

**INVITATION FOR PRE-QUALIFICATION FOR THE
PARTICIPATION IN A TENDER FOR THE EXPRESS LANES -
HIGHWAY 5**

June 2022

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1. INVITATION FOR PRE-QUALIFICATION

1.1. **General Introduction**

The Government of Israel, acting through an Inter-Ministerial Tender Committee comprised of representatives of the Ministry of Finance, the Ministry of Transport, National Infrastructures and Road Safety, Inbal Insurance Company (a government-owned Company), and the Ayalon Route Company (a government-owned company responsible for the execution of transportation infrastructure projects in Israel) (all, the “**Tender Committee**”) hereby invites all local and foreign entities and joint ventures thereof, with the required experience and ability, to participate in the Pre-Qualification Stage of a Tender for the execution of the Express Lanes - Highway 5 (“**the Tender**” or “**the Project**”).

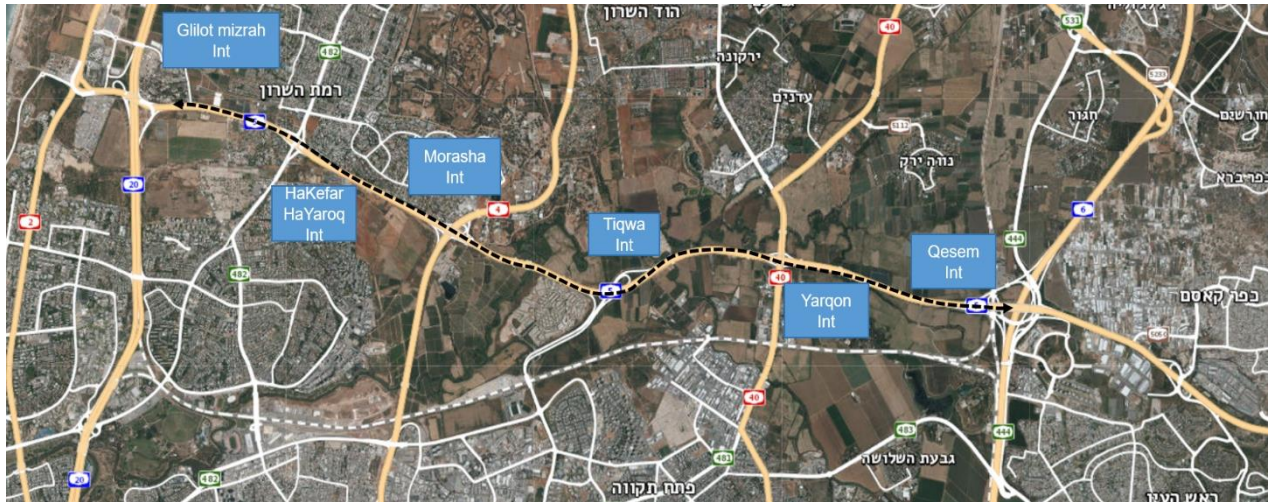
The Project shall be executed as a PFI scheme project, under which a concession shall be granted to the winning bidder for the finance, design, construction, operation and maintenance of the Express Lanes - Highway 5, as toll roads for a concession period of twenty eight (28) years and eleven (11) months, after which the Project shall be transfer back to the State.

1.2. **Project Overview**

The Project constitutes another part of the express lanes array, as part of which five (5) major integrated transport complexes (“**ITC's**”), the largest of their kind in Israel, shall be constructed at the outskirts of the main highway entry point to the Tel Aviv Metropolitan Area (“**the Metropolitan Area**”) connecting such areas to the Metropolitan Area by public transportation. Thus, the express lanes are aimed to create an effective alternative access routes, reduce congestion and traffic loads at the entrances to and exists to and from the Metropolitan Area, reduce dependence on private cars, improve traffic flow and enable tens of thousands of people to reach the Metropolitan Area's business districts by fast, convenient and free of charge shuttles.

The scope of the current Project includes:

- 1.2.1. 25 km toll lanes which spread along the lateral axis from Qesem Interchange, Via Highway no. 5 to Gililot Mizrah Interchange and back (the “Lanes”).



The Lanes shall be toll-free for carpools, shuttle services, public transportation and other eligible vehicles. Please note that the construction of the Lanes (excluding interchanges, ramps and access roads connecting the ITC's to the main roads) shall be executed by a third party constructor, and is not included in the Project's scope of work, all as shall be detailed in the Tender Documents.

- 1.2.2. Three (3) ITC's near Qesem Interchange; near Tiqwa Interchange and near Morasha.
- 1.2.3. Shuttle services along the Lanes and other road sections, from each ITC to different destinations throughout the Tel Aviv Metropolitan Area.
- 1.2.4. Different integrative information systems including inter alia, an advanced free flow electronic tolling system, high occupancy vehicle (HOV) detection system and more.

- 1.2.5. Please note that as part of the Project, the State will be granted an option to require the Concessionaire to expend each ITC's as detailed in the table below. Accordingly, as part of the Tender Selection Stage Bidders will be required to design the ITC's to both stages of execution.

ITC	Number of parking spaces at first execution stage	Number of parking spaces at optional final stage
Qesem Interchange	approx. 3200 for private cars; approx. 500-750 for buses	approx. 4200 for private cars;
Tiqwa Interchange	approx. 2900 for private cars; approx. 200 for buses	approx. 3800 for private cars;
Morasha Interchange	approx. 4800 for private cars; approx. 450 for buses	approx. 6000 for private cars;

- 1.2.6. As part of Tender Selection Stage, Bidders may propose to construct and operate the ITC's (or parts of them) as automated parking in accordance with the guidelines set out in Annex 1 (Automatic Parking Systems Expert).

1.3. The Legal framework of the Project

- 1.3.1. The Project is regulated under the Express Lanes Law, 5760-2000 (denoted in Hebrew as: 2000 - התש"ס, חוק נתיבים מהירים, התש"ס - 2000) and the regulations thereunder (the “**Express Lanes Law**”).
- 1.3.2. The execution and operation of the Lanes as express lanes is subject to the declaration of the Lanes as express lanes by the Minister of Transport National

Infrastructures and Road Safety in accordance with the provisions of the Express Lanes Law.

- 1.3.3. In order to establish the statutory framework of the Project, the State is currently promoting National Outline Plan 47\H\1\1. The plan is intended to be submitted for examination of the National Planning and Construction Committee in the near future.

1.4. **Other Segments of the Express Lanes Array**

Other segments of the express lanes array (not included in the scope of the Project) are:

- 1.4.1. The express lanes between Natanya and Rishon Le'ziom extending over 92 km on rout no 20. Such project is executed by "Path to the City Ltd" which has been selected as the Concessionaire for such project pursuant to a previous public tender held be the State.
- 1.4.2. The "Tel Aviv Express Lane" on Highway 1 from Jerusalem, on the route section between the Ben Gurion Interchange and the Kibbutz Galuyot interchange on the Ayalon Highway (Route 20), extending over 13 km at rout no. 1. Such project is operated by the Fast Lane Ltd., which has been selected as the Concessionaire for such project pursuant to a previous public tender held be the State.

1.5. Definitions

All terms used in this Invitation shall have the meaning ascribed thereto herein:

“Addendum” or “Addenda”	Shall have the meaning ascribed thereto in Section 3.10 (Addenda) of this Invitation.
“Affiliated Entity”	Shall mean, in respect of a particular Entity (“Entity X”), an incorporated Entity which exercises Control over Entity X, or is under common corporate Control with Entity X, or is Controlled by Entity X.
“Agreement”	Shall mean the PPP contract for the design, build, maintenance and operation of the Express Lanes - Highway 5 subject of this Tender Process.
“Anticipated Holdings”	Shall mean the intended share of holdings of each Member in the Participant.
“APS Expert”	Shall have the meaning ascribed thereto in Annex 1 (Automatic Parking Systems Expert).
“Authorized Representative”	Shall have the meaning ascribed thereto in Section 4.7 (Authorized Representative) of this Invitation.
“Automated Stacker Car Parking System”	Shall have the meaning ascribed thereto in Annex 1 (Automatic Parking Systems Expert).
“Automatic Parking”	A parking operated and managed through an Automatic Parking System.
“Automatic Parking System” or “APS”	Shall have the meaning ascribed thereto in Annex 1 (Automatic Parking Systems Expert).

“Average Operating Cash Flow”	Shall have the meaning ascribed thereto in Section 6.2 (Operating Cash Flow) of this Invitation.
“Banking Corporation”	Shall mean (i) each of the entities listed in section 4 of schedule 1 of the Securities Law 1968; and/or (ii) with respect to an entity registered outside of the State of Israel – a similar entity pursuant to applicable law under the applicable jurisdiction.
“Bid”	Shall mean the bid submitted by an Eligible Participant within the Tender Process.
“Bridge”	Shall have the meaning ascribed thereto in Section 5.1.2 (Bridging Works Experience) of this Invitation.
“Business Day”	Shall mean any working day (excluding Friday and Saturday) on which banks are open for business in Israel.
“Commencement”	Shall have the meaning ascribed thereto in Section 5.1.3 of this Invitation.
“Competition Law”	Means the Promotion of Competition and Reduction of Concentration Law, 2013.
“Completion”	Shall have the meaning ascribed thereto in Section 5.1.3 of this Invitation.
“Conference”	Shall have the meaning ascribed thereto in Section 3.11 (Site Visit and Conference) of this Invitation.
“Construction”	Shall have the meaning ascribed thereto in Section 5.1.3 of this Invitation.
“Consultation”	Shall have the meaning ascribed thereto in Section 4.10 (Promotion of Competition and Reduction of Concentration Law, 2013) of this Invitation.

