

**Kisalon 2 Pumping Station**  
**Tender No. R-24\2016**  
**Design, Supply, Installation and Commissioning of Electrically  
 Operated Pumping Units and Associated Services**

**Addendum and Clarification Notice #3**

1. Pursuant to the provisions of Section 16.1 (*Clarification of Tender Documents*) and 16.3 (*Amendment of Tender Documents*) of Volume 1 - Request for Proposals ("**RFP**"), Tenderers are hereby informed of the following clarifications and amendments to the Tender Documents.
2. In accordance with Section 16.3.5, this addendum shall constitute an integral part of any Tenderer's Proposal.

**Amendment Tables**

**Table 1**

Amendments to Volume 1 ( <i>Request for Proposal</i> )			
RFP Amendment Item no.	RFP Section	Amendment	
1	Section 2.4 (Time Schedule)	Amend table as follows:	
		Last date for submission of queries and requests for clarifications regarding the Contract Documents	<del>28 February</del> <u>March</u> 2017
		<b>Submission Date</b>	<b>On <del>28 March</del> <u>25</u> <u>April</u> 2017</b>
2	Section 10.1 (Tender Bond)	Amend as follows:  "Each Tenderer shall furnish, as part of its Proposal, a Tender Bond <u>in the Hebrew language</u> in favor of Mekorot Water Company LTD in the sum of three hundred thousand (300,000) ILS. The Tender Bond shall be an autonomous,	

		<p>irrevocable and unconditional on demand bank guarantee, issued upon the request of the Tenderer or a Member(s) of the Tenderer by an Israeli bank or by an Israeli insurance company as listed in Annex B (Insurance companies and banks approved as Tender Bond issuers.) Please note that in the event that the issuer is an insurance company, the Tender Bond is to be issued directly by such insurance company, included in the list specified in the attached Annex B (Insurance companies and banks approved as Tender Bond issuers), and not through an insurance agent. The Tender Bond submitted within Part 1 (as described in Section 17.3.3.1 herein below) of the original set of the Proposal documents (as described in Section 17.3.5 to 17.3.7 herein below) shall be in its ORIGINAL form, carrying original signatures of its issuers."</p>
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**Table 2**

Amendments to <b>Volume 2 (Contract)</b>		
<b>Contract Amendment Item no.</b>	<b>Contract Section</b>	<b>Amendment</b>
1	1.4	<p>Replace the entire Section with the following:</p> <p><b>" Discrepancy between Contract Documents</b></p> <p>1.4.1 In any event MWC determines that a discrepancy exists between any of the Contract Documents or the Supplier argues that such contradiction exists, then the order of precedence shall be as follows:</p> <ul style="list-style-type: none"> <li>a) Volume 2 (Contract);</li> <li>b) Volume 1 (RFP); and</li> <li>c) The Supplier's Proposal.</li> </ul> <p>1.4.2 The Supplier shall be bound to its Proposal, as accepted</p>

		<p>by MWC. For the avoidance of doubt, in case of a discrepancy between the Supplier's Proposal and any of the remaining Contract Documents, MWC may determine which documents or provisions, or part thereof, shall prevail. Accordingly, MWC may determine that a provision of the Proposal takes precedence over any other document.</p> <p>1.4.3 In the event MWC determines a discrepancy exists within the Contract, or within the RFP, or within the Supplier's Proposal, then it shall determine which provision takes precedence."</p>
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2	2 Definition – “Project”	<p>Please amend the definition as follows:</p> <p>"The design, manufacture, supply and installation of electrically operated Pumping Units and associated services for Kisalon 2 Pumping Station <del>as reflected in the Contract Documents.</del>"</p>
3	3.3 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"To comply with the provisions set forth under Section 17 (<i>Warranty</i>) below. In this framework the Supplier shall ensure it timely provides MWC with all <del>preventive, and</del> repair services throughout the Warranty Period (without derogating from its obligations to provide preventive, maintenance and repair services as of Signature Date and until the commencement of the Warranty Period) including by way of <del>keeping sufficient stock</del> <u>ensuring availability and the timely supply</u> of Spare Parts, <del>which shall be reserved and designated for the Project.</del>"</p>
4	3.4 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"To prepare and timely submit to MWC all Information items listed under <b>Appendix H</b> (<i>Supplier’s Information</i>).</p> <p>The Information shall be provided to MWC and/or anyone on its behalf for unlimited use with respect to the Project. The Supplier warrants that the use of such Information by MWC and/or for the purpose of executing the Project does not and shall not infringe any of its and/or Sub-Contractor's and/or any other third party's rights including intellectual property rights. Accordingly, the Supplier shall not initiate any action to prevent MWC, in full or in part, to make use <del>and/or claim any right in all or part</del> of the Information and shall bear full and sole responsibility in any event such action is initiated by a third party and shall immediately indemnify MWC in any such event."</p>
5	3.5 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"Any Sub-Contractor employed by the Supplier in the performance of the Project shall be approved in advance and in writing by MWC and <del>shall set</del> comply with the</p>

