

6th August 2026

Public Contracts Review Board
Notre Dame,
Ravelin, Floriana,
Malta



Powerenzi Ltd [TID 000237835]

vs.

[1] Enemalta plc

**[2] AG Installations [TID
000237893]**

REASONED LETTER OF REPLY by AG Installations Limited (otherwise hereinafter referred to as the "Recommended Bidder"), to the Reasoned Objection filed by Powerenzi Ltd in respect of the tender bearing reference TD/T/3879/2024 (12735) for the Supply of 11kV Switchgear for Msierah DC

Respectfully submits:-

1. Enemalta plc (hereinafter referred to as the "Contracting Authority") published the abovementioned call for competition on the 19th November 2025.
2. The closing date for this call was on the 19th January 2026.
3. The Recommended Bidder submitted a bid bearing reference number TID 000237893 on the 19th January 2026.
4. By means of a letter dated the 17th July 2026 (hereinafter referred to as the "Award Letter"), the Contracting Authority informed the Recommended Bidder that it had accepted the recommendation for award of the above-captioned tender in its favour, for the price of EUR 791,853.36 excluding VAT, subject to any official objection being filed by the 27th July 2026.
5. On the 30th July 2026, the Recommended Bidder was notified of an official objection filed on the 27th July 2026 (hereinafter referred to as the "Objection") by Dr Matthew Paris and Dr Zack Esmail on behalf of DalliParis Advocates, acting for Powerenzi Ltd (hereinafter referred to as the "Objector").
6. The Objector's alleged grievances, as raised in the Objection, are the following:
 - Grievance 1 – *Preliminary: Failure to provide requested information*
 - Grievance 2 – *Lack of Explanation: Violation of Reason-Giving Obligations*
 - Grievance 3 – *Wrong evaluation: information already provided within the rectification reply*

Grievance 4 – *Refund of the deposit paid*

7. By means of this present, the Recommended Bidder is hereby filing its Reasoned Letter of Reply, with reference and in response to the Objection, in relation to the captioned tender.

8. The Recommended Bidder rejects all the allegations and arguments put forward by the Objector as unfounded, both factually and legally, for the following reasons:

9. **Grievance 1 – Preliminary: Failure to provide requested information**

9.1. By virtue of paragraphs 1.1. – 1.8. of the Objection, the Objector argues that, by virtue of a letter dated the 20th July 2026 (hereinafter referred to as the “**Request for Information**”), it addressed to the Contracting Authority 58 questions concerning, principally, the evaluation of its own offer and the treatment of its rectification reply and, secondarily, the compliance of the Recommended Bidder; that the Contracting Authority failed to respond thereto; that the information sought does not fall within the sphere of commercial confidentiality; and that this alleged failure breaches the principles of natural justice and equality of arms, in reliance upon the judgment of the Court of Appeal (Superior Jurisdiction) in *South Lease Limited kontra Central Procurement and Supplies Unit et* dated the 22nd June 2022. On this basis, the Objector requests an interim order compelling disclosure and reserves the right to raise further grievances once the information sought is disclosed.

9.2. The Recommended Bidder highlights that the Objector’s letter of rejection and the Recommended Bidder’s Award Letter were both dated the 17th July 2026, whereas the Request for Information was sent by the Objector to the Contracting Authority only on the 20th July 2026, and hence, 3 days later, and after the recommendation for award had already been made and communicated.

9.3. The first time the Recommended Bidder had sight of the Request for Information was on the 30th July 2026, upon receipt of “DOC 2” attached to the Objection. The Recommended Bidder was never notified of any reply by the Contracting Authority to the Request for Information, from which it must be inferred that the Request for Information was not submitted through the ePPS and accordingly, no reply from the Contracting Authority was communicated through the same ePPS.

9.4. In light of the above, whether or not the Contracting Authority responded to the Request for Information is, with respect, immaterial to the validity of the recommendation for award in favour of the Recommended Bidder, as it is only communications exchanged through the ePPS in the course of the tender procedure itself and prior to its conclusion, which can lawfully be treated as forming part of an evaluation exercise. **To hold otherwise would be to permit an unsuccessful bidder to reopen a procedure, outside the ePPS, which has already been concluded – precisely the outcome which the principle of equal treatment as between tenderers is intended to prevent.**

9.5. With respect to the jurisprudence relied upon by the Objector, namely the judgment of the Court of Appeal (Superior Jurisdiction) in *South Lease Limited v Central Procurement and Supplies Unit et* dated the 22nd June 2022, the Recommended Bidder

submits that the said jurisprudence is entirely distinguishable from the factual and legal context under examination. The Recommended Bidder therefore reserves the right to contest the Objector's reliance upon the said jurisprudence during the hearing of the Objection before this Board, as may be considered necessary.