“Contract Value”	Shall have the meaning ascribed thereto in Section 5.1.3 of this Invitation.
“Control”	Shall have the meaning ascribed thereto in the Securities Law 1968.
“Declared Entity”	Shall mean an entity: (i) declared pursuant to Section 3 and/or Section 9 of the Law for the Struggle with Iran’s Nuclear Program from 2012; and/or (ii) declared pursuant to Section 3 and/or 4 of Law for the Prevention of Distribution and Financing of Weapons of Mass Destruction from 2018; (iii) listed by the Israeli Sanctions Administration (“מטה הסנקציות”) according to any applicable Law.
“Design and Installation”	Shall have the meaning ascribed thereto in Annex 1 (Automatic Parking Systems Expert).
“Deviation”	Shall mean any deviation, limitation, modification, supplement, disclaimer, amendment, omission, addition, condition, reservation or qualification of the contents of this Invitation, including of the Pre-Qualification Requirements, made by the Participant in its Pre-Qualification Submission.
“Effective Holdings”	<p>Shall mean the effective percentage of all Means of Control held by Entity A in Entity X, calculated by multiplying the percentages of Means of Control held by Entity A in each of the Entities in the chain of holdings between Entity A and Entity X.</p> <p>e.g. if Entity A holds 50% of all Means of Control of Entity B which, in turn, holds 50% of all Means of Control of Entity X, then Entity A Effectively holds 25% of all Means of Control of Entity X.</p>

“Eligible Participant”	Shall have the meaning ascribed thereto in Section 10.4 (Announcement of Eligible Participants) of this Invitation.
“Entity”	Shall mean any corporation, company or partnership, incorporated in accordance with the law of its domicile, excluding individuals.
“EPC Contractor”	Shall have the meaning ascribed thereto in Section 2.6.1 of this Invitation.
"EPC Expert"	the entity which demonstrates on behalf of the Participant the requirements under Section 5.1 (Civil Engineering Experience)
“Experience Provider(s)”	Shall have the meaning ascribed thereto in Section 4.3 (Experience Provider) of this Invitation.
“Financial Entity”	Shall mean: (i) a Private Investment Fund; (ii) an Institutional Investor; (iii) an Investment Entity; or (iv) Banking Corporation.
“Financial Statement(s)”	Shall mean, for each Entity: (i) Its annual audited consolidated financial statement(s) which includes a report signed by the external auditor of the Entity, confirming its compliance with one of the accounting standards specified pursuant to Section 6.9.1 of this Invitation; or, in the absence thereof (ii) its annual audited solo financial statement(s) which includes a report signed by the external auditor of the Entity, confirming its compliance with one of the accounting standards specified pursuant to Section 6.9.1 of this Invitation.
“General Partner”	Shall mean an Entity who is responsible for the overall management and administration of the Private Investment Fund.

“GOI”	Shall mean the Government of the State of Israel
“Guaranteed Portion”	Shall have the meaning ascribed thereto in Section 6.7 (Reliance on a Guarantor) of this Invitation.
“Guarantor”	Shall have the meaning ascribed thereto in Section 4.4 (Guarantor) of this Invitation.
“Increased Required Equity”	Shall have the meaning ascribed thereto in Section 6.4 (Increased Equity) of this Invitation.
“Institutional Investor”	Shall mean each of the Entities listed in Sections 1-4 of Schedule 1 of the Securities Law 1968, and/or with respect to an Entity registered outside the State of Israel – a similar Entity pursuant to applicable law under the applicable jurisdiction.
“Interested Party”	Shall mean with respect to Entity ₁ : (a) any Entity or individual directly holding at least 15% of any of the Means of Control of Entity ₁ (in this definition: “Entity ₂ ”); (b) any Entity or individual has an Effective Holdings of at least 70% of any of the Means of Control of Entity ₂ ; (c) the CEO of Entity; or (d) any of the directors of Entity.
“Investment Entity”	Shall have the meaning ascribed thereto in the International Financial Reporting Standard (IFRS) 10 (Consolidated Financial Statements).
“Invitation”	Shall mean this invitation for pre-qualification including the Pre-Qualification Forms and all clarifications, Addenda, Amendments, notices, and all appendices or Annexes thereof.

<p>“Law(s)”</p>	<p>Shall mean the various national (state) laws and legislation, statutes, ordinance, codes, and regulations (including the Regulations), as enacted by the State of Israel, and any by-laws, codes, regulations enacted by the relevant authorities or municipalities, and case law and precedents of relevant competent judicial authorities; all as modified, amended, replaced or created from time to time.</p>
<p>“Lead Contractor”</p>	<p>Shall mean an entity which is responsible for the execution of the referenced project, providing the material, labor, equipment and services necessary for its execution, its management, and the (direct and indirect) coordination of its scope of works, including by subcontractors and sub-suppliers.</p> <p>Entities which are accountable for the execution of the referenced project towards the owner of the referenced project solely as a “project company” or a “concessionaire” pursuant to a “concession” or a “PPP” agreement will not be considered as Lead Contractor under this definition.</p>
<p>“Maintenance Services”</p>	<p>Shall have the meaning ascribed thereto in Annex 1 (Automatic Parking Systems Expert).</p>
<p>“Means of Control”</p>	<p>Shall have the meaning ascribed thereto in the Securities Law 1968.</p> <p>With respect to an unincorporated joint venture, this shall mean either: the power to impose decisions on the joint venture; the power to veto decisions made by the joint venture, or the power to nominate the general manager of the joint venture or the parallel officer.</p>
<p>“Member(s)”</p>	<p>Shall have the meaning ascribed thereto in Section 4.2 (Members of the Participant) of this Invitation.</p>

“Minimal Required Equity”	Shall have the meaning ascribed thereto in Section 6.3 (Minimal Required Equity) of this Invitation.
“Notification”	Shall have the meaning ascribed thereto in Section 3.14 (Advisors to the Tender Committee - Avoidance of Conflicts of Interest) of this Invitation.
“Offence”	Shall mean criminal offences included in Chapters 7 (National Security, Foreign Relations and Official Secrets), 8 (Offences against the Public Order and the Society), 9 (Offences against the Government and the Law) and 10 (Bodily Harm) of the Penal Code 1977, Criminal offences in Sections 384A, 402, 413E, 415, 418, 423, 425, 427, 428 and 456 of the Penal Code 1977, offences under the Antitrust Law 1988, offences under the Securities Law 1968, offences under the Prohibition on Money Laundering Law 2000, offences under the Planning and Building Law 1965 or any other criminal offence which results in a prison sentence of at least one (1) year, or if the Entity or any office holder or representative thereof is not a citizen or a resident of the State of Israel, analogous offences committed under the laws of its domicile, provided that, if convicted, the conviction for such offence (committed in Israel or outside of Israel) was given during the seven (7) years preceding the Pre-Qualification Submission Date.
“Participant”	Shall have the meaning ascribed thereto in Section 4.1 (The Participant) of this Invitation.
“Participating Entity”	Shall mean the Participant, a Member, an Experience Provider, or a Guarantor (as applicable).
“Participation Fee”	Shall have the meaning ascribed thereto in Section 3.6.1 of this Invitation.

“Pre-Qualification Documents”	Shall mean the Invitation and any other document issued by the Tender Committee during the Pre-Qualification Process.
“Pre-Qualification Forms”	Shall mean the forms attached hereto as forms which each Participant is required to complete, execute and submit as part of its Pre-Qualification Submission.
“Pre-Qualification Process”	Shall mean the first stage of the Tender Process intended to select Eligible Participants for the second stage of the Tender Process, commencing upon the issuance of this Invitation, and ending upon the announcement of Eligible Participants, all as specified in this Invitation.
“Pre-Qualification Requirements”	Shall mean the Professional Pre-Qualification Requirements and Financial Pre-Qualification Requirements
“Pre-Qualification Submission Date”	Shall have the meaning ascribed thereto in Section 9.9 (Pre-Qualification Submission Date) of this Invitation.
“Pre-Qualification Submission Letter”	Shall have the meaning ascribed thereto in Section 2 (Pre-Qualification Submission Letter) of this Invitation.
“Pre-Qualification Submission(s)”	Shall mean the complete written pre-qualification submission as submitted by the Participant(s) no later than the Pre-Qualification Submission Date and any additional information added thereto by the Participant in accordance with the instructions of the Tender Committee following a clarification process as stipulated in this Invitation.

“Private Investment Fund”	Shall mean an Entity incorporated for the purpose of making financial investments in which: (i) at least 50% of its capital, at any given time, is provided by Institutional Investors; and (ii) has a General Partner.
“Preliminary Information Notice”	Shall have the meaning ascribed thereto in Section 4.10 (Promotion of Competition and Reduction of Concentration Law, 2013) of this Invitation.
“Project”	Shall have the meaning ascribed in section 1.1 of this Invitation.
“Regulations”	Shall mean the Mandatory Tender Regulations 1993, as amended from time to time.
“Request for Approval”	Shall have the meaning ascribed thereto in Section 3.14 (Advisors to the Tender Committee - Avoidance of Conflicts of Interest) of this Invitation.
“Request(s) for Clarification(s)”	Shall have the meaning ascribed thereto in Section 3.9.1 of this Invitation.
“Restrictions”	Shall have the meaning ascribed thereto in Section 4.11 of this Invitation.
“Road Infrastructure Project”	Shall have the meaning ascribed thereto in Section 5.1.1.2 of this Invitation.
“SPC”	Shall have the meaning ascribed thereto in Section 11.2 (Formation of a Special Purpose Company) of this Invitation.
“SPV”	Shall mean a special purpose company, a special purpose partnership or a special purpose joint venture.

“Subsidiary”	Shall mean company or a partnership in which the Experience Provider directly holds 50% or more of the shares, of all partnership interests (as applicable) and of all other Means of Control.
“Successful Bidder”	Shall mean the Eligible Participant awarded the Agreement pursuant to the completion of the Tender Process.
“Supporting Entity”	Shall have the meaning ascribed thereto in Section 7.1.1 of this Invitation.
“Tender Committee”	Shall mean the committee appointed by the government of Israel in accordance with the provisions of the Regulations and with the authorities granted by Law in respect of the Pre-Qualification Process and the Tender Selection Stage.
“Tender Documents”	Shall mean all documents which shall be distributed to Eligible Participants as part of the Tender Process, including the Pre-Qualification Documents, request for proposals and all forms provided therein, the Agreement, the technical volumes and all appendices attached thereto, and any other document which will be issued by the Tender Committee during the Tender Process.
“Tender Process”	Shall mean, the Pre-Qualification Process and the Tender Selection Stage, during which Participants will submit their Pre-Qualification Submissions and Eligible Participants shall submit their bids and a Successful Bidder shall be selected.
“Tender Selection Stage”	Shall mean the second stage of the Tender Process in which Eligible Participants will be invited to submit their Bids, in accordance with the provisions of the Tender Documents.

“Update Statement”	Shall have the meaning ascribed thereto in Section 11.1.1 of this Invitation.
“Website”	Shall mean the website at www.mr.gov.il/ilgstorefront/he/search/?s=TENDER .

2. **THE SELECTION PROCEDURE**

2.1. **The Selection Process and the Tender Selection Stage**

The Tender Committee intends to select the Successful Bidder to execute the Project through the following stages:

- 2.1.1. this Pre-Qualification Process; and
- 2.1.2. the Tender Selection Stage.

2.2. **The Pre-Qualification Process**

- 2.2.1. The purpose of this Pre-Qualification Process is to identify Eligible Participants for the Tender Selection Stage.
- 2.2.2. During the Pre-Qualification Process, Participants will be required to submit Pre-Qualification Submissions in accordance with the provisions of this Invitation, in order to demonstrate their compliance with all the applicable Pre-Qualification Requirements and all other applicable requirements and provisions.
- 2.2.3. Pre-Qualification Submissions submitted by the Participants will be reviewed by the Tender Committee in accordance with the provisions of the Invitation. Without derogating from the provisions of Section 10 (Review and Evaluation of Pre-Qualification Submissions) thereof, following review of the Pre-Qualification Submissions, the Tender Committee will announce the Eligible Participants. Only those Participants which demonstrated compliance with all the applicable requirements and provisions of this Invitation, and which were not otherwise disqualified, may be announced as Eligible Participants for the Tender Selection Stage.

