

21.1.2022

**Public Tender No. PD21000075**

**A Framework Tender**

**The Supply of Storage Batteries and Engineering-Procurement-Construction (EPC)  
Services of Battery Storage Power Stations**

**To: All Tender Participants**

Dear Sir / Madam,

Re: **Public Tender No. PD21000075**

Energy Infrastructures Ltd. And/or Oil Products Pipeline Ltd. (the “**Company**”) hereby invites submission of bids to be included in its framework suppliers repository, from which the Company may, at its sole discretion and in accordance to its needs, order the supply of storage batteries and the supply of storage batteries and engineering-procurement-construction (EPC) services of battery storage power stations during the qualification period, according to the following terms and conditions, and the general Terms of Tender attached as Annex A hereto.

The execution of any Purchase Orders or future Request for Quotations, is subject to the approval of the Board of Directors of the Company, including budgetary approval of the relevant authorities. The Bidders (including the Successful Bidder/s) shall have no claim regarding the above.

In this Tender, “**NIS**” or the “₪” symbol 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, and are inclusive of all costs, expenses and tax.

#### 1. **The Tender Documents**

This invitation to bid (“**Invitation to Bid**”) together with the documents listed below and attached hereto (the “**Tender Documents**”), 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. General terms and conditions of this Tender – Annex A (the “**Terms of Tender**”);
- 1.2. Form of the Bidder’s Declaration – Annex B;
- 1.3. Form of the Bidder’s Declaration regarding professional experience – Annex C1;

- 1.4. Form of accountant's Declaration regarding bidder's net shareholder's equity – Annex C2;
- 1.5. Form of the framework agreement, including the Appendices attached thereto – Annex D.
- 1.6. Digital submission protocol – Annex E.

Any capitalized term in the other Tender Documents shall have the meaning ascribed to that term in this Invitation to Bid, unless specifically indicated otherwise therein; and any capitalized term in this Invitation to Bid which is defined only in another Tender Document shall have the meaning ascribed to that term in that Tender Document. Interpretation of any provision of the Tender Documents, including in case of any conflict between the Tender Documents, shall follow the rules provided in the Terms of Tender.

## 2. **Definitions**

All following terms in this Tender shall have the meaning ascribed thereto below:

- 2.1. **Bid** – A proposal submitted by a Bidder, according to the terms and conditions of this Tender;
- 2.2. **Bidder** – A supplier of storage batteries and/or engineering-procurement-construction (EPC) services of battery storage power stations, which is a single legal entity who submitted a Bid according to the terms and conditions of this Tender;
- 2.3. **Category** – Bids may be submitted for one or more of the following Categories:
  - 2.3.1. The supply of Storage Batteries;
  - 2.3.2. Engineering-procurement-construction (EPC) services of battery storage power stations.
- 2.4. **The Company** - Energy Infrastructures Ltd. and/or Oil Products Pipeline Ltd;
- 2.5. **Framework Agreement** - The contractual agreement attached as Annex D hereto (will be signed with those Bidders declared as winning bids in the Tender and will be entered into the Framework Suppliers Repository);
- 2.6. **Framework Supplier** - A Bidder (or each one of the Bidders, in the event of several winning bids in the Tender) that will be declared a winning bid in the Tender, with whom the Company will sign the Framework Agreement, and will enter into the Company's Framework Supplier Repository;
- 2.7. **Framework Suppliers Repository** - The repository comprised of framework suppliers that will execute the services according to the documents of the Tender;

- 2.8. **Laws** - All laws and regulations of the State of Israel;
- 2.9. **Storage Batteries** – Rechargeable batteries used to store electrical energy and/or any ancillary items to be supplied to the Company in accordance with the Contract;
- 2.10. **Battery Storage Power Stations** – Energy storage power stations that utilizes a group of Storage Batteries to store electrical energy, to be supplied to the Company in accordance with the Contract;
- 2.11. **Individual Referral** - An invitation for bids issued by the Company to all Framework Suppliers in a certain Category, as defined in clause 9 below;
- 2.12. **Task Execution** - A specific task for the provision of services for one of the Categories that are the subject of the Tender, that will be executed by those among the Framework Suppliers following the results of the Individual Referral concerning this task. Task Execution will include transporting the goods to the Company facility, complete installation and connection of the goods to any charging management systems and/or communication lines as required, and providing warranty for maintenance and repair of faults during the period that will be defined in the relevant Individual Referral.
- 2.13. **The Tender** - This Tender issued by the Company, all of its appendices, documents and updates and the clarifications attached to it;
- 2.14. **Qualification Period** - The period of time in which the List of Framework Suppliers shall be valid in accordance with clause 12.1 below;
- 2.15. In the Tender Documents, unless the context requires otherwise:
  - 2.15.1. Headings are for convenience only and do not affect interpretation;
  - 2.15.2. Words in the singular include the plural and vice versa;
  - 2.15.3. A reference to “includes” or “including” means “includes, without limitation” or “including, without limitation”, respectively;
  - 2.15.4. A reference to a right or determination, to be made or act, decide or not, by the Company, means, the sole and absolute discretion of the Company.

### 3. **Timetables**

The planned timetables for the proceedings are as follows:

- 3.1. The final due date for clarifying questions – 7.2.2022.
- 3.2. The deadline for the submission of proposals – 23.2.2022.

The Company is entitled, at any time and at its sole discretion to alter the procedural timetable, in a notification to be given to Bidders.

#### 4. **Concise Description of the Tender Process**

Herein is a concise description of the main phases of the tender. This concise description does not detract from any provision of the tender instructions and should be read in conjunction with the other tender instructions.

- 4.1. Testing the Bidders' Compliance with the Proceeding's Threshold Conditions - During the first phase Bidders will be tested for compliance with threshold conditions for participation in the tender. Bidders may participate in the bidding for both Categories. Bidders also may participate in the bidding for a single Category, by leaving the section for the other Category blank.
- 4.2. All Bidders that comply with the Threshold Requirements will be announced by the Company as Framework Suppliers in accordance to clause 16 below, and shall comprise the Company's List of Framework Suppliers for the relevant Category during the Qualification Period.
- 4.3. Admission into the Suppliers Repository - Any Bidder that comply with the Threshold Requirements will be admitted into the Company's Framework Suppliers Repository subject to signing the Framework Agreement attached as Annex C of the Tender Documents. Following conclusion of the proceedings and the announcement of its results, the Company will select from within the said repository of Framework Suppliers, from time to time and in accordance with the selection mechanism detailed below, a supplier(s) for the implementation of a fixed and defined task. Selection of the Framework Supplier for implementation of the specific task will be executed pursuant to an Individual Referral for a Request for a Quotation (RFQ) that will be distributed among the Framework Suppliers in the relevant Category, in the framework of which will contain a definition of the scope of work required in the execution of the assigned task. To dispel any doubt, it is clarified that at no time during the tender phase are Bidders required to submit an RFQ. Only Bidders declared as winners in the tender and will enter the Framework Supplier Repository will be required to submit price quotation bids relative to the Individual Referrals that will be disseminated to them from time to time, all as detailed in the expansion herein.

#### 5. **Complementary Tender**

- 5.1. It is clarified that in light of the character of the tendered services, and the need for a dynamic response to projects in the fields relating to the tendered services, the Company reserves the right, as per its sole discretion, to publish a Complementary Tender concerning the tendered services (hereinafter: "Complementary Tender"), and the awardees in the Complementary Tender will be added to the Framework Suppliers' Repository.

- 5.2. It will be further clarified that the publication of such a Complementary Tender will not detract from the fact that the winners of this Tender are part of the Framework Suppliers' Repository and no priority will be given to examining any proposals to the Individual Referrals whether submitted by Framework Suppliers to this Tender or those that have submitted to the Complementary Tender.
- 5.3. Nothing stated in this section will obligate the Company to publish Complementary Tenders as stated, and the publication of the Complementary Tender is given to the sole and professional discretion of the Company.
- 5.4. Without derogating from the mentioned above, the Company retains the right to as part of a Complementary Tender as stated, request additional services to those required in the framework of this Tender, and determine additional Framework Suppliers' Repository in additional categories including the split of the Framework Suppliers into several repositories, all as per its sole discretion.
- 5.5. It is hereby clarified that this Framework Tender does not detract in any way or form from the Company's right to publish any other tender and/or other procedure and/or to engage in any agreement in the fields relating to the tendered services, all according to the Company full discretion, and the Bidders will have no claim in that regard.