9.6. The Request for Information addressed directly to the Contracting Authority, in substance, if not in name, sought to reopen an evaluation exercise that had already closed. As is well established in jurisprudence and clearly set forth in the Notes to Clause 5 of the Instructions to Tenderers, a clarification or rectification exercise, once afforded and answered, is not to be reopened and this principle of self-limitation is a corollary of equal treatment and transparency.

9.7. The Recommended Bidder likewise received a rectification request from the Evaluation Committee dated the 18th February 2026, to which it responded through the ePPS on the 24th February 2026, within the stipulated timeframe, and its response was deemed satisfactory by the Evaluation Committee. This confirms that the rectification mechanism was applied uniformly, and to like effect, to every tenderer called upon to use it.

9.8. Had the Objector required clarification as to the meaning or scope of any tender requirement, it had recourse to the pre-tendering clarification procedure available under the applicable Public Procurement Regulations and the Instructions to Tenderers. It did not avail itself of that remedy, and cannot now be heard to complain, at the post-award stage and by an entirely different procedural route, of a want of information which a timely clarification request would have resolved.

10. Grievance 2 – Lack of Explanation: Violation of Reason-Giving Obligations

10.1. By virtue of paragraphs 2.1.1. – 2.1.8. of the Objection, the Objector contends that the letter of rejection dated the 17th July 2026, failed to explain the basis on which its offer was found technically non-compliant; that the operative sentence that the Objector's reply left "*a number of issues in the rectification un-addressed*" is vague and unsubstantiated; and that it is irreconcilable with the rectification request of the 18th February 2026, which identified one single shortcoming only. The Objector submits that this discloses either a misstatement of the evaluation record, or reliance upon undisclosed additional grounds never put to it, in breach of its right to be heard.

10.2. The Recommended Bidder notes that the rectification request issued by the Evaluation Committee on the 18th February 2026, the Objector's reply to same, and the subsequent letter of rejection dated 17th July 2026, are not attached to the Objection. Rather, the Objector only reproduced selective portions of the rectification request and the letter of rejection within the body of the Objection itself. Accordingly, the Recommended Bidder has no visibility of the substance actually relied upon by the Evaluation Committee in its evaluation of the answers provided by the Objector pursuant to the rectification request, which ultimately motivated its decision to issue the letter of rejection. In light of this, the Recommended Bidder is entirely restricted from giving a comprehensive reply on the arguments raised by the Objector and accordingly, reserves its right to submit further observations and evidence once that record is produced.

10.3. Without prejudice to the foregoing, the Recommended Bidder observes that whilst the letter of rejection stated that the Objector submitted an incomplete answer "*leaving a number of issues in the rectification un-addressed*", the Objector does not establish, but merely asserts in its Objection, that its rectification reply cured the shortcomings outlined in the rectification request to the Evaluation Committee's satisfaction. In the absence of evidence supporting its assertion, the Evaluation Committee's decision to disqualify the Objector for incomplete answers constitutes sufficient grounds motivating the letter of rejection.

10.4. Subsequently, by virtue of paragraphs 2.2.1. – 2.2.6. of the Objection, the Objector submits that the obligation to state reasons is a cornerstone of EU and Maltese administrative law, essential to accountability and effective review and relies on the Court of Appeal (Superior Jurisdiction) judgement of *Agius Stone Works Limited v Kunsill Lokali Valletta et*, dated the 9th April 2025, as well as the decision of this Board in the *Cherubino Ltd* objection dated 27th March 2017 and the subsequent judgment of the Court of Appeal (Superior Jurisdiction) in *Cherubino Limited (C-3677) v Dipartiment tal-Kuntratti et* dated the 3rd October 2017.

10.5. In this regard, the Recommended Bidder submits that the Evaluation Committee's reason for disqualification was more than sufficiently clear, and in line with the multitude of decisions meted out monthly which similarly satisfy the tenets of the law. The reason cited by the Committee was not merely that "*a number of issues*" remained *un-addressed*" as quoted by the Objector in its concluding paragraph 2.2.6. of the Objection, but that the "*bidder submit[ted] an incomplete answer [...]*", which consequently lead to "*a number of issues*" remain[ing] *un-addressed*". In any event, the function of this Board in reviewing the adequacy of reasons is not to conduct a full merits re-evaluation, but to ascertain whether the reasoning, considered as a whole and in the light of the material already exchanged between the parties, was sufficient in the context under review.