2.3. **Anticipated Schedule**

The anticipated schedule for the Pre-Qualification Process is as follows:

Activity	Date
Publication of the Invitation and Pre-Qualification Documents	6.6.2022
Final date for the submission of Requests for Clarification	20.10.2022
Pre-Qualification Submission Date	15.12.2022

The Tender Committee reserves the right to amend any date contained herein, at any time, at its sole discretion, by issuing a written clarification or Addenda to the Invitation in accordance with the provisions of Section 3.10 (Addenda) thereof.

2.4. **The Tender Selection Stage and Expected Future Requirements**

2.4.1. Following the announcement of the Eligible Participants by the Tender Committee, the Tender Selection Stage shall commence, and the Tender Documents shall be furnished to the Eligible Participants.

2.4.2. The Tender Documents shall include detailed information and specifications of the Project's scope. Without derogating from the foregoing, the Participants attention is drawn to the following:

2.4.3. Automated Parking System

2.4.3.1. As part of the Tender Selection Stage, Eligible Participants shall be given the option to propose the installation and operation of the ITC's (or part of them) as Automated Parking. A proposal to execute and operate Automatic Parking shall be granted with a significant competitive advantage as part of the scoring formula, all as detailed in Annex 1 (Automatic Parking Systems Expert).

2.4.3.2. Eligible Participants that will choose to propose Automated Parking shall be required to present an additional Experience Provider in that

field during the Tender Selection Stage, as detailed in Annex 1 (Automatic Parking Systems Expert) to the Invitation.

- 2.4.3.3. The Automated Parking System option is subject to minimum parking spaces per ITC, as further detailed in Annex 1 (Automatic Parking Systems Expert) to the Invitation.

2.5. Design Dialogue

- 2.5.1. As part of the Bids for the Tender Selection Stage, the Bidders shall be required to submit a design for the Project, as shall be specified in the Tender Documents.
- 2.5.2. For this purpose, the Tender Selection Stage shall include a design dialogue, under which Eligible Participants shall be required to submit a draft of their proposed design in the disciplines of civil engineering, operation and information systems, to the review and comments of the Tender Committee. It is the intention of the Tender Committee to conduct the design dialogue in two (2) phases. Further details regarding the Design Dialogue and timetables for its execution, if and to the extent conducted, shall be specified in the Tender Documents.

2.6. EPC and O&M Contractors and Experience Providers

- 2.6.1. As shall further be elaborated in the Tender Process Documents, the Successful Bidder will be required to engage with an EPC Contractor which shall assume on a "back-to-back" basis the engineering, procurement and construction obligations of the Successful Bidder vis-à-vis the State ("**EPC Contractor**"), and an O&M Contractor which shall assume on a "back-to-back" basis the operation and maintenance obligations of the Successful Bidder vis-à-vis the State.
- 2.6.2. An Experience Provider demonstrating compliance with any of the Professional Threshold Requirements, shall be the entity responsible for the execution of the part of the Works (as applicable and respectively to the category of experience demonstrated) on behalf of the Participant in the event

of a Successful Bid. In addition, the EPC Expert shall be required to hold at least fifty one percent (51%) of all the Means of Control in the EPC Contractor

2.7. Industrial Cooperation

The documents to be published during the Tender Selection Stage will include additional requirements with respect to the Participants' and the Successful Bidder's obligations pursuant to the Mandatory Tender Regulations (Mandatory Industrial Cooperation) 5767-2007, as will be determined by the Industrial Cooperation Authority.

2.8. Registry of Contractors

The documents to be published during the Tender Selection Stage will include additional requirements with respect to the presentation of valid registration and certifications pursuant to the Registration of Contractors for Construction Engineering Works Law, 1969, and other applicable Laws, including Approval of a Recognized Contractor for Governmental Works, or of applicable exemptions therefrom.

3. RULES AND PROCEDURES

3.1. Governing Law and Jurisdiction

- 3.1.1. The Tender Process shall be governed and construed in accordance with the provisions of all applicable Laws, including the Mandatory Tenders Law, 1992 and the Regulations.
- 3.1.2. The applicable courts in Jerusalem shall have sole jurisdiction over all matters and all disputes arising in connection with the Tender Process.
- 3.1.3. The foregoing does not derogate from the obligation of any Participating Entity and anyone on their behalf to address the Tender Committee, in writing, with a specific and detailed claim or complaint, if any arise.

3.2. Preparation for Submission

- 3.2.1. By submitting a Pre-Qualification Submission, each Participating Entity confirms and will be deemed to have confirmed that it has received the complete Pre-Qualification Documents; that it has read, considered and understood the Invitation, and that it accepts the terms and conditions thereof and all obligations and undertakings specified or implied therein.
- 3.2.2. Each Participating Entity is assumed to have obtained legal, financial, and technical advice.
- 3.2.3. Each Participating Entity and the Pre-Qualification Submissions shall: (i) abide by the Laws; and (ii) be subject to any change in any of the Laws, even should such changes be introduced during the Tender Process.

3.3. The Pre-Qualification Documents

The Pre-Qualification Documents include this invitation for pre-qualification, its Appendices, the Pre-Qualification Forms and any Clarification and/or Addenda issued by the Tender Committee during the Pre-Qualification Process. Without derogating from the provisions of Sections 9.1 (Compliance with the Requirements of the Pre-Qualification Documents) and 9.2 (No Unauthorized Modification), the Pre-Qualification Forms shall be provided to all Participants also in MS-Word file.

3.4. Priority of Documents

In the event of discrepancies between any of the provisions of this Invitation or between this Invitation and any of the other Pre-Qualification Documents, the Tender Committee, at its sole discretion, shall determine the prevailing provision, in accordance with all Laws. Any discrepancy shall be brought to the attention of the Tender Committee as soon as possible.

3.5. Severability

The invalidity or unenforceability of any part, provision or section of the Pre-Qualification Documents shall not affect the validity or enforceability of other parts, provisions or sections thereof. Any invalid or unenforceable part, provision or section

shall be deemed severed from the Pre-Qualification Documents, and the Pre-Qualification Documents shall be construed and enforced as if the Pre-Qualification Documents did not contain such invalid or unenforceable part, provision or section.

3.6. Access to Documents and Participation Fee

3.6.1. As a pre-condition for participation in the Tender, including the submission of Request(s) for Clarification(s) and the submission of the Pre-Qualification Documents, each Participant shall pay a participation fee in an amount of NIS fifteen thousand (15,000) (VAT included) or the equivalent thereof in USD or Euro (the “**Participation Fee**”).

3.6.2. The Participation Fee shall be paid by any of the following methods:

3.6.2.1. through wire transfer using IBAN: ILS370990011310010081303; or

3.6.2.2. by a bank transfer to account no. 25636, at the Postal Bank (no. 09), Jerusalem Branch (no. 001), in the name of the Accountant General. The transfer of the participation fee shall include the following note: "Pre-Qualification Participation Fee for the Express Lanes - Highway 5"; or

3.6.3. Without derogating from the provisions of Section 11.3 (Reservation of Rights) the Participation Fee shall not be refunded in any way, for any reason.

3.6.4. Participants shall submit a copy of the receipt for the payment of the Participation Fee as well as the Participant’s contact details (inter alia, the name of the Participant, its Authorized Representative, address, phone number, fax number, email address) to the email address referenced in Section 3.9.1 below. Participants shall be responsible for informing the Tender Committee of any change in their contact details.

3.6.5. A person or an Entity may pay the Participation Fee on behalf of another Entity.

3.6.6. An Entity which has paid the Participation Fee may assign or transfer the right to participate to another Entity.

3.6.7. One (1) payment of the Participation Fee shall entitle one Participant (including all its Participating Entities) to submit Request(s) for Clarification(s) and to submit a Pre-Qualification Submission.

3.6.8. The Tender Committee or anyone on its behalf shall not be responsible in any respect for any damage or loss of any kind whatsoever, suffered by a Participating Entity or anyone on its behalf, due to an error or omission with respect to any information provided to it. Each Participant shall be deemed to have received all Pre-Qualification Documents, and it shall be each Participating Entity's responsibility to ensure such.

3.6.9. It is hereby emphasized that the payment of the Participation Fee does not constitute recognition of an Entity's (including a Participant's) eligibility, qualifications or competence to meet the requirements of this Invitation.

3.7. Cost of Participation in the Tender Process

Any and all costs and expenses connected with participation in the Tender Process shall be borne by the Participating Entity, or anyone on its behalf, which incurred said costs and expenses. The Participating Entity shall not be reimbursed or otherwise compensated for any of its costs or expenses by the Tender Committee, including in the event of termination of this Pre-Qualification Process or cancellation of the Tender Selection Stage for any reason whatsoever.

3.8. Language

The Tender Committee reserves the right to issue a Hebrew version of the Tender Documents, or any part thereof. If a Hebrew version is issued for any English document, the Tender Committee reserves the right to determine the order of precedence in case of any discrepancy between the provisions of the English version and the provisions of the Hebrew version. In addition, the Tender Committee reserves the right to conduct its business in Hebrew or English, including in meetings, discussions, correspondences, negotiations, etc.

3.9. Requests for Clarification of this Invitation

3.9.1. Participants may raise questions and requests for clarifications or interpretations to the Pre-Qualification Documents, in writing, by no later than the deadline for the submission of requests for clarifications as set forth in Section 2.3 (Anticipated Schedule), above (“**Request(s) for Clarification(s)**”). Such Requests for Clarifications shall be addressed in writing only to Mr. Yuval Raz, Chairman of the Tender Committee via the Tender’s designated Mailbox: PPP-Fastlanes-5@inbal.co.il. Participants are responsible for verifying the receipt of Requests for Clarifications by the Tender Committee.

3.9.2. Requests for Clarifications shall be submitted via email in a signed PDF file **and** in a an open for editing MS-Excel file in the following format:

Clarification No.	Section (reference to the relevant Section in the applicable Pre-Qualification Document)	Subject	Clarification/ Question
1.			
....			

The Tender Committee reserves the right to disregard Requests for Clarifications which are not submitted in accordance with the requirements specified in this Section 3.9.2.

3.9.3. The Tender Committee may request Participants to provide clarifications to any part of their Request for Clarifications, including by way of meeting with the Participants individually, collectively or in groups thereof.

3.9.4. The Tender Committee has no obligation to clarify or interpret this Invitation, to respond to any specific question or to publish any of the Requests for Clarifications submitted to it. Any properly submitted Request for Clarification not responded to by the Tender Committee shall be deemed rejected.