## 6. Threshold Conditions

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:

- 6.1. A true and authentic copy of the bid, including all documents required to be submitted pursuant to Section 7 of this Invitation to Bid, has been received by the Company, by no later than 23.2.2022, 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.**
- 6.2. 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.
- 6.3. (a) For non-Israeli bidders: The bidder is not subject to sanctions relevant to this tender 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.

- 6.4. 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.
- 6.5. The bidder's net shareholder's equity for fiscal year 2020 was positive and, to the best of bidder's commercial knowledge on the Submission Date, there is no indication that the bidder's net shareholder's equity for fiscal year 2021 would be negative.
- 6.6. For Bids submitted for the supply of Storage Batteries Category, the Bidder meets ***both*** of the following conditions:
- 6.6.1. The bidder has manufactured and/or supplied at least 10 Storage Batteries, each of which has a capacity of at least 1MW (1 megawatt), during the three (3) year period prior to the Submission Deadline.
- 6.6.2. The bidder has supplied sales in the field of energy storage, amounting to at least 3,000,000\$ in a single year during the three (3) year period prior to the Submission Deadline or alternatively 6,000,000\$ during the three (3) year period prior to the Submission Deadline.
- 6.7. For Bids submitted for the Engineering-procurement-construction (EPC) services of battery storage power stations Category, the Bidder meets the following condition:
- 6.7.1. The bidder has managed successfully at least two (2) projects in Israel, in the field of energy infrastructure (for example: natural gas facilities, solar energy, biogas, energy storage, etc.), the value of each project is no less than US \$ 10 million, during the three (3) year period prior to the Submission Deadline.
- For the purposes of this section, the phrase "*managed successfully*" shall have the following meaning: preliminary planning including issuance of permits; final planning; construction of a fully operational system, and provision of an initial warranty period for the client.
- 6.8. No other bid has been submitted in this Tender by that bidder or an entity which is part of that bidder's control group.

For sake of clarity, it is emphasized that multiple bids from the same bidder, bids from multiple entities within a single control group or syndicate, bids from multiple agents acting on behalf of the same principal, group or syndicate, or any substantially similar arrangement (any of the above, whether by direct or indirect means, "**Multiple Bids**") are categorically disallowed from this Tender. If any Multiple Bids are received, all such Multiple Bids will be automatically disqualified. This requirement does not prevent several bidders (who are not affiliated with each other in the manner described above)



from submitting bids produced by the same Manufacturer. However, parallel bidding, in which a Manufacturer or its Affiliate submits a bid in addition to another bidder (other than an Affiliate of that Manufacturer) to provide Goods produced by that same Manufacturer (or an Affiliate thereof) is forbidden (“**Parallel Bids**”). If Parallel Bids are received, then the Parallel Bid(s) of any bidder other than the proposed Manufacturer (or Affiliate thereof) will be automatically disqualified, and the Company shall be entitled (in its discretion) to see that proposed Manufacturer (or Affiliate thereof) as bound directly by its bid, as per the lowest price quote of the other parallel bidders.

## 7. Documents Required to be Attached to the Bid

The following documents shall be included in the bid:

- 7.1. 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.
- 7.2. For Israeli bidders: Confirmation regarding (1) registration of the bidder in any registry as may be required by law, (2) any licenses as may be required by law and (3) compliance with any official Israeli standard that may exist, all of the above with respect to the subject matter of the engagement.
- 7.3. One of the following:
  - (a) the bidder’s audited financial statement(s) for the fiscal year ending 31 December 2020, showing that as of that date the bidder’s net shareholders’ equity was positive; or
  - (b) 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 2020 was positive.
- 7.4. A declaration in the form of Annex B, completed and duly executed by the bidder’s authorized signatory (the “**Bidder’s Declaration**”).
- 7.5. A declaration in the form of Annex C1, regarding the Bidder's professional experience (sections 6.6-6.7) completed and duly executed by the bidder’s authorized signatory.
- 7.6. An accountant's declaration in the form of Annex C2, regarding bidder’s net shareholder’s equity (section 6.5) – completed and duly executed by an accountant.
- 7.7. Annex D 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.

- 7.8. 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, at its sole discretion, request a particular bidder to supply one or more of the abovementioned documents, within a period of time following the Submission Deadline to be determined at the Company's reasonable discretion. If such bidder fails to supply the requested documents to the satisfaction of the Company within such period of time, the Company may elect to disqualify its bid. If a bidder submits documentation in excess of the requirements of this Section, the Company reserves the right to treat such excess documentation as a Modification, in the manner described in Section 2 of the Terms of Tender.

## 8. Examination of the Bids

The examination of the Bids in order to determine the Approved Suppliers shall be carried out as detailed below:

- 8.1. In the **first stage** the Company shall examine the bidders' compliance with the Threshold Requirements.

The Company reserves the right to turn to those bidders for which there is doubt as to their compliance with the threshold conditions, among other things for purposes of receiving pertinent explanations concerning their bid and said compliance with the threshold conditions.

Only bidders in compliance with the threshold conditions of the procedure, will be declared as awardees of the Tender and included in the Framework Suppliers' Repository.

When reviewing the Bids, the Company reserves the right, at its sole discretion, to take into consideration all available information from any and all sources, including past experience of the Company itself with the Bidder.

- 8.2. The **second stage** will include signing the Framework Agreement and entry into the repository for framework suppliers. After the declaration concerning the winning bids in the tender, and as a condition for the bidders' entry into the repository for framework suppliers, winning bidders will be requested to sign the Framework Agreement attached as Annex D hereto.

As detailed herein, the Company will be entitled to convey to the Framework Suppliers from time to time, in accordance with its needs, its Individual Referrals concerning the execution of specific tasks, and consequently, Framework Suppliers will be requested to provide quotes for these tasks.

## 9. An Individual Referral for RFOs

- 9.1. This phase will be conducted following conclusion of the tender proceedings, and relates solely to winning bidders with whom a framework agreement has



been signed and who has been entered into the framework supplier repository.

- 9.2. As consideration, those actual winning bidders eligible for offering the tendered services will be calculated according to the results of the Individual Referrals for RFQs that will be conveyed to the winning bidders from time to time, as will be detailed below.
- 9.3. The Company will distribute from time to time, according to its needs, among the Framework Suppliers in a certain Category an Individual Referral for an RFQ in relation to the execution of future Purchase Orders (hereinafter; “Individual Referral”).
- 9.4. Insofar as it is not determined otherwise by the Company, the competition between the Framework Suppliers will be conducted based upon the price quotation received in relation to the Individual Referral. In other words, the Supplier awarded execution of a future Purchase Order for the supply of Goods that will be defined in the framework of the relevant Individual Referral will be that whose bid in relation to the execution of the task that is the subject of the Individual Referral is the lowest thereof. Although, it should be clarified that the Company will be entitled to set additional standards for determining the supplier awarded execution of a future Purchase Order, as part of a specific Individual Referral, including consideration of certain criteria in relation to the compatibility of the Bidder to, according to the Bidder's background and relevant experience, the character of the services and/or the location and the route for which the services are required. In such a case, the company will specify the weight of each criterion for the purpose of selecting the winning bid in the individual Referral.
- 9.5. According to the results of the Individual Referral, The Company will determine which among the Framework Suppliers will execute the Purchase Order as detailed above and herein.
- 9.6. As part of the said Individual Referral, The Company will convey to the Framework Suppliers the documents concerning the Individual Referral. These documents will include the scope of the services, bill of quantities, technical specifications and special provisions relating to the Purchase Order.
- 9.7. These documents, will be conveyed to the Framework Suppliers by any means chosen by The Company, at its sole and absolute discretion, including physical delivery, electronic mail, digital media and download from a cloud, etc. The Individual Referral documents will also contain the deadline for submission of quotations in relation to the Individual Referral.
- 9.8. In the price quote for the Individual Referral, Framework Suppliers will be required to name their proposed financial offer relative to execution of the services detailed in the Individual Referral documents, and this upon a price quotation form that will be attached to the Individual Referral documents.