		<p>requirements set forth under all Laws and Regulations, <del>that</del> <u>beyond in addition to</u> the Supplier's own compliance with all Laws and Regulations and instructions by any Relevant Authority or MWC. Substitutions of any of the Sub-Contractors shall be subject to approval of MWC. In the event the Supplier successfully demonstrates that (i) the proposed substitute complies with the applicable requirements of the Contract Documents and all Laws and Regulations; and (ii) the proposed substitute qualifications are equivalent or superior to the qualifications of the approved Subcontractor, MWC will not unreasonably reject the Supplier's request for substitution. "</p>
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6	3.6 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"To timely obtain MWC's approval of the Sub-Contractors it wishes to employ. It is hereby explicitly provided, that the employment, by the Supplier, of any approved Sub-Contractor, shall not derogate in any manner from the Supplier's full and sole responsibility and liability for the execution of the Project. <u>Subject to the limitation of liability at Section 23A.1.</u> <del>t</del>The Supplier shall bear all direct and indirect liability towards MWC for any act or omission including those of any Sub-Contractor. In the event of a civil wrong arising from any act or omission of a Sub-Contractor in the execution of the Project, the Sub-Contractor shall be deemed to be the agent of the Supplier and the Supplier shall be prevented from claiming an exemption from its liability, including through reliance on any Laws and Regulations, including <b>Section 15 of the Civil Wrongs Ordinance (New Version).</b>"</p>
7	3.8 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"The Contract Price to be paid by MWC, subject to the terms of this Contract and specifically Section 15 (<i>Contract Price</i>), is appropriate; reflects the adequate consideration to be paid for the execution of the Works and in view of the Supplier's undertakings and MWC's rights as set forth herein. The Contract Price is paid for all aspects of the Works to be executed <del>also in the event such are not explicitly indicated in Section 15 (<i>Contract Price</i>) below</del> <u>to be executed in the framework of the Project.</u>"</p>
8	3.9 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the penultimate paragraph as follows:</p> <p>"For the avoidance of doubt, the Supplier acknowledges that procurement of the Insurance Policy referred to in the aforesaid <b>Appendix C</b>, constitutes, in accordance with the provisions of Section 21.2 to <b>Volume 1</b>, a condition precedent for signature of this Contract. In any event the Supplier renounces its obligations <u>to provide such insurance</u>, MWC may, without derogating from the Supplier's undertakings, <u>and following prior written notification to the Supplier, procure such insurance or</u> resolve its</p>