- 3.9.5. The Tender Committee may issue an Addendum for the purpose of clarifying or interpreting the Pre-Qualification Documents in response to Requests for Clarifications, in accordance with the provisions of Section 3.10 (Addenda). Participants shall acknowledge receipt of any Addendum in the manner set forth in Section 3.10 (Addenda).
- 3.9.6. In its response to a Request for Clarification, the Tender Committee may rephrase any Request for Clarification, including adding to or omitting from the original language, as it shall deem fit under the circumstances.
- 3.9.7. The Tender Committee will have full discretion in deciding whether or how to respond to Requests for Clarifications raised following the deadline for the submission thereof as provided in Section 2.3 (Anticipated Schedule) above.
- 3.9.8. A response by the Tender Committee to any Request for Clarification shall not derogate from the discretion or the prerogative of the Tender Committee under any law and under this Invitation, including under Section 3.10 (Addenda).

3.10. **Addenda**

- 3.10.1. The Tender Committee reserves the right to revise, modify, amend, clarify, add, eliminate or otherwise change the Pre-Qualification Documents or any part thereof, including, but not limited to, any instruction, requirement, specification, Pre-Qualification Requirement or date contained therein, whether at the initiative of the Tender Committee or as a result of a Request for Clarification. Such revisions, if any, shall be announced by written clarification or addenda to the Pre-Qualification Documents (“**Addendum**” / “**Addenda**”) and shall constitute an integral part of this Invitation.
- 3.10.2. The Tender Committee shall not be bound by, and Participating Entities shall not rely on, any oral clarification to the Pre-Qualification Documents.
- 3.10.3. No amendments to the Pre-Qualification Documents shall be binding unless issued in the form of an Addendum.
- 3.10.4. The identity of the Participant whose Request for Clarification led to the issuance of an Addendum shall not be disclosed.

- 3.10.5. Addenda shall be published by the Tender Committee on the Website.
- 3.10.6. Participants are required to check the Website on a regular basis for any addenda, updates, postponements, changes, clarifications or modifications during the Pre-Qualification Process and prior to the Pre-Qualification Submission Date.
- 3.10.7. Without derogating from the generality of the provisions of Section 2.3 (Anticipated Schedule) and this Section 3.10 (Addenda), the Tender Committee may postpone the date for submission of Pre-Qualification Submissions, or any other date herein, by such number of days as shall be necessary in the opinion of the Tender Committee, and may repeat this process if necessary. The announcement of a new Pre-Qualification Submission Date, if any, shall be by an Addendum in accordance with Section 3.10 (Addenda), and all of the provisions with respect to the previous Pre-Qualification Submission Date shall apply to such new date, including any Addendum, unless otherwise specified in the Addenda with regard to the postponement. Nothing in this Section shall be construed as an obligation by the Tender Committee to grant an extension.

3.11. **Site Visit and Conference**

- 3.11.1. The Tender Committee reserves the right to hold a conference and/or a site visit (the “**Conference**”) once or more. The participation of the Participant or its Authorized Representative, in any Conference and/or site visit shall not be mandatory.
- 3.11.2. At the Conference, the Tender Committee may answer questions referred to it by Participants in accordance with the provisions of section 3.9 (Requests for Clarification of this Invitation).
- 3.11.3. Should the Tender Committee answer or present any questions referred to it during the Conference, or any clarification, interpretation or amendment resulting from any request for clarification or interpretation submitted to it by a Participant, the identity of that Participant shall not be disclosed by the Tender Committee.

- 3.11.4. Following the Conference, the Tender Committee shall issue minutes of the Conference to all Participants in the form of an Addendum. Only the written minutes issued by the Tender Committee at the end of the Conference in the form of an Addendum shall be binding. The Tender Committee shall not be bound by, and Participating Entities shall not rely on, any oral representation made by the Tender Committee or by Participants during the Conference.
- 3.11.5. The fact that questions, clarifications, interpretations and amendments to the Pre-Qualification Documents will be presented by the Tender Committee at the Conference does not, in any way, restrict the Tender Committee's right to issue an Addendum or to postpone any of the dates contained therein in accordance with the provisions of Section 3.10 (Addenda).

3.12. Intellectual Property Rights

The Pre-Qualification Documents and any and all intellectual property rights therein are exclusively owned by the Tender Committee and are supplied to the Participants solely for the purpose of participating in the Pre-Qualification Process.

3.13. Information Supplied to the Participants

- 3.13.1. The description of the Project detailed in this Invitation is general and indicative only. The actual scope of works and further particulars may differ from the description thereof in this Invitation.
- 3.13.2. During the Pre-Qualification Process, Participating Entities are required, to the extent applicable, to independently examine and verify all aspects of the Project, including, inter alia, the site, all statutory plans relating thereto, the Pre-Qualification Documents and any other legal, organizational, operational, technical or financial detail relevant to the Pre-Qualification Submission.
- 3.13.3. The tender Committee or the GOI do not represent or warrant that the information contained in the Pre-Qualification Documents or any other information which they or anyone on their behalf make available to Participants, is complete or accurate, or that it has undergone independent verification by the Tender Committee. Any and all information presented hereby with respect to the Project, including with respect to the Tender

Process, the time schedule for the execution of the Project and the expected requirements with respect thereof, is subject to change.

3.13.4. It is expressly understood that any reliance of a Participating Entity or anyone on its behalf on any such information, and any deductions, interpretations or conclusions made from information made available by the Tender Committee or anyone on their behalf, is at the Participating Entity's sole responsibility.

3.13.5. The Tender Committee shall not be responsible in any respect for any loss or damage whatsoever suffered by a Participating Entity or anyone on its behalf (including their employees, officers, agents, or any other persons for which Participants may be contractually or legally responsible or accountable), as a result of use of any information contained in the Pre-Qualification Documents or provided in connection therewith, or any action or forbearance in reliance thereon.

3.14. Advisors to the Tender Committee - Avoidance of Conflicts of Interest

3.14.1. Each Participating Entity acknowledges that in the preparation of the Pre-Qualification Submissions, the Bids and in the performance of the Works it is strictly prohibited from having any conflict of interests between any of its other activities and/or its other obligations and/or any of its employees, consultants or subcontractors and the obligations and rights with respect to this Invitation, the Tender, the Works and the Contract to be awarded, including a conflict of interest which may arise as a result of engaging employees, advisors or subcontractors of the Tender Committee.

3.14.2. Without derogating from the above, the entities listed in Annex 2 (Advisors to the Tender Committee) are currently engaged or have been engaged as consultants to Ayalon Route Company and/or the Tender Committee, either directly or indirectly, in connection with the Project, and therefore Participating Entities are strictly prohibited from employing or engaging any of them for the purpose of this Invitation, the Tender Process or the performance of the Works, whether directly or indirectly, without the prior written consent of the Tender Committee.

- 3.14.3. The Tender Committee reserves the right to update the list from time to time and at its sole discretion.
- 3.14.4. It is clarified that the prohibition applies to:
- 3.14.4.1. the entities listed in Annex 2, in respect of any person employed thereby, and listed in Annex 2. If no names are indicated, all individuals within the advising entity are considered included within the prohibition; and
 - 3.14.4.2. the persons listed in Annex 2, regardless if their employment by such prohibited entity has ended.
- 3.14.5. Each Participant shall submit, by no later than the deadline for submitting Requests for Clarification, details of
- 3.14.5.1. its requests for approval of engagement with any of the Advisors listed in Annex 2, for the purpose of this Invitation, the Tender Process or Project (“**Request for Approval**”).
 - 3.14.5.2. all its, and any Affiliated Entity's, prior (which existed in the period between 1.1.2020 and the submission date), currently existing and future known engagements with any of the Advisors listed in Annex 2, for any purpose which is not connected to the Tender Process or the Project (“**Notification**”).
- 3.14.6. Any Request for Approval and Notification shall include details of the nature and expected duration of the engagement.
- 3.14.7. Without derogating from its rights and prerogatives pursuant to this Invitation or Law, following receipt of such Request for Approval and /or Notification, the Tender Committee may, at its sole discretion: (i) approve the request; (ii) require additional details; (iii) notify the relevant Participant that it does not approve such engagement if it considers that such engagement creates or appears to create a conflict of interest; (iv) impose certain restrictions with respect to such engagement in order to avoid any appearance of or a conflict of interest, (v) request to amend the terms of any engagement of Ayalon Route Company and/or the Tender Committee Advisor in each case; and/or (vi)

disqualify a Participating Entity and/or a Participant, all as the Tender Committee shall deem fit.

3.14.8. Requests for Approval or Notification (which was timely submitted by the deadline for submitting Requests for Clarification) will be answered by no later than fourteen (14) days prior to Pre-Qualification Submission Date. The Tender Committee reserves its right to decide whether or not to publish its response as a Clarification.

3.14.9. In exercising its discretion, the Tender Committee may consider:

3.14.9.1. whether an engagement in respect of works or services is connected, either directly or indirectly to the Project;

3.14.9.2. whether the works or services provided to the Participating Entity are performed by separate teams of Ayalon Route Company Advisors and/or the Tender Committee Advisors, which report to separate managing entities within Ayalon Route Company Advisors and/or the Tender Committee Advisors;

3.14.9.3. the total income of Ayalon Route Company Advisor and/or the Tender Committee Advisor from its engagement with the Participating Entity of its total annual income.

Therefore, Participants are encouraged to provide such details, and any other relevant factors, to assist the Tender Committee's determination.

3.14.10. It is clarified that this process will be repeated in the Tender Selection Stage in respect of engagements which are not known to the Participants at the deadline for submitting Requests for Clarification, including in relation to an updated list of Advisors which may be published at the Tender Selection Stage.

Additionally, for engagements reported during the Pre-Qualification Stage, each Participant will be required to include any relevant information in compliance with Section 3.14 within its Update Statement in accordance with Section 11.1 (Issuance of the Tender Selection Stage Documents; Update Statement) below.

It is clarified that the Participants' obligations in relation to the avoidance of a conflict of interests shall not derogate from Ayalon Route Company and/or the Tender Committee Advisors' contractual obligations pursuant to the terms and conditions of their engagement with Ayalon Route Company and/or the Tender Committee (as applicable).

3.14.11. It is clarified that Affiliated Entities which:

3.14.11.1. are not incorporated in Israel; and

3.14.11.2. do not have any activities in Israel; and

3.14.11.3. have engaged/ engage Advisors listed in Annex 2 who are on a separate team of personnel to the individuals engaged by Ayalon Route Company and/or the Tender Committee (as applicable); and

3.14.11.4. where the applicable engagement of Advisors listed in Annex 2 is in relation to a project outside of Israel,

Are not obliged to submit Notifications.