- 9.9. Framework Suppliers will be obligated to participate in each of the Individual Referrals that will be conveyed to them by the Company as part of the contract that is the subject of the tender and submit their bids relative to these referrals.
- 9.10. It will be further clarified that the Tenders Committee of The Company, in the context of a written reasoned decision, will be entitled to turn to only some of the Framework Suppliers, and as part of this framework be further entitled to consider among its considerations the capacity and experience of the bidder in the execution of similar works including previous works executed for The Company and/or other public entities, its organizational and economic capabilities, and any other consideration or reasoning that the Company may deem appropriate and correct.
- 9.11. The price quotes for the Individual Referral will be examined pursuant to the provisions of this clause and the remaining provisions of the tender and/or the Individual Referral.
- 9.12. The Company will be entitled to assign Purchase Orders to a Framework Supplier without conducting the above mentioned pricing competition among the Framework Suppliers, in the case that the Company, at its sole discretion, is led to believe that execution of the Purchase Orders cannot be assigned to the other Framework Suppliers, because of the burden of activity facing one or more Framework Suppliers that would prohibit meeting the requested timetable, cause a late date on delivery of other projects, execute works at a quality deemed unsatisfactory by the Company, in those circumstances in which uniformity is required for the sake of cost savings and efficiency, etc.
- 9.13. Assigning Purchase Orders for Execution
  - 9.13.1. For the avoidance of any doubt, it should be clarified there is nothing in the winning of this framework tender to ensure to any of the Winning Bidders that the Company will indeed convey any Purchase Orders for execution whatsoever and will order any of the services and/or in any volume thereof.
  - 9.13.2. Without derogating from the above mentioned, this tender does not establish towards the framework suppliers any commitment, except the commitment of the Company to incorporate them in Framework Supplier Repository, from which the Company will select from time to time and in accordance with the provisions of this tender, the framework supplier with whom it will engage for execution of a specific Purchase Order.
  - 9.13.3. This Tender does not form an obligation of the Company not to engage in any agreement with third parties concerning the services mentioned in this Tender. The company may, at its sole discretion, engage with third parties in any agreement and/or publish any tender or other documents concerning the supply of the services mentioned in this tender, as it sees fit, and the Bidders will have no claim towards the Company in this regard.

9.13.4. It will be further clarified that the Company is incapable of knowing and/or presenting at this time the specific Purchase Orders for execution that will be conveyed for actual execution by the framework suppliers, their financial scope and/or their nature. The Purchase Order's scope in relation to each specific Purchase Order will be known and final only near the publication of the Individual Referral relative to the Purchase Order.

9.13.5. Indeed, submission of a proposal to the tender views the bidders as those who agree and approve the above mentioned, and waive any claim, demand and/or suit against the Company and/or those acting on its behalf for and/or in connection with the provisions of this tender.

#### 9.14. The Contract Agreement as a Framework Agreement

9.14.1. As stated above, it is the Company's intent to split the contract that is the subject of the tender and enter into a framework contract with several winning bidders, at its sole discretion, that will be included in the repository of framework suppliers in the field of the required services.

9.14.2. The Framework Agreement that will be signed between the Company and each one of the winning bidders in the tender, will be a Framework Agreement for the Execution of Purchase Orders, where the Company, at its sole discretion, and according to its needs, will conduct Individual Referrals for requests for quotations in connection with the Purchase Orders for execution among the winning bidders from time to time. Before a Purchase Order is assigned to a Framework Supplier, the parties will sign a Standard Suppliers Agreement with respect to the said Purchase Order as will be attached to the Individual Referral Documents.

9.14.3. For the avoidance of doubt, it is clarified that there is nothing in the Tender Documents and in the Framework Agreement, to ensure winning bidders any scope of work whatsoever for the execution of the Purchase Orders, which will be implemented solely as per the Company's needs and at its sole discretion, and which will give the winning bidders no grounds for any demand and/or claim and/or argument whatsoever as to the mentioned above.

9.14.4. It will be further clarified, to dispel any doubt that the Company is entitled to execute some of the purchase orders on its own or by means of third parties outside the proceedings and/or publicize tenders and conduct additional proceedings with respect to the execution of any Purchase Order whatsoever that could be implemented within the Tender framework, all at its sole discretion, and this Tender does not constitute any obligation on the part of the Company to the Tender awardees.

9.14.5. For the avoidance of doubt, it is clarified that the Company, at its sole and professional discretion, will be entitled not to turn to any Framework Supplier for the execution of a Purchase Order, and instead contract and/or

publicize Tenders and/or conduct other competitive proceedings concerning Purchase Orders that could be executed in the framework of this Tender, or contract with any other entity for such purposes, all within the provisions of the law. Accordingly, it will be stated explicitly that a framework supplier will not be granted any exclusivity whatsoever by the Company in relation to the application and/or assimilation of solutions in the tendered fields.

#### 9.15. Priorities and Coordination

9.15.1. The Company is entitled to convey to the awarded bidders with whom it has contracted in accordance with the Tender Documents, several concurrent Purchase Orders, by virtue of the Special Framework Agreement that will be signed between the parties. In the event that the Company will convey to the awarded bidder several Purchase Orders as stated above, the Company will be entitled to establish the order of priorities between the Purchase Orders conveyed to the awarded bidder and the said bidder will execute the Purchase Orders in as per the order of priorities established from time to time by the Company.

9.15.2. The Framework Supplier will execute the Purchase Orders in accordance with the specifications defined by the Company. In this context it will be clarified that the Framework Supplier will be required to be prepared for the execution of Purchase Orders pursuant to the Company's needs, including a single Purchase Order and/or operate several concurrent Purchase Orders.

#### 10. Clarifications and Amendments

10.1. Bidders in the tender are required to thoroughly check the various 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, or any bidder who wishes to suggest an amendment to the Tender Documents, may address the Company with a written request for clarification and/or suggestion for amendment. Such written request must be written entirely in the English language, and delivered to the email address provided in Section 19.78 below, and received by no later than 7.2.2022. It is clarified that the Company is not under any obligation to respond to such written request and/or accept any suggestions for amendment.

10.2. Any bidder who fails to submit a written request as described in Section 10.1 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.

10.3. The bidder is aware and agrees that any request for clarification and/or suggestion for amendment may, at the Company's discretion, be sent to all of the bidders, including in a Notice to Bidders as described in Section 10.4 below.

10.4. The Company may, in its discretion, publish notices, updates, announcements and/or clarifications regarding this Tender, and/or modify or make any amendment to the Tender Documents (including any response to a written request received as per Section 10.1 above), by any means which the Company deems effective for such purpose, including by means of a notice sent to those bidders who have registered at the Company's website ([www.pei.co.il](http://www.pei.co.il)). Such registration is each bidder's sole responsibility (a "**Notice to Bidders**"). Registration for receipt of notices is the bidder's sole responsibility. A Notice to Bidders shall be deemed received by all bidders, effective immediately, upon such publication or dispatch of such notice, and references to this Tender or any Tender Document shall be deemed to incorporate all such notices, clarifications or amendments by reference.

10.5. The Company may amend or modify the Tender Documents (including but not limited to by means of a Notice to Bidders), in accordance with Section 3 of the Terms of Tender, *provided that* reasonable advance written notice has been given to all of the bidders in the Tender, and *provided further* that bids already submitted may be amended in response to such amendment or modification, by an amending Submission Email in accordance with the Submission Protocol of Section 18 below.