		liability by its own or via third party on its behalf at the Supplier's expense. In this event MWC may make use of any of its contractual or legal rights and remedies including by way of set-off and/or the forfeiture of any guarantee."
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9	3.10 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the Section as follows:</p> <p>"Provide MWC's Representative with at least <del>fifteen</del> <u>thirty</u> (<del>30</del><u>15</u>) Working Day prior notice of any tests to be performed, <i>inter alia</i>, pursuant to the requirements of <b>Appendix B (SOW)</b>. "</p>
10	3.15 – The Supplier’s Declarations, Warranties and Undertakings.	<p>Please amend the last paragraph as follows:</p> <p>"The Supplier is aware of the provisions of the Financial and Economical Regulations issued by the Accountant General of Israel on 16.5.2010 (attached as <b>Appendix L</b>) [ – הוראות התכ"ס – הוראה מס' 7.12.9 מיום 16.5.2010, בעניין "עידוד העסקת עובדים ישראלים במסגרת התקשרויות הממשלה"], and undertakes that all of his activities will be performed in accordance <del>hereof</del> <u>as mandatorily applicable to the Supplier, as determined by the Relevant Authority.</u>"</p>
11	4.2 – Health and Safety	<p>Please amend the Section as follows:</p> <p>"The Supplier shall, at all times, strictly comply with the provisions of any and all Laws and Regulations Standards and Codes applicable to the execution of the Works and the Project including the provisions set forth under <b>Appendix G</b> (Safety Instructions). Within this framework the Supplier shall assume <u>subject to the provisions of Section 23A.1</u> full and sole responsibility for releasing, holding harmless and for indemnifying MWC and anyone on its behalf, immediately upon receiving a demand from MWC for such, and for taking any other action in order to release MWC and anyone on its behalf from any liability, expense, damage or other loss, and from any action filed against them as a result of or in connection with a breach of any such provision by the Supplier, by any of the Supplier's Personnel, any of its consultants, contractors, or anyone else on the Supplier's behalf."</p>
12	6 Preservation of the Surroundings.	<p>Please amend the Section as follows:</p> <p>"The Supplier shall bear full and sole responsibility for protection from injury or damage of buildings and structures, pole lines, fences, signs, markers and monuments, infrastructure,</p>



		<p>utilities, roads, sidewalks, roadway facilities, plants and any other facilities which may be caused as a result of its performance of the Works, <u>except to the extent any such injury or damage is caused entirely by the negligence of MWC</u>. The Supplier shall provide and install suitable safeguards to protect such facilities from injury or damage."</p>
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13	8.3 – Notice to Commence.	<p>Add the following paragraph at the end of the Section:</p> <p>"However, in the event MWC delays the Notice to Commence beyond six months for reasons which in full or in part are not the responsibility of the Contractor, then the Contractor will be reimbursed for the direct reasonable and unavoidable costs it had actually incurred and has successfully substantiated with adequate documentation, which shall not exceed the aggregate of two hundred thousand (200,000) ILS. This shall serve as the sole remedy to which the Supplier may be entitled in connection with such delay."</p>
14	9 - Independent Examinations and Inspections by MWC.	<p>Add the following at the end of the last sentence:</p> <p>"...and are executed by an authorized or approved laboratory (denoted in Hebrew as: מעבדה מאושרת / מעבדה מוסמכת) or competent professional on behalf of MWC and under its inspection."</p>
15	11.1 (c) – Termination by MWC.	<p>Please amend the Sub-Section as follows:</p> <p>"Delays shall have occurred for a period of <del>sixty (60) consecutive days or for a period of</del> one hundred and twenty (120) days in aggregate and which were not approved in writing by MWC;"</p>
16	11.3 - Termination of Contract.	<p>Add the following paragraph at the end of the Section:</p> <p>"Upon the occurrence of any of the circumstances detailed in Sub-Sections 11.1 (a), (e), (f), (g), (h), (l) and (m) above, MWC shall be entitled to terminate the Contract immediately at its sole discretion and the Supplier shall not be entitled to any Initial Notice, Cure Period or the aforesaid prior notice. "</p>
17	12.5.10.4 – Supplier's Information.	<p>Please amend the Sub-Section as follows:</p> <p>"Any error, omission, fault, inaccuracy or deviation existing in any of the Information (whether such constitutes a Final Submittal or not), <u>unless such error, omission, fault, inaccuracy or deviation was included in the Contract Documents and the</u></p>