4. **GENERAL PROVISIONS RELATING TO PARTICIPATING ENTITIES**

4.1. **The Participant**

4.1.1. A Participant shall mean a single Entity which complies with the provisions of Section 4.2 (Members of the Participant); or a number of Participating Entities, each of which comply with the provision of Section 4.2 (Members of the Participant), as applicable, acting jointly for the purpose of submitting a Pre-Qualification Submission (“**Participant**”).

4.1.2. The incorporation of a Participant as an SPC for purposes of the Project will only be required during the Tender Selection Stage as described in Section 11.2 (formation of a Single Purpose Company).

4.1.3. **Form of Submission.** In order to demonstrate compliance with this Section 4.1 (The Participant), the Authorized Representative of each Member, or the Authorized Representative of the Participant if the Participant has already been

duly incorporated, shall complete, execute and submit Pre-Qualification Form “1”; and each of the Participating Entities acting jointly with the Participant for the purpose of the Pre-Qualification Process shall complete, execute and submit Pre-Qualification Form “4”.

4.2. **Members of the Participant**

4.2.1. Members of a Participant shall mean each of the Participating Entities committed to holding Anticipated Holdings in the Participant, as detailed in Pre-Qualification Form “4” and which comply with:

4.2.1.1. all of the requirements of Section 4.5 (Participation - General Requirements); and

4.2.1.2. the applicable Financial Pre-Qualification Requirements in accordance with the provisions of Section 6 (Financial Pre-Qualification Requirements).

(a “**Member**”).

4.2.2. **Form of Submission.** In order to demonstrate compliance with, inter alia, the provisions of this Section 4.2 (Members of the Participant), the Participant shall complete, execute and submit Pre-Qualification Form “3”.

4.3. **Experience Provider**

4.3.1. An Experience Provider shall mean an Entity which complies with:

4.3.1.1. all of the requirements of Section 4.5 (Participation - General Requirements); and

4.3.1.2. any of the requirements in Section 5 (Professional Pre-Qualification Requirements)

(an “**Experience Provider**”).

4.3.2. An Experience Provider is not required to be a Member.

4.3.3. **Form of Submission.** In order to demonstrate compliance with this Section 4.3 (Experience Provider), each Experience Provider shall complete, execute and submit Pre-Qualification Forms “4” and “5”.

4.3.4. The Tender Documents shall include additional requirements and provisions applicable to Experience Providers demonstrating compliance with any of the Professional Threshold Requirements, as set forth in Section 2.6 (Experience Providers) hereto, and as shall be detailed in the Tender Documents. A Participant may present one or two Experience Providers for each of the following Sections, provided that each Experience Provider fully complies with all the Professional Pre-Qualification Requirement of the applicable Section on its own:

4.3.4.1. Section 5.1 - Civil Engineering Experience;

4.3.4.2. Section 5.2 - Bus Operation Experience.

4.3.5. In the event that two Experience Providers are prequalified with respect to any of the Sections 5.1 (Civil Engineering Experience) or 5.2 (Bus Operation Experience) it shall be required that, within the Bid submitted by the Participant at the Tender Selection Stage, one of the two prequalified Experience Providers will assume responsibility for execution of the applicable part of the Works for which it was prequalified. Such chosen Experience Provider shall be the entity responsible for the execution of the part of the Works (as applicable and respectively to the category of experience demonstrated) on behalf of the Participant in the event of a Successful Bid.

4.4. **Guarantor**

4.4.1. A Guarantor shall mean:

4.4.1.1. a Member (which acts as a Guarantor for another Member); or

4.4.1.2. an Entity which Controls a Member,

and which complies with:

4.4.1.3. all of the requirements of Section 4.5 (Participation - General Requirements); and

4.4.1.4. the applicable Financial Pre-Qualification Requirements to the Guarantor in accordance with the provisions of Section 6 (Financial Pre-Qualification Requirements);

(“**Guarantor**”).

4.4.2. **Form of Submission.** In order to demonstrate compliance with this Section 4.4 (Guarantor), each Guarantor shall complete, execute and submit Pre-Qualification Form “4”.

4.5. **Participation - General Requirements**

Each Participant (if such is a single Entity, already incorporated on the Pre-Qualification Submission Date), Member, Experience Provider and Guarantor must comply with and satisfy all of the following requirements:

4.5.1. It is a duly organized and a validly existing Entity under the laws of the jurisdiction in which it is organized.

4.5.2. It has all requisite corporate power and authority for the ownership and operation of its properties and for the carrying on of its business as currently conducted or proposed to be conducted for the purposes of the Project (including the participation in this Pre-Qualification Process).

4.5.3. There are no actions or proceedings pending, voluntary or involuntary, with respect to dissolution, liquidation, freezing of assets, bankruptcy, insolvency, appointment of a trustee, a liquidator or a receiver (including temporarily), or any other analogous situation, nor are there, to the best of its knowledge, any actions or proceedings which might result in dissolution, liquidation, freezing of assets, bankruptcy, insolvency, appointment of a trustee, a liquidator or a receiver (including temporarily), or any other analogous situation.

4.5.4. It and any Interested Party, including the office holders thereof involved in the Pre-Qualification Process, the Tender Selection Stage or the Project (including

individuals) are not residents or citizens of a state which does not have diplomatic relations with the State of Israel.

4.5.5. Subject to the provisions of Section 4.6 (An Entity Charged with, or Convicted of, an Offence), it and any Interested Party thereof (including individuals), have not been convicted of an Offence and no indictment (criminal charges) with respect to an Offence has been filed against any of such.

4.5.6. To the extent required under Law, each Entity incorporated in the State of Israel, or registered in Israel as a Foreign Company as defined under the Companies Law 1999, shall provide all relevant approvals and statements as required in accordance with the provisions of the Public Entities Transactions Law 1976 by completing the affidavit under cover of Pre-Qualification Form “4”, and an ascertainment of regular reports of revenues to the tax assessor and the director of V.A.T. in transactions that are taxable under the Value Added Tax Law 1975 under cover of Pre-Qualification Form “4”.

A Foreign Company registered in Israel which cannot provide such approvals due to its lack of activities in Israel and/or is not registered in the Israeli tax authorities shall include within its Pre-Qualification Submission, under cover of Pre-Qualification Form “4” (1) a declaration by an independent auditor; and (2) an affidavit of a representative of the Participating Entity's management, both testifying to such status.

4.5.7. It is not a Declared Entity; and the office holders thereof involved in the Pre-Qualification Process, in the Tender Selection Stage or in the Project (including individuals) are not Declared Entities.

This requirement shall also apply to any Participating Entity's Related Entity (“גורם קשור”, including derivatives thereof), as such term is defined under: (i) the Law for the Struggle with Iran’s Nuclear Program from 2012; and/or (ii) the Law for the Prevention of Distribution and Financing of Weapons of Mass Destruction from 2018.

4.5.8. Each Entity shall provide an authenticated copy of its certificate of incorporation and articles of association. If an Entity is not incorporated in the State of Israel, it shall provide the equivalent approvals and statements regarding its corporate registration in accordance with the laws of its domicile.

In the event that such foreign Entity is registered in Israel as a Foreign Company under the Israel Corporation Law 5759-1999, or as a foreign partnership under the Israeli Partnership Ordinance, 1975, such Entity shall also attach the appropriate certification of registration accordingly. All such documents of incorporation shall be submitted under the relevant Pre-Qualification Forms, as indicated therein and, where applicable, accompanied by a notarized translation to English in accordance with the requirements of this Invitation.

In the event as Entity is unable to provide the original authenticated copies of the documents required under this Section 4.5.8 by the Pre-Qualification Submission Date, it may submit scanned copies thereof as part of the Pre-Qualification Submission, provided that the original authenticated copies are provided by no later than 45 calendar days after the Pre-Qualification Submission Date. In such a case, the Participant shall designate one of the scanned copies as “Original” until the true Original is received.

4.6. An Entity Charged with, or Convicted of, an Offence

4.6.1. In the event that a Participating Entity or any Interested Party thereof which is required to comply with the provisions of Section 4.5 (Participation - General Requirements) does not comply with the requirement of Section 4.5.5, the Authorized Representative, on behalf of the Participating Entity or the Interested Party, shall submit to the Tender Committee, either within its Pre-Qualification Submission or no later than sixty (60) days prior to the Pre-Qualification Submission Date, relevant information with respect to the filing (submission) of an indictment (criminal charges) in an Offence or with respect to a conviction (as applicable).

- 4.6.2. The Tender Committee shall review the information provided by the Participant and may exercise at its sole discretion, any of its authorities with respect thereto, including its authorities under Section 10.5.5. The Tender Committee's decision shall be made, inter alia, after considering whether the conditions under subsection 10.5.5.6 apply with respect to the reported Offences, in each case, as the Tender Committee shall deem fit.
- 4.6.3. Any decision reached by the Tender Committee prior to the Pre-Qualification Submission Date shall be provided to the Participant. In addition, an Addendum shall be published in accordance with the provisions of Section 3.10 (Addenda), conveying to all other Participants that the Tender Committee has approved, rejected or otherwise conditioned the participation of a Participating Entity or any Interested Party thereof which does not comply with the provisions of Section 4.5.5, without disclosing the identity of such Entity or the nature of the Offence (unless otherwise determined by the Tender Committee, at its sole discretion).
- 4.6.4. This Section 4.6 (An Entity Charged with, or Convicted of, an Offence) does not derogate from any of the Tender Committee's rights and prerogatives under this Invitation or Law.

4.7. **Authorized Representative**

- 4.7.1. Each Participant shall appoint one of its Members, through one individual on its behalf, as an authorized representative for: (i) conducting correspondence with the Tender Committee; and (ii) receiving instructions from the Tender Committee for and on behalf of all Participating Entities in the Participant (an "**Authorized Representative**").
- 4.7.2. A Participant may replace its Authorized Representative by giving a prior written notice to the Tender Committee, signed by all Members of the Participant. The appointment of an Authorized Representative shall not be terminated other than by the appointment of a replacement and the receipt of notice thereof by the Tender Committee.

4.8. **Participation in One Pre-Qualification Submission**

- 4.8.1. Each Participating Entity may participate in only one Pre-Qualification Submission.
- 4.8.2. For the purpose of the provisions of Section 4.8.1, the terms “**Participating Entity**” shall be deemed to include any Affiliated Entity.

4.9. **Government Companies**

Any Company budgeted by the GOI as defined under Section 21 of the State Budget Law, 1985, any Municipal Company or a subsidiary thereof as defined under Section 21 of the State Budget Law, 1985, any Company supported by the GOI as defined under Section 32 of the State Budget Law, 1985, any Entity incorporated by Law (a statutory corporation), or any Company subject to the provisions of the Government Companies Law, 1975 is not permitted to participate in the Tender Process as a Participant, a Member, an Experience Provider or a Guarantor.

The Provisions of this Section 4.9 (Government Companies) shall not apply with respect to participation of any such Entity in its capacity as an investor in a Member which is an Institutional Investor or a Private Investment Fund or in its capacity as a supplier or sub-contractor.

