

## APPENDIX 5

### CONTRACT

Executed and signed in Petah Tikva, on the \_\_\_ day of the month of \_\_\_\_\_  
2017

By: **Israel Sports Betting Board**  
which shall hereinafter be called – "**the Board**"  
of 12 Odem St., Petah Tikva

**On the One Part**

And Between: \_\_\_\_\_ number \_\_\_\_\_  
of \_\_\_\_\_ St. Telephone \_\_\_\_\_  
which shall hereinafter be called – "**the Vendor**"

**On the Second Part**

Whereas The Board decided that as a condition to payment of the subsidy upon completing construction of the facility, the pitch must comply with professional requirements of FIFA pursuant to the FIFA Guide to Artificial Surfaces at a FIFA QUALITY level, backed by surface testing of the FIFA authorized laboratory (hereinafter: "**the Test**");

And Whereas The Board published tender number 02/17 to select a body that shall perform the foregoing tests for authorities at the lowest possible price in accordance with the tender requirements as specified in the tender booklet (hereinafter – "**the Tender**");

And Whereas The Vendor submitted his proposal to the tender;

And Whereas The tender committee of the Board decided to accept the Vendor's proposal as the winning proposal in the tender;

And Whereas The Board wishes to engage with the Vendor for the sake of purchasing the services specified in the tender, all these as defined in the tender and in this contract;

And Whereas The Vendor declares that he has the professional, technical, organizational and financial knowledge, the personnel, the equipment and the resources to provide the services, in accordance with all the conditions set forth in the tender and in this contract;

And Whereas The Vendor declares that he has inspected all the details on which the tender and this contract are predicated (including all the appendices hereto) and that these details are well known to him;

And Whereas The Vendor declares that the documents mentioned in the tender and in this contract are well known and clear to him, whether or not they are attached to the contract, and that he has read them, understood their content and received all the explanations for everything he wanted to know;

And Whereas The Vendor undertakes to provide the services in accordance with the requirements and the undertakings incorporated in the tender and in this contract, including the appendices thereto;

And Whereas The parties wish to arrange and to define their legal relations as specified under the conditions of this contract;

**It is therefore agreed, declared and stipulated between the parties as follows:**

1. **Preamble and appendices**

- a. The preamble to this contract constitutes a principal and integral part hereof.
- b. The headings in this contract are provided solely for the sake of convenience and they are in no way to be used in order to interpret the conditions of this contract.

2. **Definitions**

For the purpose of this contract, the terms specified below shall have the meaning appearing beside them as follows:

- **"Test"** – testing whether a facility complies with the requisite standards / with professional requirements of FIFA pursuant to the FIFA Guide to Artificial Surfaces at a FIFA QUALITY level.
- **"The Board"** – the Israel Sports Betting Board – a statutory corporation established under the provisions of the Law for the Regularization of Sports Betting, 5727-1967.
- **"The Law"** – the Law for the Regularization of Sports Betting, 5727-1967.
- **"Licensed Vendor"** – a FIFA accredited test institute for the purpose of performing laboratory and field turf pitch tests.
- **"The Facility"** – a synthetic turf pitch as defined in the product portfolio.
- **"The Service"** – performance of a test as defined in this definitions section and giving official certification that the facility complies with professional requirements, or in the alternative, a list of the relevant deficiencies that prevent it from receiving the foregoing certification,

while indicating the possible options for correcting the foregoing deficiencies.

**3. Force of the engagement and undertakings of the Vendor**

- a. The force of the engagement under this contract is for 12 months, which shall be counted commencing from the date when the Board signed this contract. The Board shall be permitted (but in no way obligated), at its sole and absolute discretion, to extend the force of the engagement, as stated, 4 more times for an additional period of **one year each time**. And in such case, the same conditions set forth in this contract shall apply to the engagement for the additional period, without change, save changes that have been explicitly set forth in this contract.
- b. The Vendor shall perform a test, as defined above and in accordance with the binding conditions set forth in this contract and in the tender.

**4. Declarations and undertakings of the Vendor**

- a. Without derogating from the Vendor's declarations in the bidder's declaration that is attached to this contract as an integral part hereof, and marked as **Appendix 5A**, the Vendor hereby declares:

That he has the professional, technical, organizational and financial knowledge and has the personnel and the resources required for the sake of providing the services, at the highest standard and quality and in accordance with all the conditions set forth in the tender and in this contract.

- b. Without derogating from the aforesaid, the Vendor undertakes:
  - (1) To arrive at the facility no later than 21 days of the day the order is forwarded by the Board with detailing of the facility / facilities for which the service is required;
  - (2) To perform a test required for the sake of determining whether the facility complies with the requirements and standards of FIFA.
  - (3) Within the time frame specified in the Vendor's proposal within the framework of this tender, to forward to the Board a report of the test results, which shall include certification that the facility complies with professional requirements of FIFA pursuant to the FIFA Guide to Artificial Surfaces at a FIFA QUALITY level; or in the alternative, shall specify deficiencies that prevent it from receiving the foregoing certification, while indicating the possible options for correcting the foregoing deficiencies; the Vendor's proposal, as stated, is attached to this contract as an integral part hereof and marked as **Appendix 5B**.