## **11. Modification of or Reservations to the Tender Documents**

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. If the bidder believes that any clarification is required with respect to the terms and conditions of the Tender, or if the bidder wishes to suggest an amendment to the Tender Documents, it must address the Company in the manner and within the timeframe set forth in Section 10 above. By submitting its bid, each bidder indicates its acceptance of the terms of the Contract and this Tender, represents that its price quotes have taken into account all terms and conditions of the Contract and this Tender, and irrevocably waives any claim or argument to the contrary. If the bidder modifies, adds to, omits from, or makes any reservations or conditions to the Tender Documents in any way, then Section 2 of the Terms of Tender shall apply.

## **12. The List of Framework Suppliers**

12.1. The List of Framework Suppliers as determined in accordance with this Tender shall be valid for 5 years commencing on the date the Company's notification to the Framework Suppliers in accordance with clause 16.2 below ("**Qualification Period**"). The Company may extend the Qualification Period of any or all of the Lists of Framework Suppliers for additional period of 2 years, according to its sole discretion and subject to the Laws.

12.2. During the Qualification Period, the Company may approach from time to time to any or all of the Framework Suppliers in the relevant List of Framework Suppliers and invite them by way of Request for Quotation or by any other

method to be determined by the Company, to submit quotations for the supply of the relevant goods (hereinafter: "RFQ").

- 12.3. It is hereby clarified that the Company may decide in any RFQ to approach only part of the Framework Suppliers, taking into consideration inter alia the capabilities of the Framework Suppliers, the scope of prior or current Purchase Orders, the time schedule for delivery and any other relevant considerations.
- 12.4. As part of any such future RFQs to be held among any or all of the Approved Suppliers for manufacture and supply of the relevant goods, the Company may amend its requirements in this Tender (including by adding or omitting requirements) and inter alia shall have the following prerogatives:
  - 12.4.1. Add additional conditions and/or requirements, including inter alia restrictions on the maximum prices that may be quoted by the Approved Suppliers;
  - 12.4.2. Update and/or add Threshold Requirements;
  - 12.4.3. Update and/or add (including by relieving or omitting) requirements regarding professional experience;
  - 12.4.4. Update and/or add additional criteria regarding quality evaluation (criteria and/or their relative weights);
- 12.5. Should the Company decide to issue a Purchase Order to a Framework Supplier with whom it has no prior experience, or which had suffered material failure/s during past Purchase Orders, it may set additional conditions to such Purchase Order or additional orders, as applicable (such as without limitation, limiting the scope of the order or conditioning it with the participation of the Framework Supplier in special inspection and/or supervision costs) in order to verify that all aspects of the manufacture and supply comply with its standards and requirements.
- 12.6. The Company is not obligated to issue RFQ procedures amongst the Framework Suppliers for any of its future orders and it may order the Goods subject of this Tender from any entity it sees fit, by way of a new tender, even within the Qualification Period.
- 12.7. Should a Framework Supplier cease to comply with any of the Threshold Requirements at any time during the Qualification Period or should a Framework Supplier not comply with any of its obligations towards the Company to the full satisfaction of the Company, the Company may remove it from the List of Framework Suppliers.
- 12.8. The Company may instruct any or all Framework Suppliers at any time during the Qualification Period, to submit additional and/or updated information, documents or declarations (such as updated financial statements, renewed



declarations regarding conflict of interest, compliance with the ethical code, certificates, etc.).

- 12.9. The Company may at any time during the Qualification Period add to the List of Framework Suppliers additional suppliers that shall comply with the Company's requirements in accordance with this Tender. In this scope, the Company may consider the advantages of local manufacturing of Storage Batteries and may amend and/or update the requirements and shall have inter alia any and all the prerogatives listed in Clause 12.4 above.

### **13. General Prerogatives of the Company**

- 13.1. Notwithstanding anything to the contrary in this Tender, where the Company deems it necessary for the benefit of the Tender process and/or for the benefit of the Company, it may, at its sole discretion, alter any of the requirements and/or instructions contained in the Tender Documents, as it may find appropriate.
- 13.2. The Company reserves the right to modify, update or restrict any of the provisions of the Tender Documents ("**Amendment**").
- 13.3. Amendments shall be made by written addenda that shall be furnished to the registered Bidders. These addenda shall constitute an integral part of the Tender terms. No Amendment shall be binding unless it has been issued within a written addendum on behalf of the Company. Without derogating from the validity of the addendum, the Bidder shall acknowledge its receipt by a return e-mail as shall be provided for in each addendum.
- 13.4. Notwithstanding any right granted to the Company pursuant to the Tender Documents or pursuant to any applicable law, the Company may, at its sole discretion:
  - 13.4.1. Cancel the Tender, at any time and/or unconditionally reject any or all of the Bids without thereby incurring any liability to the affected Bidder or Bidders, including without limitation, decide not to enter into the Contract with any Bidder.
  - 13.4.2. Request additional information and/or clarifications from any of the Bidders.
  - 13.4.3. Accept Bids that are not fully compliant due to default or lack of information and/or exonerate technical defects that shall appear in the Bid bona fide, in which case the Company may, but is not required to, ask a Bidder to amend such default or defects in its Bid and resubmit the Bid including, without limitation, in the framework of negotiations held with the bidders.
  - 13.4.4. Without derogating from its rights pursuant to the Tender and/or any law, the Company shall be entitled to disqualify Bids if they are lacking, misleading, unreasonable, manipulative or based on incorrect assumptions or misapprehension.

- 13.4.5. Without derogating from its rights pursuant to the Tender and/or to any law, the Company shall be entitled to correct or modify typographical errors or arithmetical errors that shall be detected in the Bids. The corrections shall be exercised during the examination of the Bids by the Company and shall be recorded in writing whereby the notice of the modification shall be delivered to the Bidder.
- 13.4.6. Conduct an independent inquiry or investigation regarding any matter connected with the Tender process, including, without limitation, with regard to Threshold Requirements, evaluation criteria, financial strength, technical expertise and experience of any Bidder.
- 13.4.7. Provided that the Company allowed the affected Bidder an opportunity to present arguments (either written or oral) in support of its Bid, reject any Bid with respect to which the Company concludes, at its sole discretion, that the information supplied in the Bid, including, without limitation, information regarding the financial strength and/or technical capabilities of the Bidder, does not accurately reflect the actual ability of the Bidder.
- 13.4.8. Where a Bidder submits or presents any Deviation, whether in its Bid, during negotiations or in any other stage of the Tender Process, the Company may act as it deems appropriate, including without limitation, in any one or more of the following ways:
  - 13.4.8.1. It may provisionally ignore all or part of a Deviation and, notwithstanding anything stated to the contrary in the Bid, evaluate such Bid without taking into account such Deviation, and as a condition to the awarding of the Contract or Purchase Order, require the Bidder to conform to all the requirements of the Tender as amended;
  - 13.4.8.2. It may view all or part of a Deviation as errors which do not conflict with the principle of equality;
  - 13.4.8.3. It may require the Bidder to correct all or part of the deviations;
  - 13.4.8.4. It may disqualify the Bid.

#### **14. Disqualification of Bid**

- 14.1. Without derogating from the Company's rights and authorities under the Tender and under law, the following conditions and events may lead to disqualification of a bidder, at the Company's sole discretion, at any stage during the tender or after, during the Qualification Period. The disqualifying conditions and events apply both to the bidders, their shareholders and to parent entities (hereinafter in this Clause jointly referred to as "Bidder").
  - 14.1.1. The commencement of bankruptcy, receivership, liquidation or reorganization, reconstruction or composition of creditors proceedings

against the Bidder or a similar situation, unless such proceedings are discharged within a reasonable period of time, as determined by the Company, at its sole discretion, or if an interim or permanent receiver, liquidator, administrator or examiner or similar officer is appointed over the Bidder and/or the assets thereof, or if the Bidder has become insolvent.