		<p><u>Supplier could not have reasonably identified such error, omission, fault, inaccuracy or deviation during Tender Stage and applied for MWC's determination with regard thereto."</u></p>
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18	14.3 – Project’s Detailed Schedule.	<p>Please amend the Section as follows:</p> <p>"In the event the Supplier incurs any delay in the Project's Detailed Time Schedule it shall promptly exercise its best efforts, and take all steps and measures to expedite the Works and any other Project activities in order to <del>ensure</del> <u>endeavor</u> that the delay caused to Project's Detailed Time Schedule is entirely rectified."</p>
19	14.5 – Project’s Detailed Schedule.	<p>Please amend as follows:</p> <p>"In the event MWC determines, at its sole discretion that an effective delay was caused to the Works as a direct result of an act or omission by MWC <u>or any other party on behalf of MWC or Force Majeure</u>, not concurrent with any delay by the Supplier, then MWC shall determine at its sole discretion:</p> <ul style="list-style-type: none"><li>a) an appropriate adjustment to the Project's Detailed Time Schedule; and</li><li>b) the Supplier's entitlement to costs incurred by the Supplier as a direct result of such effective delay <del>by MWC taking into account any information provided by the Supplier to substantiate such costs.</del></li></ul> <p>WC's discretion as applied shall be conclusive upon the Parties."</p>
20	15.1 – Contract Price.	<p>Please amend the Section as follows:</p> <p>"The total price to be paid by or on behalf of MWC to the Supplier in full consideration for the performance by the Supplier of the Works including but not limited to the design, manufacture, supply and delivery, Installation and erection (via crane or any other or additional measure or mean) and Commissioning <u>(all as provided under the Contract Documents)</u> shall consist of a fixed sum as indicated in Volume 3, Supplier’s Proposal, <b>Tender Form O</b> - Price Proposal (herein above and below: the "<b>Fixed Lump Sum</b>"). Value Added Tax shall be added by MWC according to the Laws to the Fixed Lump Sum upon the payment of any portion thereof. Payments shall be</p>

		<p>made to a bank account of the Supplier's choice, provided such bank account is established and managed in a bank branch which is located either in Israel or in a country maintaining diplomatic relations with Israel.</p> <p><del>The Supplier shall notify MWC in writing upon Signature Date his choice of currency for payment of the</del> <u>The</u> Fixed Lump Sum <del>which</del> shall be <u>paid in the currency offered by the Supplier in its Price Proposal:</u> either New Israeli Shekels (<u>ILS</u>), <u>or</u> Euros <u>or</u> US Dollars. The entire Fixed Lump Sum shall be paid in the same currency.</p>
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21	15.5 – Contract Price.	<p>Please amend the Section as follows:</p> <p>"It is hereby explicitly provided that <del>notwithstanding any contrary provision</del><u>other than as provided</u> in the Contract Documents, the Supplier shall not be entitled to any additional consideration other than the Contract Price<del>as set forth in this Section 14</del>. For the avoidance of doubt, the above sum is deemed to include:</p> <p>(a) any costs or expenses incurred by the Supplier during the performance of the Works, including transportation costs, travel expenses and subsistence costs, delivery, installation, erection costs including for use of any means or measures, interface with MWC or anyone on its behalf on Site or elsewhere, traveling time and waiting time;</p> <p>(b) the costs of any delay in the performance of any tests or the commissioning of the Pumping Units on site including their interface to any associated system provided by MWC or anyone on its behalf <u>and arising in full or in part in connection with the actions or omissions of the Supplier</u>;</p> <p>and</p> <p>any and all consideration of the Supplier's obligations under the Warranty including all related services it shall be required by MWC or Relevant Authority to provide."</p>
22	18.1 – Spare Parts.	<p>Please amend the Section as follows:</p> <p>"The Supplier shall furnish MWC with a Spare Parts list in accordance with the provisions of <b>Appendix H</b> (Supplier's Information). The Spare Parts list shall contain prices and ordering instructions in accordance with the provisions of Section 11 to <b>Appendix B</b>. The Supplier shall <del>keep in stock</del><u>ensure the availability of</u> all listed Spare Parts for a period of fifteen (15) years from the date of the Final Completion Certificate."</p>