- c. The Vendor hereby undertakes that in rendering the services he shall strictly and meticulously fulfill the provisions appearing in any law governing and/or standard governing him and/or binding him, in his capacity as a body authorized by FIFA and shall fulfill all the provisions appearing in the tender and in this contract.

For the avoidance of doubt, it is hereby clarified that the provisions in this contract and in the tender shall be interpreted in such way that they complement one another. Whenever the Vendor believes that there is a conflict between a provision in this contract and a provision in the tender, the Vendor shall contact the Board in order to obtain its ruling, which shall be handed down at the sole discretion of the Board.

5. **The consideration in respect of the services**

- a. In exchange for rendering the services, the Vendor shall be entitled to charge the Board payments in the amounts and at the rates specified in the proposal of the Vendor that was approved by the Board as the winning proposal in the tender (Appendix 5B).
- b. After completing each test (or series of tests) as to any facility and forwarding a detailed report of the test and its results, a detailed demand for payment shall be sent to the Board together with an invoice and detailed certification of the facility inspected and the Vendor's certification or opinion with regard to the facility's compliance with the standards set by FIFA.
- c. For the avoidance of doubt it shall be clarified that the consideration agreed in the order is final and absolute and that no further payment shall be added to the consideration and the consideration shall not be subject to change for any reason whatsoever. Each invoice shall be inspected by the Board and subsequent to its approval, the Vendor shall be paid the consideration due to him within 30 days of the end of the month (current + 30) in which the invoice was issued, whichever is later, unless stated otherwise in the order.

6. **Contract fulfillment guarantee**

- a. To secure fulfillment of all the Vendor's undertakings pursuant to this contract and without derogating from any right conferred on the Board, pursuant to any law and/or agreement, the Vendor shall furnish to the Board, **within 14 days of being declared a Winner**, an autonomous unconditional bank guarantee (from an Israeli Bank) payable to the Board in the version attached to the tender as **Appendix No. 4 – Performance Guarantee** (hereinafter – "the Guarantee").
- b. The guarantee will be linked to the consumer price index as published from time to time by the Central Bureau of Statistics (of Israel), where the basic index shall be the index known on the day of preparing the guarantee.

- c. The guarantee shall be in the amount of **NIS 50,000, drawn on an Israeli Bank only.**
- d. It is clarified, for the avoidance of doubt, that furnishing the guarantee, as stated, constitutes a fundamental condition of this contract.
- e. The guarantee shall be in force from the date of the contract until 90 days after the end of the engagement period (i.e. it will be in force for the period of 15 months), and it can be extended, from time to time, in correspondence with the extension of the contract (if any) or a demand of the Board.
- f. It is agreed that the Board shall be permitted to realize all or part of the guarantee, at one time or over multiple times, and this each time that the Board shall believe, at its sole discretion, that the Vendor has not complied with any of his undertakings pursuant to any law and/or this contract and/or in the event that the Board has incurred damages for which the Vendor is obligated to indemnify it, pursuant to the provisions of this contract and pursuant to any law.
- g. For the avoidance of doubt, the parties hereby affirm their consent whereby the Board shall be permitted to offset its damages and its expenses from any payment that is due and/or shall be due to the Vendor, however all this without derogating from the right of the Board to realize the guarantee as set forth above.
- h. The foregoing in this section does not derogate from any remedy or relief available to the Board, in the event of a breach of the contract by the Vendor.

7. **Liability and damages**

- a. The Vendor is liable towards the Board and towards any third party for any direct or indirect damage for which the Vendor is liable pursuant to any law; as well as for any damage and/or loss of any kind that shall be caused to the Board and/or to any person and/or to any property, in all matters entailed and associated with the provisions of the services, pursuant to this agreement and/or as a result of a breach of the Vendor's undertaking under this contract and/or as a result of an act and/or omission of the Vendor and/or of his employees and/or of anyone coming on behalf of the Vendor.
- b. Without derogating from the provisions of sub-section (a) above, the Vendor undertakes to indemnify the Board in respect of any amount that the Board shall be forced to pay by virtue of a demand and/or claim in relation to damage as set forth in sub-section (a) above and this immediately upon the first demand of the Board.
- c. The Vendor shall be liable for the standard of the services and this whether rendered by the Vendor directly or rendered by any third party, from which the Vendor has purchased any services, for the sake of fulfilling his undertakings pursuant to this contract.

- d. The Vendor undertakes to ensure safety conditions in the workplace and to take all the safety measures required by law and necessitated by the performance of the works which aim to prevent any injury or damage to his employees to the Board's employees and to any person on their behalf, as well as to any third party or the property of any of the above.
- e. It is hereby agreed that if the Vendor does not fulfill his undertakings under this section, the Board shall be permitted to perform the foregoing works at the expense of the Vendor and the Vendor shall bear all the expenses entailed with performing the works plus 15% as pre-determined and pre-estimated general expense fees. The Board shall be permitted to offset the expenses from any amount that shall be due to the institution at any given time or to collect them in any other manner.