- 14.1.2. The commencement of any voluntary action for the liquidation of the Bidder except for the purposes of merger or reconstruction on terms approved by the Company in writing.
- 14.1.3. Commencement of any legal proceedings, which allegedly relate to an offence, which in the Company's opinion, affects the integrity of the Bidder.
- 14.1.4. Commitment of a grave error by any Bidder in the performance of its profession.
- 14.1.5. Employment of or engagement with a consultant or an expert, who was/is employed by the Company and/or any other relevant authority in relation to the Company without the prior written approval of the Company.
- 14.1.6. Participation of a Bidder or an interested party therein, that is suspected of being involved in criminal activity or of being hostile to the State of Israel and/or that is a resident of a country which does not have diplomatic relations with the State of Israel.
- 14.1.7. The existence of a material conflict of interest in a Bidder or any interested party therein.
- 14.1.8. Any event or change in circumstances in the Bidder, which may adversely affect the Bidder's capacity to be approved as a Bidder.
- 14.1.9. Any material breach of the provisions of the Tender, including the submission of any false or incomplete information.
- 14.1.10. Any other event or circumstances which the Company shall consider, at its sole discretion, as justifying disqualification of any Bidder.
- 14.2. In the event that any of the above conditions or events occurs, the Company reserves the right to impose upon a Bidder any instructions as a condition for its participation in the Tender.

**15. No Conflict of Interests, Confidentiality of the Bid, Ethical Code and Maintaining Fair Process**

- 15.1. There shall be no conflicts of interest between any of the Bidder's prior or current engagements or activities and/or those of its employees and/or subcontractors and the obligations or rights of the Bidder under this Tender and the Contract.

- 15.2. Neither the Bidder nor any of its subcontractors may at any time be connected with the Company or its employees or its consultants.
- 15.3. The Bid shall not be prepared in collusion with any other Bidder participating in the Tender nor with any affiliate thereof.
- 15.4. A Bidder may not submit and may be involved – directly or indirectly – in the submission of more than one Bid.
- 15.5. A Bidder shall not be entitled to reveal the details of its Bid to others in general and to the other Bidders in this Tender in particular and/or to engage in any action of collusion and/or manipulation.
- 15.6. A Bidder that shall enter a Contract for the supply of goods pursuant to any future RFQ or other procedure, will refrain from any activity that might constitute a conflict of interest in the execution of its duties under the terms of the Contract, and shall undertake that all of its employees, subcontractors and representatives will refrain from any activity or association that might involve such a conflict of interest, directly or indirectly. The Bidder shall notify the Company immediately should any conflict of interest develop or arise or may potentially develop or arise, either for itself or for any of its employees, subcontractors or representatives.

## **16. Framework Suppliers**

- 16.1. The Company shall announce all Bidders who complied with the Threshold Requirements and received at least the Minimum Score at the quality evaluation as the List of Framework Suppliers.
- 16.2. The Tender Committee shall send notification of its decisions to the authorized representatives of the Framework Suppliers.

## **17. Signing the Contract, and Purchase Orders**

- 17.1. It is the intent of the Company to sign the Contract with all Framework Suppliers, that shall serve as the contractual framework for any future Purchase Orders for supply of relevant goods, during the Qualification Period subject to any amendments and/or additional instructions that shall be determined by the Company for the purpose of any such future orders (either as part of the RFQ documents or in any other manner).
- 17.2. All the Tender Documents including all clarifications and amendments issued by the Company during the Tender shall apply as an integral part of the Contract and to any future engagement pursuant to this Tender between the Framework Suppliers and the Company.
- 17.3. It is hereby clarified that the execution of the Contract by the Company and the

Framework Suppliers does not constitute an exclusivity right or an obligation on behalf of the Company to order the supply of goods from any of the Framework Suppliers and that a precondition for any such order is that the Contract shall be an integral part.

- 17.4. Anything to the contrary notwithstanding, no Contract shall come into force until the Company signs the Contract by its authorized signatories.
- 17.5. Following the signing of the Contract the Company may issue Purchase Orders for the supply of relevant goods. The Purchase Order shall be accompanied by a Bill of Quantities based upon the quotation form issued by the Company in the relevant RFQ relevant instructions (including amendments and/or supplements to the provisions of the Contract if published during the RFQ).
- 17.6. Within 14 days as of the execution of a Purchase Order to the Successful Bidder for a Batch, the Successful Bidder shall provide the Company with the Performance Guarantee in the amount of 10% of the value of the total Quotation Price it was awarded, in the form attached to the Contract.
- 17.7. In the event that any of the Successful Bidders does not comply with all of its obligations according to the Tender Documents within the designated period, for any reason whatsoever, the Company shall be entitled, to cancel the announcement of the Bidder as Successful Bidder and select another Bidder as a Successful Bidder, without derogating of any its rights under the Tender.

## 18. **Submission Protocol**

All bids must be submitted in accordance with the instructions provided in this Section (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 [tender0075@pei.co.il](mailto:tender0075@pei.co.il) (the "Designated Account"), In the manner set forth below. The bidders are required to follow the submission instructions precisely.

Bidders must choose to submit their Bids by one of these two methods. Any Bid 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, and the bidder will have no claim in the matter.

- 18.2. In case of physical submission, all Bid Forms shall also be submitted on a CDR (containing Adobe Acrobat PDF (PDF) searchable format files). In the event of any discrepancy between the copies, the paper copy shall prevail. The paper copy and CDR shall be placed in one envelope.
- 18.3. Without derogating from any other provision hereof, Submission Emails are subject to and must also comply with the terms in Annex E (the "Digital submission protocol").
- 18.4. 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.

#### 19. **Miscellaneous Provisions**

- 19.1. Any and all expenses involved in preparing the bid are at the bidder's expense only.
- 19.2. The bid will be valid for 45 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. Bids which are not extended as aforesaid shall be disqualified, even if such bid would otherwise have been preferred, and the Company may continue the Tender process in accordance with its needs, from amongst the bids which have been so extended.
- 19.3. 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 the Terms of Tender, which amount the Company may collect by its first demand.
- 19.4. It is hereby clarified that the company may, at its sole discretion, add or remove suppliers to/from the Framework Suppliers Repository, publish complementary tenders and/or any other document concerning the services mentioned in this tender, as it sees fit, and the Bidders will have no claim towards the Company in this regard.
- 19.5. The Tender Documents are the property of the Company and are issued to the Bidders for the purpose of participation in this Tender process only. No use may be made of the Tender Documents by the Bidders apart from this purpose.



- 19.6. These proceedings are subject to the laws of the State of Israel, in their version from time to time. The bids will be prepared and submitted pursuant to any law, and the Bidders shall be deemed to have received appropriate legal counsel for participation in the proceedings and proposal submission.
- 19.7. Any matter related to this Tender, the Contract and any Purchase Order, including future Purchase Orders or engagements, shall be adjudicated only in the authorized courts of the city of Tel Aviv-Jaffa.
- 19.8. Any question regarding the Tender may be referred to the undersigned via e-mail to [Contractsbid@pei.co.il](mailto:Contractsbid@pei.co.il).