10.6. With respect to the jurisprudence relied upon by the Objector, namely the judgment of the Court of Appeal (Superior Jurisdiction) in *Agius Stone Works Limited v Kunsill Lokali Valletta et* dated the 9th April 2025, and the decision of this Board, subsequently confirmed by the Court of Appeal (Superior Jurisdiction) in the *Cherubino Ltd* matter (27th March 2017 and 3rd October 2017 respectively), the Recommended Bidder submits that the said jurisprudence is entirely distinguishable from the factual and legal context under examination. The Recommended Bidder therefore reserves the right to contest the Objector's reliance upon the said jurisprudence during the hearing of the Objection before this Board, as may be considered necessary.

11. Grievance 3 – Wrong evaluation: information already provided within the rectification reply

11.1. By virtue of paragraphs 3.1.1. – 3.3.5. of the Objection, the Objector argues that the sole shortcoming notified on the 18th February 2026 was addressed in full by its Technical Rectification and Compliance Confirmation Report of the 25th February 2026. The Objector moreover advances a substance-over-form argument stating that no information was in truth missing, merely differently located (relying principally upon *Europharma Limited (C-1822) v Central Procurement and Supplies Unit et* (Court of Appeal (Superior Jurisdiction)) of the 29th January 2026), and further upon *Rockcut Limited (C-*

10164) *v Id-Direttur Generali tad-Dipartiment tal-Kuntratti et* of the 25th June 2018, and *Bonnici Bros Projects Limited et v Onorevoli Ministru għas-Saħħa et* of the 30th July 2018). Finally, the Objector invokes the principle of proportionality, arguing that disqualification was a disproportionate sanction where a less drastic alternative was available, namely, seeking a clarification as to the location of the layout drawing (relying on *Fire-tech Limited v Dipartiment tal-Kuntratti* of the 30th October 2015 and *Servizzi Malta v Direttur tal-Kuntratti et* of the 15th July 2019).

11.2. This is, with respect, a self-contradictory submission. On the one hand, the Objector asserts that its rectification reply was full and comprehensive, on the other hand, it alleges that there was no missing information since the sole shortcoming notified on the 18th February 2026 was addressed in full by its Technical Rectification and Compliance Confirmation Report of the 25th February 2026, differently located to the rectification reply.

11.3. Moreover, whilst on the one hand, the Objector asserts that its bid was technically compliant, on the other hand, it sent, and now relies upon, a 58 question Request for Information, itself evidencing the very gaps and uncertainties in the Objector's own understanding of its offer and of the tender requirements. With respect, the scope and content of the queries raised in "DOC 2" are, in and of themselves, indicative of the lack of technical knowledge of the Objector and proof against the Objector's own self-assertion of compliance.

11.4. Proportionality does not operate to excuse non-compliance altogether. It goes to the severity of the consequence attaching to an established shortcoming, not to whether a shortcoming may be disregarded because the tenderer concerned happens to have quoted the lowest price, as attempted to be argued by the Objector. The Contracting Authority applied precisely the correct test under Clause 6.1 of the above captioned tender, assessing compliance before price, and the Recommended Bidder prevailed on that criteria.

11.5. Finally, and regarding the "less drastic solution" available to the Evaluation Committee, namely, the seeking of further clarification as to the location of the layout drawing, the Recommended Bidder asserts that proportionality certainly does not require a contracting authority to extend indefinite or repeated opportunities to cure the same shortcoming, and to so hold, would itself go against the principle of self-limitation and place compliant tenderers, including the Recommended Bidder, at an unfair and unwarranted disadvantage.

11.6. With respect to the jurisprudence and academic commentary relied upon by the Objector, namely *Europharma Limited (C-1822) v Central Procurement and Supplies Unit et* dated the 29th January 2026, *Rockcut Limited (C-10164) v Id-Direttur Generali tad-Dipartiment tal-Kuntratti et* dated the 25th June 2018, *Bonnici Bros Projects Limited et v Onorevoli Ministru għas-Saħħa et* dated the 30th July 2018, *Fire-tech Limited v Dipartiment tal-Kuntratti* dated the 30th October 2015, *Servizzi Malta v Direttur tal-Kuntratti et* dated the 15th July 2019 and the commentary of Professor Albert Sanchez Graells cited therein, the Recommended Bidder submits that the said jurisprudence and commentary are entirely distinguishable from the factual and legal context under examination. The Recommended Bidder therefore reserves the right to contest the

Objector's reliance thereupon during the hearing of the Objection before this Board, as may be considered necessary.

12. Grievance 4 – Refund of the deposit paid

12.1. The Recommended Bidder has no direct interest in whether the deposit paid by the Objector is refunded or retained, and therefore defers entirely to the discretion of this Board.