4.10. **Promotion of Competition and Reduction of Concentration Law, 2013**

- 4.10.1. Participants are hereby informed that limitations in relation to the participation in this process may be imposed during the Tender Selection Stage due to the Promotion of Competition and Reduction of Concentration Law, 5774-2013 (denoted in Hebrew as: התשע"ד - 2013 (החוק לקידום התחרות וצמצום הריכוזיות, the "**Competition Law**"), and the Tender Committee may instruct, restrict or condition the future participation of any of the Participating Entities in the Tender Selection Stage.
- 4.10.2. In light of the foregoing, Eligible Participants shall be entitled to provide the Tender Committee, by no later than sixty (60) days prior to Pre-Qualification Submission Date, with a notice containing the names of its Members, Experience Providers and/or Guarantors (to the extent applicable) (the

"Preliminary Information Notice"). In any event, the Tender Committee shall be entitled to require certain or all Eligible Participants, at its discretion, to submit Preliminary Information Notices during the Tender Selection Stage, even if such were previously submitted during the Pre-Qualification Process.

- 4.10.3. Following receipt thereof, the Tender Committee will present the Preliminary Information Notices and consult the applicable committee pursuant to the Competition Law (the "**Consultation**").
- 4.10.4. Following the Consultation, instructions, restrictions or conditions may be imposed with respect to the future participation of any of the Eligible Participants in the Tender Selection Stage. If such instructions, restrictions or conditions are imposed, the Tender Committee shall inform the relevant Eligible Participant(s) of such. The Tender Committee may issue an Addendum to all Eligible Participants, pursuant to the results of any Consultations, and may issue instructions, restrictions or conditions to specific Eligible Participants without issuing an Addendum.
- 4.10.5. Each Eligible Participant will be required to submit its Bid in compliance with any instructions, restrictions or conditions issued to it following the Consultation.
- 4.10.6. The submission of a Preliminary Information Notice is not mandatory. However, if a Preliminary Information Notice is not submitted by an Eligible Participant and the relevant Eligible Participant is subsequently announced as the Successful Bidder, the Tender Committee will then be required to consult the applicable committee pursuant to the Competition Law, and such Eligible Participant bears the risk that it shall be required to comply with any instructions, restrictions or conditions imposed thereon following such consultation.
- 4.10.7. Participants are advised that instructions, restrictions or conditions of the applicable committee pursuant to the Competition Law are made available to the general public on its designated website; however the published information does not include information which is not to be disclosed in accordance with the provisions of Section 9(a) of the Freedom of Information

Law, 1998; and the committee may decide not to publish information which it is entitled not to disclose in accordance with the provisions of Section 9(b) of the Freedom of Information Law, 1998.

4.11. **Security and Foreign Affair Considerations**

The Tender Committee reserves the right to impose additional or new conditions, limitations, prohibitions, or restrictions ("**Restrictions**"), with respect to the participation of an Eligible Participant in the Tender Selection Stage or the Project, or any part thereof, which relate to security considerations, including considerations of national security.

In this respect, Participants are hereby informed that Restrictions may be imposed with respect to the participation of a Participating Entity in the Tender Process and the Project, in relation to foreign investments, inter alia, upon inquiry made to The Advisory Board for Evaluating National Security Aspects of Foreign Investments, in cases in which concerns arise that such investments may negatively affect national security interests, all in accordance with provisions of Resolution B\372 by the Ministerial Committee on National Security Affairs (State Security Cabinet), dated October 30, 2019.

4.12. **Participating in Multiple Capacities**

In the event that an Entity participates in the Tender Process in more than one role (e.g. Member, Experience Provider, Guarantor etc.), such Entity will be required to comply with all requirements pertaining to each of its various roles.

5. PROFESSIONAL PRE-QUALIFICATION REQUIREMENTS

5.1. Civil Engineering Experience

Each Participant, or an Experience Provider on its behalf, shall comply with **all** of the cumulative requirements under this section 5.1.

5.1.1. Transportation Infrastructure Project Experience

Construction, as a Lead Contractor, during the period commencing on 1 January 2012 and ending on the Pre-Qualification Submission Date, of Road Infrastructure Project/s, in a total aggregated Contract Value of at least two hundred million (200,000,000) NIS. The experience under this Section may be demonstrated through one (1) or more projects provided however that:

- 5.1.1.1. the Contract Value of at least one (1) Road Infrastructure Project is one hundred and fifty million (150,000,000) NIS or higher and;
- 5.1.1.2. the Contract Value of each Road Infrastructure Project is at least twenty million (20,000,000) NIS.

For the purpose of this section: “**Road Infrastructure Project**” shall mean a project Constructed by the demonstrating entity under one or several construction agreements, and which meet all the following requirements:

- (a) the project was for the Construction of at least two (2) way double lane road with a minimum design speed of 90 kmph which is a national highway, an intercity road or a suburban highway; and
- (b) the scope of the project included at least one of the following elements: tunneling works, bridging works or the construction of interchange/s.

5.1.2. **Bridging Works Experience**

Construction, as a Lead Contractor, during the period commencing on 1 January 2012 and ending on the Pre-Qualification Submission Date, of Bridges in a cumulative area of at least twenty thousand (20,000) square meters, which include:

- 5.1.2.1. at least one (1) Bridge in an area of three thousand (3,000) square meters or more; and
- 5.1.2.2. the Construction of at least one (1) Bridge included the implementation of temporary traffic arrangements on or above a national highway, an intercity road or a suburban highway.

For the purpose of this section: “**Bridge**” shall mean Road or railway pathway over a void, consisting, inter alia, of piers and pavement elevated above ground level.

the area of the Bridge shall be calculated according to the projection between the piers at each end of the Bridge.

For the removal of a doubt ramps located on dikes or slurry walls shall not be taken into account for the purpose of calculating the total area of the Bridge.

5.1.3. **Construction Experience**

Construction, as a Lead Contractor, during the period commencing on 1 January 2012 and ending on the Pre-Qualification Submission Date, of:

- 5.1.3.1. at least one (1) multi-level carpark, with at least one thousand (1,000) parking spaces; and
- 5.1.3.2. a building for industrial, public or commercial use in an area of at least twenty thousand (20,000) square meters. For the removal of doubt, residential building shall not be deemed as building for the purpose of this section.

For the purpose of Section 5.1 (Civil Engineering Experience):

“**Construction**” shall mean: Commencement, execution and Completion of the demonstrated project or an independent functional part thereof or the demonstrated works (subject to all other limitations set forth in the relevant Pre-Qualification Requirement), by the demonstrating entity during the applicable period.

“**Commencement**” shall mean: the issuance of a notice to proceed or other notice from the owner which instructs the commencement of the works and triggers the start of the performance time under the respective contract.

“**Completion**” shall mean: the delivery of the demonstrated project or an independent functional part thereof or the demonstrated works (subject to all other limitations set forth in the relevant Pre-Qualification Requirement), to the respective owner, or the commencement of its operation in accordance with its intended use.

“**Contract Value**”: the value of the demonstrated project shall be calculated based on the actual unadjusted agreed contract price as of its signature date (excluding VAT, indexation and interest), and any additional variations or change orders approved by the owner in accordance with the respective contract.

In the event the Contract Value of the demonstrated project value or any part thereof was agreed or specified in any other currency than NIS, then the relevant sums shall be converted to NIS according to the provisions of Section 6.9.8 (Currency Conversion) below.

- 5.1.4. **Form of Submission.** In order to demonstrate compliance with Section (EPC Experience), the Experience Provider shall complete, execute and submit Pre-Qualification Form “7”.

5.2. **Bus Operation Experience**

Each Participant is required to demonstrate that it, or Experience Providers on its behalf, comply with at least one (1) of the Professional Pre-Qualification Requirements set forth in Sections 5.2.1 and 5.2.2 below:

- 5.2.1. It is holding a valid license for operation of public transportation bus service line issued by the Ministry of Transport, National Infrastructures and Road Safety; or
- 5.2.2. It meets the following cumulative conditions:
 - 5.2.2.1. It has been holding since 1.1.2017 and as of Pre-Qualification Submission Date a valid license for operation of special bus services and/or a valid license for operation of tour bus issued by the Ministry of Transport, National Infrastructures and Road Safety; and
 - 5.2.2.2. During the period between 1.1.2017 and until Pre-Qualification Submission Date it was responsible for the operation of a daily shuttle service of at least thirty (30) buses, under one (1) engagement for a consecutive period of at least two (2) years.
 - 5.2.2.3. As of Pre-Qualification Submission date, it owns or leases a fleet of at least eighty (80) buses.
- 5.2.3. **Form of Submission.** In order to demonstrate compliance with this Section 5.2 (Bus Operation Experience), the Experience Provider shall complete, execute and submit Pre-Qualification Form “8”.

6. FINANCIAL PRE-QUALIFICATION REQUIREMENTS

Each Participant is required to demonstrate its Members' compliance (by themselves or through a Guarantor as described in section 6.7 (Reliance on a Guarantor) below) with all the applicable Financial Pre-Qualification Requirements detailed below.

Each Member of the Participant who is not a Financial Entity is required to demonstrate compliance with the relevant requirements detailed in Section 6.1 (Financial Pre-Qualification Requirements applicable to Members which are not Financial Entities).

Each Member of the Participant who is a Financial Entity is required to demonstrate compliance with the relevant requirements detailed in Section 6.5 (Financial Pre-Qualification Requirements applicable to Financial Entities) below, as applicable.

In addition Each Member and an Experience Provider is required to demonstrate compliance with the requirement detailed in Section 6.6 (No Going Concern) below.

(I) Financial Pre-Qualification Requirements applicable to Members which are not Financial Entities

6.1. Each Member of the Participant which is not a Financial Entity is required to comply with one of the following alternatives:

6.1.1. The requirements detailed in Sections 6.2 (Operating Cash Flow) and 6.3 (Minimal Requirement Equity) below ("**Alternative A**"), **or**;

6.1.2. the requirement detailed in Section 6.4 (Increased Equity) below ("**Alternative B**").

6.2. **Operating Cash Flow**

6.2.1. Each applicable Member is required to demonstrate that its Average Operating Cash Flow calculated based on its most recent three (3) consecutive annual Financial Statements (provided that such Member's most recent Financial Statements shall not be earlier than 2020), is not negative (i.e. either positive or equal to zero).

- 6.2.2. For the purpose of this Pre-Qualification Requirement, the Average Operating Cash Flow of such Member shall be calculated in the following manner:

$$ACF_i = \frac{CF_C + CF_{C-1} + CF_{C-2}}{3}$$

Where:

CF_C = Member (i)'s annual operating cash flow for year C.

C = the year for which Member (i) has published its most recent Financial Statements (for the removal of doubt, which is not earlier than 2020).