Sincerely,

**Liat sharon**

**Procurement & Engagements Department**

### **Annex A: Terms of Tender**

1. Interpretation and Definitions. These terms of tender (these “**Terms**”) are attached to and form an integral part of Public Tender No. \_\_\_\_-21 a framework tender for the Manufacture and Supply of Storage Batteries and engineering-procurement-construction (EPC) services of battery storage power stations (the “**Tender**”), as described in the Invitation to Bid. The submission of a bid in the Tender comprises the bidder’s agreement to these Terms and waiver of any claim or argument to the contrary. In the case of any conflict between the Tender Documents, the terms which prevail shall be in the following order of precedence: (a) the Technical Specifications (in the case where such document exists); followed by (b) other terms of the Contract, including the general terms of contract attached thereto; followed by; (c) these Terms,

unless and to the extent specifically provided otherwise in another Tender Document; followed by (d) the Invitation to Bid; followed by (e) any other Tender Document or other document submitted in the bid; followed by (f) other written correspondence (if any) exchanged between the Company and the bidder. In all events, 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 and in a timely fashion, shall prevail. The general terms attached to the Contract shall also apply to the Tender to the extent applicable, unless otherwise specified herein or in the Invitation to Bid. Notwithstanding anything else to the contrary, it is specifically clarified that the entire Tender is subject to the provisions of Israeli tender law, including the Mandatory Tenders Regulations, 5753-1993 (the “**Regulations**”), and that nothing in the provisions of any Tender Documents shall be interpreted to derogate from any mandatory provisions therein or any other mandatory provisions of applicable law. In any Tender Document or Notice to Bidders, “including” means without derogating from the general application of the preceding word(s) or phrase, “knowledge” includes deemed knowledge after ordinary commercial diligence, and “written” includes by means of electronic correspondence. Unless otherwise specified or implied otherwise by context, in any Tender Document: (a) “Affiliate” means a person controlling, controlled by, or under common control with another person, where “control” is defined as per subsection (g) below; (b) “bid” refers to the entirety of the documents described in Section 4 of the Invitation to Bid, as 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 relied upon by inference, (ii) any documents or correspondence submitted in response to Company’s request, and (iii) any excess documentation which the Company, in its discretion, decides to include in accordance with Section 2 of these Terms; (c) regarding a bid which is split or which the Company may be entitled to split, the term “bid” may refer to that portion of the bid as may be applicable; (d) “bidder” means the party submitting a bid or interested in submitting a bid, as the case may be; (e) a “winning bid” means a bid selected by the Company or otherwise fitting for the award of contract, including that portion of a bid selected or fitting for award of contract, as per the terms

of the Tender regarding split bids; (f) a “qualified bid” is a bid meeting all threshold conditions of the Tender (including the preconditions described in Section 6 of the Invitation to Bid), but excluding bids disqualified by the Company, and including bids accepted by the Company notwithstanding a flaw in the threshold conditions, when such disqualification or acceptance is done in accordance with the relevant provisions of the Tender and applicable law; and (g) a bidder’s “control group” means either of (A) one or more persons, entities, or ventures (“persons”), where one person controls, is controlled by or is under common control with the other person(s), “control” means the *de facto* ability, whether directly or indirectly, to direct a person’s activities (other than by mere exercise of a fiduciary duty), and possession of >50% of share capital or voting rights is presumed to comprise control, or (B) a syndicate of persons acting in any coordinated manner with regards to the Tender and/or the submission of bids.

2. No Modification. If the bidder modifies, adds to, omits from, or makes any reservations or conditions to the Tender Documents in any way (any of the above, a “**Modification**”), the Company may, at its sole discretion, act in accordance with any one or combination of the following options: (a) ignore the Modification(s), and require the bidder to meet its bid as if it had been submitted without such Modification(s); (b) accept any Modification comprising or implying an additional undertaking, representation or guarantee by the bidder as part of the bid, provided that such Modification shall not be considered in the comparison of bids or the award of contract; (c) disqualify the bid, in whole or in part; or (d) make any other decision that the Company may deem appropriate under the circumstances. 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 such regard.
3. Amendments. (A) Amendment of bids. The Company may, in its uncontrolled 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. The Company reserves the right to refrain from considering or to disqualify the bid of any bidder

who refrains from providing the Company with required information in a timely fashion or who provides inaccurate information. Each bidder is required, without delay, to update the Company in writing 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 it is awarded contract, until the execution of the Contract. Failure to provide such update in writing shall be deemed a representation by bidder that no such change has occurred. (B) Amendment of Tender. The Company may, at any time, at its discretion, amend or modify the Tender Documents, whether or not such amendment or modification has been suggested by a bidder (including but not limited to by means of a Notice to Bidders as defined in Section 5.4 of the Invitation to Bid), provided that reasonable advance written notice has been given to all of the bidders in the Tender, and provided further that bids already submitted may be amended in response to such amendment or modification, by an amending Submission Email in accordance with the Submission Protocol stated in the Tender Documents.

4. Disqualifications. The Company reserves the right, in its discretion, to disqualify any bid if and to the extent such disqualification is mandated or allowed under the Tender Documents (including the Invitation to Bid and these Terms) and/or applicable law. Without derogating from the generality of the foregoing, it is clarified that the Company may, in its discretion, disqualify without additional cause: (a) any bid making a Modification to the Tender Documents; (b) retroactively, the bid of a bidder receiving award of contract, if such bidder fails to sign the Contract within 7 (seven) days of notification of award; (c) the bid of a bidder with whom the Company has had bad experience in previous engagements, 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 other similar matters; (d) any bid which may create a conflict of interest with other engagements of the bidder; (e) two or more bids which, in the Company's opinion, may be reasonably considered as Multiple Bids or are the substantial or commercial equivalent of Multiple Bids; (f) a bid submitted in a manner which does not conform to the Submission Protocol described in Section 18 of the Invitation

to bid, or whose receipt was not verified by phone conversation as described therein; (g) the bid of any bidder who refrains from providing the Company with required information in a timely fashion or who provides inaccurate information; (h) a bid in which a false, fraudulent, or misleading representation is made with knowledge of a bidder and/or its authorized representatives; (l) a bid regarding which the Company has, in its reasonable opinion, reason to suspect a fact contrary to the representations expressed in paragraphs 15 or 16 of the Bidder's Declaration (Annex B); (i) any bid which is incomplete, mistaken, or based on any incorrect assumption or misunderstanding regarding the Tender; or (j) any bid which would otherwise have been granted award of contract, under special circumstances only and for reasons which the Company shall commit to writing, after having given the relevant bidder reasonable opportunity to present its case. The aforesaid does not derogate from the Company's right to waive or correct technical flaws or any error or oversight which may occur in good faith, pursuant to the provisions of applicable law.

5. Permitted Negotiations and Additional Competitive Processes. Under appropriate circumstances and to the maximum extent allowed by applicable law, the Company reserves the right to do any of the following acts, regarding any bid or portion thereof, without liability to any bidder: (a) to refuse any bid and/or to cancel the Tender at any stage, in its discretion; (b) to refrain from awarding contract to the bid with the highest Bid Score; (c) to negotiate with any bidder whose bid is found to be adequate in the Company's judgment; (d) to refuse award of contract to a bidder whose bid would otherwise have been granted such award, or to retract such notice, under special circumstances and upon delivery of a reasoned notice of such decision to the relevant bidder; and/or (e) to hold an additional competitive process ("Best & Final"), by which 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, with the stipulation that if such bidder does not submit another bid pursuant thereto, its first bid shall be deemed as its final bid. If there is a single or single remaining qualified bid which is significantly less favorable to the Company than the Estimate then the Company may, in its discretion, and in addition to any other course of action otherwise available to Company: (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 and/or issue a subsequent Tender (whether or not under similar terms) in its stead.
6. **Right to Examine Tender Results.** Bidders may examine the Tender results, in accordance with the Mandatory Tenders Regulations, 5753-1993 (the “**Regulations**”), for a non-refundable fee of either NIS 1,000, USD 285, or € 260, to be paid to the Company together with the examination request, which request must be received at the Company’s office by no later than 30 days from publication of award of contract, or notice to a non-winning bidder of non-award of contract or disqualification, as the case may be.
  7. **Currency.** 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 current on date of invoice, as provided in the invoicing and payment terms of the Contract. A price quote expressed in a currency other than NIS, USD or Euro will be considered a Modification, and the terms of Section 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.
  8. **Tax.** It is clarified that each price quote is inclusive of all costs, expenses and tax (including VAT) associated with the provision or delivery of the Goods or fulfilment of any other condition of the Contract. If and to the extent that Israeli VAT applies to the provision of the Goods, the bidder may indicate such Israeli VAT as a separate item in each relevant price quote. In such case, that bid’s “quote price” (for purpose of comparison of bids and determination of the Bid Score) shall be considered to be the amount of the bid before Israeli VAT and, if such bidder wins award of contract, Israeli VAT must be included as a separate item in each Invoice issued under the Contract. If, at any time and for whatever reason, the Company determines in its reasonable opinion that Israeli VAT applies to any bid which did not indicate Israeli VAT as a separate item, the Company may unilaterally amend the amount of that bid’s quote price such that the amended quote price, after the addition of Israeli VAT, is equal to the putative price quoted in such bid; however for purpose of comparison of bids and determination of the Bid Score, the Company may – in its discretion – consider either of such values to be the bid’s “quote price”. In this Section 8, “**Israeli VAT**” means value added tax under the Value Added Tax Law, 5736-1975, at the rate which, as per the law in force on the Submission Deadline, will be the current rate on a contemplated Delivery Date; and “**VAT**” means any tax imposed by a governmental authority of any other jurisdiction in a manner similar to Israeli VAT.
  9. **Liquidated Damages.** Without prejudice to other rights or remedies, the Company may demand liquidated damages as described herein (the “**Liquidated Damages**”) if: (a) a bid is withdrawn during its period of validity; (b) a winning bidder repudiates its undertaking to be bound by the provisions of the Contract in accordance with its bid; (c) a bid is disqualified on grounds of a false, fraudulent or misleading representation; the Company has determined, in a reasoned opinion, that a reasonable suspicion contrary to the representations expressed in paragraphs 15 or 16 of the Bidder’s Declaration (**Annex B**) exists or has arisen. The amount of Liquidated Damages shall be the greater of: (x) € 30,000; or (y) if the cause for Liquidated Damages gives rise to the disqualification of a bid which would have been the winning bid at a lower price than the replacement bid, the difference between the breaching bidder’s bid and the replacement bid. 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.
  10. **Confidentiality.** By submitting its bid, each bidder undertakes to be irrevocably bound by the confidentiality provisions of the Contract, effective as of the Submission Date, which shall apply to all stages of the Tender, *mutatis mutandis*, whether or not such bidder receives award of contract, and whether or not its bid is considered to be a qualified bid.
  11. **Information and Disclosure.** Together with submission of its bid, a bidder may 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. 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. 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 requiring disclosure of information, including without limitation the Freedom of Information Law, 5758-1998 (the “**Applicable Information Laws**”). Each bidder recognizes that Applicable Information Laws