8. **Insurances**

- a. Without derogating from the Vendor's liability, as set forth in section 7 above, the Vendor shall arrange full insurance (hereinafter: "**the Insurance**") at his own expense, for his own benefit and for the benefit of the Board jointly, against all the risks entailed with the fulfillment of the Vendor's undertakings, pursuant to this agreement. The insurance policy shall be drawn up at an insurance company with proper standing in Israel and its terms, just as the identity of the insurer, shall be subject to the approval of the Board. The insurance shall be in force throughout the engagement period, pursuant to this contract.
- b. Any change in the insurance terms and any warning, demand, claim, allegation, compromise, negotiation and any other action shall require the consent of the Board, in writing and in advance.
- c. The insurance policy shall include a provision whereby, notwithstanding any contrary provision in the insurance policy, for purposes of the insurance the word "insured" in the insurance policy must be read as referring to any of the persons included in the definition of the "insured", as though the policy had been issued to each one of them separately and that the insurer waives any right of subrogation against any one of the insureds.
- d. The insurance policy shall include a provision whereby under no circumstances shall the policy be cancelled, in whole or in part, either on the initiative of the insurance company, or on the initiative of the Vendor or on the initiative of anyone else, unless the insurance company has sent to the Board notice, at least 90 days prior to the date scheduled for cancellation of the insurance, in which the insurance company informs the Board of the intention to cancel the insurance as stated.
- e. The foregoing in this section does not impose any liability on the Board and/or derogate from the force of the provisions of this contract

and/or the provisions of any law that impose liability and/or an indemnification obligation on the Vendor as well as from the Vendor's liability for executing the insurance and for the period of the aforementioned policy.

9. **Orderer (the Board) – Service Provider (the Vendor) relations**

- a. The parties declare that the Vendor is in the sense of an "independent contractor" where he and/or his employees and/or any other person coming in his name and/or on his behalf – all these are not integrated within the framework of the Board's activities and that neither this contract nor any of the conditions hereof establish employer-employee relations between the Vendor and/or between any one of the above and the Board.
- b. The Vendor shall bear personally and at his expense all payments related to income tax, national insurance, employers' tax, employer contributions for employees or any other payment applicable to him or to the contract fee that shall be due to him.
- c. The parties declare that the Vendor does not act as an agent of the Board. The Vendor shall refrain from presenting himself, before any third party, as an agent of the Board or as someone who is acting on its behalf, but as someone who provides it with services, as they are defined in this contract.
- d. The Vendor undertakes to provide, at his expense, all the personnel required for performing the tests and producing the certification / the report and anything else entailed therewith.
- e. The Vendor undertakes to employ professional employees in the number needed to perform the works within the designated time.

10. **Equipment and materials**

The Vendor undertakes to provide, at his expense, all the equipment, the fixtures, the materials and anything else that is needed for the effective performance of the requisite tests.

11. **Jurisdiction**

In the event of disputes between the parties in all matters associated and entailed with the performance of this contract, these disputes will be heard before the competent court in Jerusalem, Israel, only.

12. **Reliefs**

The Vendor hereby waives, in advance, any right of offset and/or lien in relation to funds and/or documents and/or other property of the Board.

### **13. Changes in the contract**

No condition in this contract can be changed, except in a document executed in writing and signed with binding signatures by the parties. No dispensation and/or forbearance from exercising a right of the Board, acquired by it pursuant to his contract, shall be deemed implied consent of the Board to any change in this contract or as an implied waiver by the Board of any of its rights and any such waiver or change shall require a signed written document.

### **14. Breaches and remedies**

- a. The provisions of sections 3(b), 4(a), 4(b), 4(c), 5, 6, 8, 11 and 13 are fundamental conditions in this contract and their breach shall constitute a fundamental breach of the contract.
- b. The provisions of the Contracts (General Part) Law, 5733 – 1973 and the Contracts (Remedies for Breach of Contract), Law, 5731 – 1971 shall apply to this contract.
- c. Whereupon the Vendor has breached any of his undertakings pursuant to this contract, the Board shall be permitted to take, in addition to any action that it may take pursuant to law, also the following actions:
  - (1) In the case of a fundamental breach – to notify the Vendor of cancellation of the contract.
  - (2) To give the Vendor an extension to rectify the breach within the time designated in the notice. Whereupon the Vendor has not rectified the breach within the designated time frame, as stated, the breach shall be deemed a fundamental breach, in any case and circumstances, even if the condition that was breached is not defined as a fundamental condition, pursuant to the provision of sub-section (a) above.
  - (3) To itself fulfill the undertaking that was breached by the Vendor and to charge the Vendor with the expenses that the Board incurred as a result of its action, as stated.

### **15. Notices**

- a. The addresses of the parties for this contract are as designated in the preamble hereto; any notice that is sent by registered mail according to one of the aforementioned addresses shall be deemed to have reached the attention and possession of the other party within 7 days of the time of its dispatch and if delivered by hand – at the time of its delivery.
- b. The parties hereby waive delivery of notarial notifications in matters associated and entailed with this contract.



In witness whereof the parties have hereunto set their hands  
at the place and at the time specified above:

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**The Board**

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**The Vendor**

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