(“Average Operating Cash Flow”)

or:

- 6.2.3. In the event that the Average Operating Cash Flow of the applicable Member is **negative**, then such Member is required to demonstrate that the ratio between the absolute value of section 6.2.3.1 and the value of section 6.2.3.2 below is less than 25%:

6.2.3.1. Shall be the lesser of:

- i. the Member’s Average Operating Cash Flow; or
- ii. the Member’s Operating Cash Flow, based on its most recent annual Financial Statement, which is not earlier than 2020.

6.2.3.2. The equity of the Member, based on its most recent Financial Statements (for the removal of doubt, the Member’s most recent Financial Statements shall not be earlier than 2020), deducted by the Minimal Required Equity.

So that –

$$\frac{|\min(Av. CF, CF_C)|}{E - MRE} < 0.25$$

Where:

$Av.CF$ = the Average Operating Cash Flow of that Member.

CF_C = Member (i)'s annual operating cash flow for year C.

C = the year for which Member (i) has published its most recent Financial Statements (for the removal of doubt, which is not earlier than 2020).

E = the equity of the Member, who is not a Financial Entity, based on its most recent Financial Statements (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2020).

MRE = the Minimal Required Equity of that Member (as defined in section 6.3 below).

6.3. **Minimal Required Equity**

Each applicable Member is required to demonstrate equity of at least NIS five million two hundred thousand (5,200,000), for each one percent (1%) of its Anticipated Holdings in the Participant, based on its most recent annual Financial Statement, which is not earlier than 2020.

(“Minimal Required Equity”)

6.4. **Increased Equity**

In the event a Member chooses to comply with the financial threshold requirements based on Alternative B, then such applicable Member is required to demonstrate equity of not less than NIS fifteen million six hundred thousand (15,600,000), for each one percent (1%) of Anticipated Holdings in the Participant, based on its most recent Financial Statements (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2020).

(“Increased Required Equity”)

(II) Financial Pre-Qualification Requirements applicable to Financial Entities

6.5. Each Member of the Participant which is a Financial Entity is required to comply with one of the following alternatives:

6.5.1. Private Investment Fund

Any Member, who is a Private Investment Fund, is required to demonstrate that as of the last day of its most recent Financial Statement, it has an Unutilized Commitments of not less than NIS fifteen million six hundred thousand (15,600,000), for each one percent (1%) of the Member's Anticipated Holdings in the Participant, based on the Member's most recent Financial Statements (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2020).

6.5.2. Institutional Investors or Banking Corporation

Any Member which is an Institutional Investor or Banking Corporation, is required to demonstrate one of the following:

6.5.2.1. Its equity (excluding minimal equity required by law, to the extent relevant) is at least NIS seven million eight hundred thousand (7,800,000) for each one percent (1%) of its Anticipated Holdings in the Participant, based on the Member's most recent annual Financial Statement, which is not earlier than 2020; **or**

6.5.2.2. It manages assets with a net worth of at least NIS One hundred and thirty million (130,000,000) for each one percent (1%) of its Anticipated Holdings in the Participant, based on the Member's most recent annual Financial Statement, which is not earlier than 2020.

6.5.3. Investment Entity

Any Member which is an Investment Entity is required to demonstrate that Its equity is at least NIS fifteen million six hundred thousand (15,600,000) for each one percent (1%) of its Anticipated Holdings in the Participant, based on

the Member's most recent annual Financial Statement, which is not earlier than 2020.

(III) General Financial Pre-Qualification Requirement

6.6. No Going Concern

Each Member and an Experience Provider shall demonstrate that it is not under any voluntary or involuntary bankruptcy process (liquidation or reorganization), or receivership, or commencement of a similar insolvency proceedings, and its most recent Financial Statement, which is not earlier than 2020, does not include any Going Concern notice).

6.7. Reliance on a Guarantor

6.7.1. Each Member which is not a Financial Entity, may demonstrate compliance with the Financial Pre-Qualification Requirements by relying on a Guarantor, provided that the Guarantor itself complies with all the Financial Pre-Qualification Requirements applicable to the Guarantor, and provided that both the Member and its Guarantor comply with the requirements under Section 4.5 (Participation - General Requirements) above.

6.7.2. A Member may seeking to rely on such Guarantor as set forth in Section 6.7.1 above for only a portion of its Anticipated Holdings in the Participant (the "**Guaranteed Portion**"). In such event, the Guarantor shall demonstrate compliance with all Financial Pre-Qualification Requirements applicable to the Guarantor for the Guaranteed Portion (i.e. A Member whose Anticipated Holdings in the Participant are 50%, may rely on a Guarantor for a Guaranteed Portion of 10%. In such case, the Member shall demonstrate compliance with the Financial Pre-Qualification Requirements applicable to it for the Anticipated Holdings of 40% and its Guarantor shall demonstrate compliance with all Financial Pre-Qualification Requirements applicable to the Guarantor for the Anticipated Holdings of 10%).

6.7.3. For the purpose of determining a Guarantor's compliance with all the Financial Pre-Qualification Requirements applicable to the Guarantor, in the event that the Guarantor is also a Member of the Participant, the Anticipated Holdings of

such Guarantor in the Participant will be deemed to include its Anticipated Holdings as a Member as well as the Anticipated Holdings of all the Member(s) seeking to rely on such Guarantor. Notwithstanding the above, in the event the Guarantor demonstrates compliance only with respect to a Guaranteed Portion as set forth in Section 6.7.2 above, then the Anticipated Holdings of such Guarantor in the Participant will be deemed to include its Anticipated Holdings as a Member as well as the Guaranteed Portion.

6.8. Financial Pre-Qualification Requirements Compliance

6.8.1. In order to demonstrate compliance with the Financial Pre-Qualification Requirements detailed in Section 6.1 (Financial Pre-Qualification Requirements applicable to Members which are not Financial Entities) or Section 6.5 (Financial Pre-Qualification Requirements applicable to Financial Entities), the applicable Entities shall complete, execute and submit Pre-Qualification Form "9" and attach all relevant Financial Statements in accordance with the provisions set in section 6.9 (Submission of Financial Statements) below.

6.8.2. In order to demonstrate compliance with Financial Pre-Qualification Requirements detailed in Section 6.6 (No Going Concern), each Participating Entity shall complete, execute and submit Pre-Qualification Form "10".

6.9. Submission of Financial Statements

6.9.1. The Financial Statements, shall be duly prepared and presented in accordance with one of the following accounting standards:

6.9.1.1. Israeli GAAP (including Standard No. 51 of the Institute of Certified Public Accountants in Israel);

6.9.1.2. US GAAP (published by the FASB);

6.9.1.3. International Financial Reporting Standards (including, with respect to the cash flow statements, IAS [International Accounting Standards] No. 7 and IFRS updates);

and duly executed by the Entity's management (or the equivalent thereof) and by its external auditors.

- 6.9.2. Entities whose Financial Statements are presented based on different accounting principles than those listed in Section 6.9.1 above, are required to submit a specific request to the Tender Committee to approve submission of such Financial Statements based on different accounting principles, at least thirty (30) days prior to the Pre-Qualification Submission Date; the Tender Committee will consider each request on a case by case basis and may issue an Addendum as a result thereof.
- 6.9.3. Each Member or Guarantor (if applicable) shall submit for each of its Financial Statements a written signed declaration of its external accountant confirming that the Financial Statements have been prepared in accordance with one of the accounting principles detailed in Section 6.9.1 above.
- 6.9.4. Without derogating from the generality of Section 6.9.1, the Financial Statements must include a balance sheet, a profit and loss statement, a cash flow statement, and an auditor's report and notes.
- 6.9.5. An Entity whose Financial Statements do not include cash flow statements should provide such statements in accordance with the same accounting principles used in its Financial Statements, provided that such accounting principles are listed as one of the accounting principles set out in Section 6.9.1 above, duly executed by the Entity's external auditors.
- 6.9.6. The Financial Statements will be provided either in English or in Hebrew. Notwithstanding the foregoing, in the event any Financial Statements required to be submitted pursuant to the Invitation have been originally prepared in a language other than English or Hebrew, such Financial Statements shall be submitted in their original language and shall be accompanied by a translation to English authenticated in accordance with the requirements of Section 9.3 (Language of the Pre-Qualification Submission).
- 6.9.7. In the event of a Member's reliance on a Guarantor, the Financial Statements of such Guarantor shall be included, in addition to those of the Member, and

shall be subject to the provisions of Section 6.7 (Reliance on a Guarantor), above.

6.9.8. Currency Conversion

6.9.8.1. The financial figures included in the Pre-Qualification Documents must be submitted in New Israeli Shekels (NIS) and, to the extent indicated in relevant Pre-Qualification Forms, in the applicable original currency.

6.9.8.2. In the event that the Financial Statements or the Contract Value are presented using USD (US\$), Euro (€), or Great British Pound (£) the financial data shall be converted to NIS in the following manner:

6.9.8.2.1. Operating Cash Flow

The operating cash flow shall be converted to NIS based on the exchange rates detailed below in this Section:

Calendar Fiscal Year	Currency	NIS (₪)
January 1, 2018, until December 31, 2018	1 USD (US\$)	3.5970
	1 EUR (€)	4.2442
	1 GBP (£)	4.7973
January 1, 2019, until December 31, 2019	1 USD (US\$)	3.5643
	1 Euro (€)	3.9926
	1 GBP (£)	4.5508
January 1, 2020, until December 31, 2020	1 USD (US\$)	3.4367
	1 Euro (€)	3.9252
	1 GBP (£)	4.4130
January 1, 2021, until December 31, 2021	1 USD (US\$)	3.2293
	1 Euro (€)	3.8203
	1 GBP (£)	4.4434

6.9.8.2.2. Equity

An Entity's equity shall be converted to NIS, based on the exchange rates detailed below in this Section:

Day	December 31, 2020	December 31, 2021
Currency	NIS (₪)	NIS (₪)
1 USD (US\$)	3.2150	3.1100
1 Euro (€)	3.9441	3.5199
1 GBP (£)	4.3919	4.2031

6.9.8.2.3. Unutilized Commitments - Private Investment Fund

An Entity's Unutilized Commitments shall be converted to NIS, based on the exchange rates detailed below in this Section:

Day	December 31, 2020	December 31, 2021
Currency	NIS (₪)	NIS (₪)
1 USD (US\$)	3.2150	3.1100
1 Euro (€)	3.9441	3.5199
1 GBP (£)	4.3919	4.2031

6.9.8.2.4. Contract value

The Contract Value shall be converted to NIS based on the representative exchange rate known on the signature date of the applicable contract as published by the Bank of Israel.

6.9.8.3. An Entity whose financial data, such as a Contract Value or Financial Statements, is presented in currencies other than the currencies presented in Section 6.9.8.1 above is required to submit a specific request to the Tender Committee for other currency conversion to NIS, at least 30 days prior to the Pre-Qualification Submission Date. Such a request shall contain all the relevant information, including exchange

rate tables and a reference to the source thereof. The Tender Committee will consider each request on a case-by-case basis and may issue an Addendum as a result thereof.