may require disclosure of information contained in the bid and/or otherwise related to the Tender, and waives in advance any claim or argument pertaining to a disclosure deemed necessary or advisable by Company for compliance with Applicable Information Laws, including if its entire bid or any part thereof is made available thereby for the examination of other bidders and/or competitors. Each bidder further agrees that if the Company is of the opinion that there is concern as to whether it may disclose any information as per a bidder’s requests to be disclosed, the Company may, to the maximum extent permitted by law, refrain from disclosing any such information, so long as no court order has been issued requiring such disclosure.

**Annex B – Bidder’s Declaration**

To: Energy Infrastructures Ltd / Oil Products Pipeline Ltd (the “Company”)  
3 Hasadnaot,  
Herzliya  
ISRAEL

*By an Electrically Signed Attachment by email to: [tenders@pei.co.il](mailto:tenders@pei.co.il)*

**OR**

***By physical deposit by hand, in a sealed envelope, in the special-purpose tender-mailbox, on the first floor of the Company's offices at: Energy Infrastructures Ltd / Oil Products Pipeline Ltd, 3 Hasadnaot, Herzliya, Israel***

Re: Bidder’s Declaration for Public Tender No. PD22000075 (this “**Declaration**”)

The undersigned, [full company name] \_\_\_\_\_, domiciled and organized under the laws of [jurisdiction] \_\_\_\_\_, with offices at [street address] \_\_\_\_\_, [city, state/province, postal code] \_\_\_\_\_, [country] \_\_\_\_\_ (“**we**”) does hereby confirm, represent and undertake as follows:

1. We have read and thoroughly understood the provisions of all of the documents of “Framework Tender No. . PD22000075: Supply of Storage Batteries and engineering-procurement-construction (EPC) services of battery storage power stations”, including the annexes thereto and this Declaration (the “**Tender**”, and such documents, the “**Tender Documents**”). Terms in this declaration, unless otherwise defined, have the meaning ascribed to those terms in the Tender Documents.
2. 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.
3. We agree and consent that our bid (including this Declaration) will be submitted electronically as one or more Electronically Signed Attachment(s), as per the Submission Protocol, and that any binding correspondence with the Company regarding the Tender may be conducted by electronic transmission.
4. We acknowledge that the Company may disclose any or all information contained in our bid and/or otherwise provided by us, if the Company deems such disclosure to be allowed or required under the terms of the Tender, or necessary or advisable for compliance with Applicable Information Laws or other applicable law, including if our bid is made available thereby for the examination of other bidders and/or competitors.
5. We engage on an ongoing basis in the manufacture and/or import, export or supply of the Goods described in the Tender, and we meet all threshold conditions of the Tender. If our bid is selected as per the procedures and conditions described in the Tender, we undertake





to supply the Goods as defined in the Tender Documents, new and manufactured by the Manufacturer(s) indicated thereby, in accordance with the terms of the Tender and the Contract.

6. We understand and agree that upon receiving notification that our bid has been selected as a winning bid, we will be automatically bound by the terms, conditions, and undertakings of the Contract (with Effective Date of date of such notification, regardless of when or whether the Contract is signed). Upon such notification, we agree to execute and deliver the Contract to the Company as per the terms of the Tender and the particulars of our bid, and we acknowledge that should we fail to do so, our bid may be disqualified retroactively.
7. We understand that the winning bid will be selected based on the formula provided in the Invitation to Bid, but we recognize that under the provisions of the Tender and/or its Terms, bids may be corrected or deemed qualified despite lacking certain prerequisites, or disqualified despite possessing all prerequisites, and we accept such terms and waive any claim or argument to the contrary.
8. We understand that this bid may not be cancelled or revoked and is valid for 45 days from the Submission Deadline, and that withdrawal of our bid may result in Liquidated Damages. We further understand that the Company may require us to either extend the validity of our bid in order for our bid to remain under consideration.
9. We understand that our bid comprises a representation that we meet the criteria set forth in Section 6.6 of the Invitation to Bid, that each Manufacturer referenced in our bid meets the criteria set forth in Section 6.7 of the Invitation to Bid, and that all documents submitted with our bid in this Tender (including documents submitted previously and referred to in this bid), including the undertakings, confirmations and acknowledgments made or described therein or herein, are true, valid, and of continued effect in all material ways, unless otherwise indicated in our bid, and are deemed repeated until notification of the award of contract, unless and to the extent updated by written notice as per the Terms of Tender.
10. 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.
11. 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 public domain without fault of us, 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.

12. These representations, understandings and undertakings are not exhaustive, and shall not be interpreted to derogate and or impair the full force of all provisions of the Tender and the Contract, including the Terms of Tender and the general Terms of Contract.
13. We are aware that in accordance with Section 9.14 of the Invitation to Bid, it is the Company's intent to split the contract that is the subject of the tender and enter into a framework contract with several winning bidders, at its sole discretion, that will be included in the repository of framework suppliers in the field of the required services.
14. 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:
  - 14.1. 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 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, the we meet the requirements of such standard.
  - 14.2. Neither we nor any of its directors or officeholders have been convicted of a crime involving moral turpitude ("עבירה שיש עמה קלוון"), 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.
  - 14.3. 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 therein by the bidder or a person acting on bidder's behalf.
15. Neither we nor any of our officers, agents or employees were involved in any attempt to dissuade any competitor from submitting bids in this Tender, or to submit a bid with a higher or lower Bid Score than our bid, or to cause an uncompetitive bid to be submitted. No part of this bid is the result of or arose from any arrangement or negotiations with any competitor, or any bidder or potential bidder in this Tender, nor was any such competitor, bidder or potential bidder consulted with or involved in the preparation of our bid, and we have not and shall not share our bid with any such person.
16. Neither we nor any of our officers, agents or employees have: (a) offered, given or received (whether directly or indirectly) any money, benefit, asset or item of value with the direct or indirect aim to affect any decision, act or omission of the Company and/or any person acting on the Company's behalf; (b) attempted to solicit, cooperate or communicate with any officer, agent or employee of the Company (whether directly indirectly) with the aim of directly or indirectly obtaining any information relating to the Tender that has not been



made available to all bidders; or (c) attempted to solicit, cooperate or otherwise communicate with any person (whether directly or indirectly), with the aim of fixing or quoting prices in any artificial and/or uncompetitive manner.