23	18.3 – Spare Parts.	<p>Please amend the Section as follows:</p> <p>"Subsequently and until the conclusion of 15 years from the date of the Final Completion Certificate, the Supplier, at MWC's request, shall provide <del>any of the items in the Spare Parts list at the price quoted therein</del> <u>at a price equal to the average sum of three (3) actual invoices documenting transactions completed between the Supplier and a third party (not a related entity) for each of the respective Spare Parts during the two years prior to MWC's request.</u>"</p>
24	19.1.4 – Remedy of Faults.	<p>Please amend the Sub-Section as follows:</p> <p>"The Fault will be considered remedied upon <u>the Supplier having confirmed the remedy works are compatible with the Contract Documents, the remedy works are accepted by MWC and the</u> issuance of a notice by MWC (hereinafter: the "<b>Fault Remedy Approval</b>")."</p>
25	19.1.5 – Remedy of Faults.	<p>Please amend the Sub-Section as follows:</p> <p>"If the Supplier fails to timely remedy the Faults, in accordance with MWC's instructions and the provisions of this Section 11 (Warranty) <u>and after having been given reasonable access to do so</u> MWC may (but shall not be obliged to) remedy the fault by its own or via third party on its behalf on the Supplier's expense (hereinafter: "<b>MWC's Recourse</b>"). In this event MWC may make use of any of its contractual or legal rights and remedies including by way of set-off and/or the full or partial forfeiture of the Warranty Guarantee. MWC's Recourse shall not infringe or derogate in any manner the Supplier's full and sole responsibility in respect of the Pumping Units, including the remedied component."</p>
26	19.1.7 – Remedy of Faults.	<p>Please insert a new Sub-Section as follows:</p> <p>" The Contractor's warranties during Warranty Period shall not apply if the faults or defects referred to herein are as a result of negligent use, negligent maintenance, unsuitable service, foundations, products or replacement materials."</p>

27	20.1.4 – Guarantees – Performance \guarantee & 20.3.3 – Guarantees – General	Please add the following at the end of the Sub-Sections:  "Such replenishment may only be implemented at MWC's request no more than twice."
28	22.1 – Changes to Works.	Please amend the Section as follows:  "MWC reserves the right to instruct the Supplier to change the scope of the Works by way of adding, deducting or altering any part thereof (the “ <b>Change</b> ”). In such an event MWC will issue the Supplier a " <b>Change Review Notice</b> ". The Supplier shall be required to provide a response relating to the implications of the Change with regards to the design, procurement, construction, commissioning, operation and maintenance aspects, the financial <u>and or schedule</u> implications if any (without derogating from the provisions of Section 22.2 below) and any other implication the Change may have on the Project (hereinafter: the " <b>Supplier's Change Review Response</b> "), within the timeframe set forth within the Change Review Notice."

3. **Carefully note:**

- (a) any omissions, stipulations, conditions, deviations, reservations and changes to the terms and conditions of the Tender Documents (including the RFP and Tender Forms, Contract and Appendices and any omissions, stipulations, conditions, deviations, reservations and changes made to or reflecting upon the aforesaid documents within the Proposal) will be rejected by MWC and may lead to the disqualification of the Proposal.  
If so determined by MWC, the Tenderer will be deemed to be committed to its Proposal disregarding any such change or insertion made by the Tenderer.
- (b) Amendments to the Tender Documents shall only made by MWC in addendum and clarification notices it shall issue and upload to its Website. No other alteration shall be allowed, approved or acknowledged by MWC



or may be assumed, construed or executed by the Tenderers also in the event a RFC submitted was not responded to by MWC (in full or in part).

- (c) For the avoidance of any doubt, this Tender (differently to the previous tender in connection with the Works - Tender No. R-19/2015) a Local Agent of the Pump Manufacturer shall not be a Tenderer or, in the event of a JV, a Member thereof.

**This and all previous Addendum and Clarification Notices shall be attached by the Tenderer to its Proposal and shall constitute an integral part thereof.**

This Addendum and Clarification Notice is uploaded to MWC's Website.

**-End-**