_\_ (this "**Guarantee**")

Dear Sirs,

We are instructed by \_\_[*name of Supplier*]\_\_ having registered office at \_\_[*Supplier's address*]\_\_, \_\_[*Supplier's jurisdiction*]\_\_ ("**Applicant**"), that said Applicant has entered with You a contract for the supply of certain goods as described therein known as Contract No. 034-20 (the "**Contract**"), pursuant to a winning bid submitted in Your tender known as Public Tender No. 034-20 (the "**Tender**"). The Applicant informs us that according to the terms of the Contract, a guarantee which meets certain conditions must be provided.

That being stated, we, \_\_[*name of bank and branch*]\_\_, a registered bank with offices at \_\_[*address*]\_\_, \_\_[*Supplier's jurisdiction*]\_\_, hereby irrevocably undertake to pay to You any sum or sums up to the maximum amount of 25,000 New Israeli Shekels, upon receipt of Your first written demand stating merely that the amount claimed is due to You from the Applicant by reason of the Applicant's obligation arising from or in connection with the Tender or the Contract, provided that our actual payment to You may be made at any time within fifteen (15) days of our receipt of such demand. A complying presentation will require no additional documentation, and may be submitted in hard copy to \_\_[*address for presentation*]\_\_ **or** our address provided above.

We affirm that we are a banking corporation regulated by the banking authority of \_\_[*Supplier's jurisdiction*]\_\_, and possess the authorizations and licenses necessary to operate as a bank in such jurisdiction.

This Guarantee shall expire on \_\_\_\_\_ {*expiry date*} (the "**Expiry Date**"), or upon the actual delivery of all Goods (as that term is defined in the Contract) to Your satisfaction in accordance with the terms of the Contract, as evidenced by an original document issued by You for the purpose of demonstrating the occurrence of such event. The above notwithstanding, You shall have the right to extend the Expiry Date for so long as all Goods (as that term is defined in the Contract) have not actually been delivered to Your satisfaction, for successive 60-day periods, if we receive from You an extension notice substantially similar to Form 1 attached hereto, submitted in hard copy to \_\_[*address for presentation*]\_\_ **or** our address provided above.

This Guarantee is governed by and subject to the Uniform Rules for Demand Guarantee (URDG), 2010 Revision, ICC Publication No. 758 (the "**URDG**"). The supporting statement under Article 15(a) of the URDG is excluded.

Yours faithfully,

[*printed name, stamp and signature of bank*]





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*[Annex E, Exhibit C: attachment]*

**Form 1**

[Date]

To: \_\_\_\_\_ [name of bank and branch]  
\_\_\_\_\_ [address] (hereinafter: "**You**")

From: [Petroleum and Energy Infrastructures Ltd. and/or Oil Products Pipeline Ltd.]  
("**we**" or the "**Company**")

Re: Guarantee Ref No. \_\_\_\_\_ (the "**Guarantee**")

Dear Sirs,

We reference the Guarantee whose reference number is stated above, provided to us regarding that certain contract for the supply of goods known as Contract No. 034-20 ("**Contract**"), by \_\_[name of Supplier]\_\_ ("**Applicant**"). The current expiry date of the Guarantee is \_\_\_\_\_ (the "**Expiry Date**").

WHEREAS, the Guarantee provides that, for so long as all Goods (as that term is defined in the Contract: the "**Goods**") have not actually been delivered to our satisfaction, we have the right to extend the Expiry Date for successive 60-day periods, by means of a complying extension notice submitted by us to the address prescribed above.

We hereby submit this extension notice to You, and hereby extend the Expiry Date for an additional 60 days (provided that this extension notice shall be received at the address prescribed above by no later than the current Expiry Date), such that the new expiry date of the Guarantee shall henceforth be \_\_\_\_\_.

We hereby represent that, as of the date prescribed above, not all of the Goods have actually been delivered to our satisfaction as per the terms of the Contract.

We kindly request Your confirmation of receipt of this extension notice.

Sincerely,

[signature]

The Company