17. We acknowledge and agree that if, in Company's reasonable opinion, a reasonable suspicion arises contrary to the representations expressed in paragraphs 19 or 20 above, then the Company shall have the right, acting in its sole discretion and without derogating from any right or remedy otherwise available, to: (a) disqualify our bid; (b) cancel the Contract if awarded; (c) claim Liquidated Damages as per Section 9 of the Terms of Tender; (d) exclude us from any tender or procurement process regarding which such suspicion may arise, or in connection with any individuals involved in such suspicion; and/or (e) take any combination of the actions aforementioned, and/or any other act which the Company deems necessary or advisable under the circumstances.
18. The individual signed below is authorized to make this Declaration and submit this bid on our behalf. This Declaration when so signed, and our bid submitted therewith, are and shall be legally enforceable under the laws of our jurisdiction in accordance with their terms, without need for any further approval or authorization, and do not and shall not create or constitute any conflict with any agreement to which we are a party, or any of our governing documents, nor will the execution of this Declaration or the submission of our bid result in any such conflict.

IN WITNESS WHEREOF, our duly authorized representative has made this declaration on our behalf, and affixed his or her signature and our stamp below:

Name of Bidder: \_\_\_\_\_

By: \_\_\_\_\_

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

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

I, the duly authorized representative of the bidder whose signature appears above, am familiar with the English language and fully understand the content of this Declaration, and have received legal advice regarding its content on the bidder's behalf, to the extent deemed appropriate by the bidder. The signature appearing above is my signature and the contents of this declaration are true.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

### Authentication

**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, alternatively, 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., License No. \_\_\_\_\_, do hereby confirm that \_\_\_\_\_ {who identified him/herself by I.D. No. \_\_\_\_\_ / with whom I am personally acquainted} appeared before me at {location} \_\_\_\_\_, Israel on {date} \_\_\_\_\_ and, after I warned him/her to tell the truth, failing which s/he would be subject to the penalties prescribed by law, did confirm the veracity of and signed his/her declaration above in my presence.

---

Signature and Stamp

**Annex C1 - Bidder's Professional Experience (Sections 6.6-6.7)**

This Bid is submitted for the following Categories (Bids may be submitted for both Categories or for a single Category, by leaving the section for the other Category blank):

- The supply of Storage Batteries;
- Engineering-procurement-construction (EPC) services of battery storage power stations.

In order to document the fulfillment of the conditions set forth in Sections **שגיאה! מקור 6.6-6.7** of the Tender, the following chart should be completed, followed by the accompanying declaration (relevant documents may be attached by the Bidder):

| Name of Customer | Project Details | Year/ Period of Engagement | Value of Engagement (amount and currency) | Contact person + telephone |
|------------------|-----------------|----------------------------|---|----------------------------|
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |
|                  |                 |                            |   |                            |

The undersigned, being the bidder's duly authorized representative for purposes of this declaration, does hereby declare and represent in the bidder's name that the information supplied in the chart above is true and accurate in all material respects.

\_\_\_\_\_  
Signature and stamp of bidder

\_\_\_\_\_  
Name of signatory

\_\_\_\_\_  
Position



**Annex C2 - Accountant's Declaration (Section 6.5)**

I hereby confirm that in accordance with the documents presented to me and that I have reviewed:

The bidder's net shareholder's equity for fiscal year 2020 was positive and there is no indication that the bidder's net shareholder's equity for fiscal year 2021 would be negative.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and stamp of Accountant

\_\_\_\_\_  
Name of Accountant





**Annex D: Framework Agreement**

### Annex E - Digital Submission Protocol

The Bid and all of its attachments must be submitted and received, by no later than the Deadline for Submission of Bids set forth in the tender documents.

Digital submission will be performed as follows:

1. The Bid must be submitted by an email, addressed to the e-mail address stated in the tender documents (the "Designated Account"), in the manner set forth below. The bidders are required to follow the submission instructions precisely.
2. Without derogating from any provision in the tender documents, it is hereby clarified, that a bid that is sent not to the Designated Account and a bid that is submitted without being electronically signed - will be disqualified.
3. The Bid must be divided into 4 files that will be sent together in one email, with a subject line which states the name of the Bidder and the number of this Public Tender (for example: "XYZ Bidder Ltd. -- Submission of bid for Public Tender No. XX/XXX"):
  - 3.1. File No. 1: Documents proving the bidder's compliance with the preliminary tender conditions in a signed PDF file. **The file should be saved as: "Preliminary Conditions"**.
  - 3.2. File No. 2: The rest of the tender documents in a signed PDF file, in accordance with the terms of the tender. **The file should be saved as: "General"**.
4. An automatic confirmation email, containing the files received in the Designated Account, will be sent from the Designated Account following the Submission Email. The bidder is required to ensure that all 4 files have been received. In the case in which no confirmation message was received, or in the case in which not all files were included in the confirmation message, the bidder is required, according to the timetables stated in sections 8-9 to address the Company, as specified in section 9 below.
5. The total size of the Submission Email must not exceed 9MB. It should be clarified that while file compression software may be used, the bidder is required to make certain that all files are legible and clear.
6. It is hereby clarified, that the bidder is not allowed to send to the Designated Account any links to external sites, which will interfere with the acceptance of the bid, and that the Submission Email must include all the required details. Among other things, the bidder is not allowed to attach a reference to JumboMail website or etc.
7. **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.**
8. The Company may open the Designated Account 24 hours prior to the Deadline for Submission of Bids ("Pre-Check Period"), solely to check receipt of emails in the Designated Account, as a result of an inquiry as set forth in Section 9 below. For the avoidance of doubt, the Company will not be opening any Submission Email and will not check if files were attached to it. It will be clarified that in cases where, for whatever reason, a Submission Email was received without any file, the bidder bears full responsibility, and will have no claim towards the Company in this regard.



9. A bidder who sent his bid before the Pre-Check Period, as described above, to the Designated Account, and did not receive an automatic confirmation email from the Designated Account as stated in section 4 above, will contact the company **immediately**, via [Contractsbid@pei.co.il](mailto:Contractsbid@pei.co.il) and all no later than the deadline for submission of bids, in order to clarify the matter. At the same time, the bidder will submit another copy of the bid to the company via physical or digital submission, according to the bidder's choice, and will notify the Company accordingly thereafter.
10. The company may open the Designated Account after the Pre-Check Period, following being notified by a bidder that its bid was not received in the Designated Account, and that the bidder sent its bid once again via email, and once again did not receive an automatic confirmation email from the Designated Account. The opening of the Designated Account as stated above, will be performed solely to check whether the bid has been submitted.
11. In case that more than one bid is submitted by the same bidder in the Designated Account, the latter bid will bind the bidder.
12. For the avoidance of any doubt, it is hereby clarified that bids may be submitted after the Pre-Check Period, as long as they are received in the Designated Account before the deadline for submission of bids. In this regard, the bidder will take into account that sometimes emails are received in an external email box sometime after being sent, and will send its bid accordingly and long enough before the bid submission date, so that it is received on time. It will be clarified, that the bidder bears full responsibility regarding the date of receipt of the emails to the Designated Account, and the bidder will have no claim to the company in this matter. **Except in cases as stated in section 9 above, after the Pre-Check Period to the Designated Account, it will no longer be possible to perform inquiries regarding the submission of bids to the Designated Account, and the bidders will bear full responsibility in cases where due to technical faults their bid will not be accepted in the Designated Account.**
13. 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), may take place via the email address from which the bidder has submitted its bid, unless the bidder includes another email address for the purpose of correspondence and sending future notices from the Company, or until further notice on behalf of the bidder; (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.
14. Any Bid submitted by a Bidder by both physical deposit and digital 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 complete discretion, and the bidder will have no claim in the matter.