13. Objector's Requests

13.1. The Objector finally requests that, on the basis of its prior allegations and arguments, that this Public Contracts Review Board:

"i. Preliminary:

- a. By way of an interim measure, and in any case prior to the scheduled hearing, to order the defendants, or whosoever of them, to disclose any and all the information requested by virtue of the request for information dated 20th July 2026;*
- b. In view of the failure to provide the requested information, and without prejudice to any decision determined by this Honourable Board, to refund the deposit paid by the Appellants in its entirety;*
- c. To do anything else which is conducive and necessary for the proper execution of the above requests.*

ii. Subsequently:

- a. To order the defendants, or whosoever of them, to revoke the letter dated 17th July 2026 and cancel the exclusion of the bid by Powerezi Ltd and the recommended award to AG Installations [TID 000237893]; and*
- b. To order the annulment of the said decision and the re-instatement of the offer of the Appellants, and to order a fresh evaluation of the bids by a newly composed Evaluation Committee, which committee is to take into account the findings and decisions of this Honourable Board, it being understood that the Appellants do not seek the direct award of the contract; and*
- c. To refund the deposit paid by the Appellants in its entirety; and*

iii. To do anything else which is conducive and necessary for the proper execution of the above requests."

13.2. In relation to the Objector's first, preliminary request, the Recommended Bidder refers to and reiterates its submissions under Grievance 1 of this Reasoned Letter of Reply, and submits that the Contracting Authority is under no obligation to provide any additional information by means of a response to the Objector's Request for Information. This request is, with respect, evidently a means by which the Objector seeks to gather ulterior grounds upon which to found or expand its Objection. Nothing more, nothing less.

13.3. As to the Objector's subsequent request at paragraph ii.a, the Recommended Bidder submits that nowhere in the operative part of the Objection does the Objector raise any substantive ground for revoking the recommendation for award in favour of the Recommended Bidder per se. The grounds raised by the Objector are directed

exclusively to the revocation of the Objector's own disqualification and not one is directed at establishing a defect in the Recommended Bidder's recommendation for award. In its Objection, the Objector simply enumerates grounds to motivate the revocation of the letter of rejection issued against it, but does not list any grounds to motivate the revocation of the recommendation of award in favour of the Recommended Bidder.

13.4. As to the Objector's subsequent request at paragraph ii.b, the Recommended Bidder notes that it is not clear which "*decision*" the Objector intends by its reference to "*the annulment of the said decision.*" Presumably this is a reference to the finding of non-compliance recorded in the letter of rejection, the annulment of which would not, of itself, affect the recommendation for award in favour of the Recommended Bidder. Again, there are no grounds mentioned by the Objector which motivate the annulment of the Recommended Bidder's recommendation for award. Accordingly, "*a fresh evaluation of the bids by a newly composed Evaluation Committee*" cannot be ordered if the recommendation for award of the Recommended Bidder is not being actively challenged by the Objector.

13.5. There is, moreover, no reason for "*a newly composed Evaluation Committee*" to be appointed since again, there are no motivations in the Objection which would require a new evaluation committee to be appointed. There are no allegations of conflict of interest, nor any other vitiating circumstances affecting the impartiality of the existing Evaluation Committee being advanced by the Objector.

13.6. There is accordingly no need for the recommendation for award in favour of the Recommended Bidder to be revoked, nor for a differently constituted committee to be appointed, it being understood that the annulment of the finding of non-compliance recorded in the letter of rejection will not automatically result in an annulment of the recommendation for award issued in favour of the Recommended Bidder.

13.7. Finally, as to the Objector's request concerning the deposit, the Recommended Bidder refers to and reiterates its submissions under Grievance 4 of this Reasoned Letter of Reply.

14. For all of the foregoing reasons, and whilst reserving the right to submit further observations and evidence, the Recommended Bidder respectfully requests that the Public Contracts Review Board dismiss all arguments submitted by the Objector and confirm the decision of the Contracting Authority to exclude the Objector and to confirm the recommendation for award in favour of the Recommended Bidder.

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Recommended Bidder: AG Installations Limited, 137, Triq ic-Cawsli, Qormi, QRM3905

Notifications: (1) Powerezi Ltd, The Three Arches, Valletta Road, Mosta, MST 9016
(2) Enemalta plc, Triq Belt Il-Hazna, Marsa, MRS1571, Malta

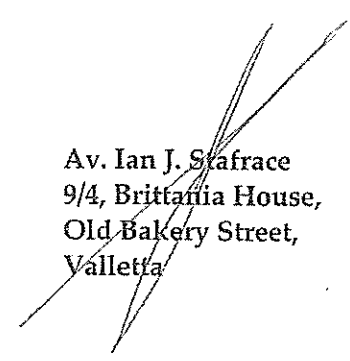
Nominated Witnesses

- (1) Parties to this objection;
- (2) Representatives of the Department of Contracts;
- (3) All witnesses listed by Powerezi Ltd in its objection, or by Enemalta plc in its reply (if any).

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