- 6.9.8.4. An Entity whose fiscal year, according to its place of registration, ends on a day other than December 31, is required to request the Tender Committee's consent to use alternative exchange rates, at least thirty (30) days prior to the Pre-Qualification Submission Date. The request must specify all the relevant information, in order to allow the Tender Committee to determine alternative exchange rates. The Tender Committee will consider each request on a case-by-case basis and may issue an Addendum as a result thereof.

7. **GENERAL INSTRUCTIONS FOR DEMONSTRATING COMPLIANCE WITH THE PRE-QUALIFICATION REQUIREMENTS**

7.1. **Relying on the experience of a Supporting Entity**

- 7.1.1. For the purpose of demonstrating compliance with the Professional Pre-Qualification Requirements, an Experience Provider may present and rely on works which were executed by another Entity ("**Supporting Entity**"), in accordance with any of the following.

7.1.1.1. If the Supporting Entity is an SPV:

7.1.1.1.1. the Experience Provider must have had Effective Holdings of thirty percent (30%) or more of all Means of Control in the SPV; and

7.1.1.1.2. the Entities which directly held the Means of Control of the SPV (including the Experience Provider, if applicable), must have been responsible, jointly and severally, for the execution of the relevant works.

7.1.1.1.3. Notwithstanding the foregoing, the requirement specified in Section 7.1.1.1.2 above, and only said requirement, shall not apply with respect to an SPV which is a limited liability company.

- 7.1.1.2. The Supporting Entity is a Subsidiary held by the Experience Provider.

8. PRE-QUALIFICATION SUBMISSION

8.1. **Pre-Qualification Submission Letter**

Each Participant shall attach to its Pre-Qualification Submission the Pre-Qualification Submission Letter provided in Pre-Qualification Form “1”, duly completed and signed by the Participant. If the Participant has not yet been incorporated, the Pre-Qualification Submission Letter will be duly completed and signed by each of its Members (“**Pre-Qualification Submission Letter**”).

8.2. **Description of the Participant, Members, Experience Providers and Guarantors**

In order to demonstrate compliance with the provisions of Sections 4.1 (The Participant), 4.2 (Members of the Participant), 4.3 (Experience Provider) and 4.4 (Guarantor), each Participant shall submit all of the Pre-Qualification Forms specified in Sections 4 (General Provisions Relating to Participating Entities), 5 (Professional Pre-Qualification Requirements) and 6 (Financial Pre-Qualification Requirements), duly completed and signed.

8.3. **Receipt for Payment of Participation Fee**

Each Participant shall include a copy of the receipt for payment of the Participation Fee in its Pre-Qualification Submission, attached to Pre-Qualification Form “2”.

8.4. **Identification of Sensitive or Classified Information**

Without derogating from the generality of the provisions of Regulation 21(e) of the Regulations, and the discretion granted thereunder to the Tender Committee, Participants and Members will detail, in a clear, complete and legible manner, within Pre-Qualification Form “1”, all information contained in their Pre-Qualification Submissions which they consider to be of a commercially sensitive or confidential nature and which, in their opinion, should not be disclosed to other Participants (“**Privileged Information**”). For the removal of doubt, general confidentiality statements will be disregarded.

8.5. Validity of Pre-Qualification Submissions

Unless extended by the Tender Committee, the Pre-Qualification Submissions shall be valid for eighteen (18) months, beginning at the Pre-Qualification Submissions Date.

9. METHOD OF SUBMISSION

The Pre-Qualification Submission shall be submitted in accordance with the following provisions:

9.1. Compliance with the Requirements of the Pre-Qualification Documents

Participants shall prepare their Pre-Qualification Submissions in strict conformity with the requirements of this Invitation. Participants shall complete all applicable parts of the Pre-Qualification Submission in an accurate and detailed manner, disclosing all the information requested, as well as any additional information or data required to clarify, substantiate and, in general, support the Pre-Qualification Submission.

Without derogating from the generality of the foregoing, Participants shall submit all Pre-Qualification Forms attached to this Invitation, duly executed.

9.2. No Unauthorized Modification

9.2.1. Participants shall not modify or supplement the instructions of this Invitation by Deviations. Any Deviations included in or attached to a Pre-Qualification Submission may result in the disqualification of the Pre-Qualification Submission and/or of the Participant.

9.2.2. For the avoidance of doubt, any Deviations attached to the Pre-Qualification Submission, which were not submitted by the Participant to the Tender Committee in accordance with the provisions of Section 3.9 (Requests for Clarification of this Invitation) and approved by the Tender Committee in the form of an Addendum, issued in accordance with the provisions of Section 3.10 (Addenda), may be deemed as unauthorized and may result in the disqualification of the Pre-Qualification Submission and of the Participant.

9.2.3. Whether a statement, condition, limitation, modification, supplement, reservation, disclaimer or provision attached to the Pre-Qualification Submission will be considered a Deviation as referred to above will be determined by the Tender Committee on the basis of substance rather than form. Thus, a statement expressed as an assumption, a request for a change, a clarification, or a suggestion “to discuss at a later stage” (or any comparable words or expressions), may be treated by the Tender Committee as a Deviation.

9.3. Language of the Pre-Qualification Submission

All Pre-Qualification Submissions, including Pre-Qualification Forms, statements contained therein and responses to requests for clarifications, shall be in English. Supporting documents and printed literature submitted by a Participant in any other language must be accompanied by a translation to English, authenticated by a Public Notary. For purposes of interpretation, the translation to English shall prevail over the original.

Notwithstanding the above, Financial Statements, official documents and authenticated certificates of Israeli corporations in Hebrew may be submitted without an English translation.

9.4. Signing of the Pre-Qualification Submission

9.4.1. Each page of the Pre-Qualification Submission, including all Pre-Qualification Forms and appendices, shall be duly signed by the Participant (if the Participant is a single Entity already incorporated on the Pre-Qualification Submission Date) or by each of the Members of the Participant (if the Participant is not a single Entity). Alternatively, each page may be signed by the Authorized Representative.

9.4.2. Without derogating from the foregoing, if a document or a set of documents comprising part of the Pre-Qualification Submission are set in binders only the first and last pages of each of the binders are to be signed, clearly indicating the number of pages therein.

9.5. **Table of Contents**

All pages of the Pre-Qualification Submission will be numbered, and the Pre-Qualification Submission will include a detailed table of contents.

9.6. **Authorization of Signatures by an Attorney**

Adjacent to the Participant's signature on the signature page of each Pre-Qualification Form within its Pre-Qualification Submission, an attorney shall confirm that the signatory (i) was cautioned that he/she is required to state the truth, and that if he/she fails to do so he/she shall be liable to the punishments prescribed by law; and (ii) is authorized to submit the required information on behalf of the Participating Entity and to commit such Participating Entity in relation to the document on which such signature appears.

9.7. **Number of Pre-Qualification Submission Copies**

- 9.7.1. Pre-Qualification Submissions shall be submitted in five identical sets: one (1) original and four (4) copies. Financial Statements, however, shall be submitted in two (2) copies, attached to the original Pre-Qualification Submission.
- 9.7.2. Pre-Qualification Submissions must be submitted and clearly marked as the original and as the four (4) identical copies.
- 9.7.3. In addition, the Pre-Qualification Submission shall include five (5) USB storage devices, each containing a copy of the entire Pre-Qualification Submission, including the Financial Statements, in PDF format.
- 9.7.4. In the event of a discrepancy between the original and the other Pre-Qualification Submission documents, and/or the USB storage devices, the original shall prevail.

9.8. Sealing and Marking of Pre-Qualification Submissions

9.8.1. The Pre-Qualification Submissions shall be submitted to the Tender Committee in the allocated tender box, to be placed at the following address:

Private Public Partnerships Division, Inbal Insurance Company Ltd., Inbal House, 3 Arava St., 5th Floor, P.O.B. 282, Airport City, Ben-Gurion Airport 7015103.

9.8.2. The Participant shall seal the original and each of the four (4) copies of the Pre-Qualification Submissions in separate envelopes. The envelopes shall then be sealed in an outer envelope or a box.

9.8.3. Each outer envelope or box submitted as part of the Pre-Qualification Submission shall be clearly marked with the name of this Invitation:

‘Pre-Qualification Submission in relation with a Tender for the Finance, Design, Construction and Operation of Express Lanes - Highway 5, submitted by [the name (or proposed name) of the Participant]’. No other details shall be indicated on the outer envelope or box.

9.9. Pre-Qualification Submission Date

9.9.1. Without derogating from the Provisions of Section 3.10 (Addenda), Pre-Qualification Submissions shall be submitted at the address provided in Section 9.8 (Sealing and Marking of Pre-Qualification Submissions) on the date designated for such submission, as set forth in Section 2.3 (Anticipated Schedule) above, by no later than 14:00 (2 p.m.) local time (the “**Pre-Qualification Submission Date**”).

9.9.2. Pre-Qualification Submissions submitted after the Pre-Qualification Submission Date may be opened by the Tender Committee solely for the purpose of identifying the relevant Participant. Such Pre-Qualification Submissions shall be rejected and promptly returned to the Participant which shall consequently be disqualified from participating in the Tender Process.

9.10. **Opening of Pre-Qualification Submissions**

All Pre-Qualification Submissions shall be kept in the tender box until the opening thereof. The opening of any Pre-Qualification Submission shall be documented.

10. **REVIEW AND EVALUATION OF PRE-QUALIFICATION SUBMISSIONS**

10.1. **Review and Evaluation by the Tender Committee**

10.1.1. The Tender Committee, with the assistance of any of its advisors and experts, shall review and evaluate the Pre-Qualification Submissions in order to determine whether each of the Participants meets the Pre-Qualification Requirements in this Invitation, including all professional and financial requirements and all other applicable provisions and requirements of this Invitation.

10.1.2. The Pre-Qualification Submissions will not be graded by the Tender Committee. Pre-Qualification Submissions shall either “pass” or “fail” the Pre-Qualification Process.

10.2. **Requests for Clarifications by the Participants**

10.2.1. Without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee may conduct an independent evaluation of, and in connection with, any Pre-Qualification Submission. In its independent evaluation, the Tender Committee may rely on any information available to it, including information provided by any third-party, inter alia, with respect to any referenced project.

10.2.2. The Tender Committee may request additional information and clarifications from a Participant or any other Entity or person, including through meetings in accordance with the provisions of Section 10.2.3.

10.2.3. The Tender Committee may request a Participant or any other Entity or person to clarify any item included in any Pre-Qualification Submission and to submit any additional information, clarification, document, reference, etc. which is

necessary in the opinion of the Tender Committee for the evaluation of the Pre-Qualification Submission, or any part thereof.

In doing so, the Tender Committee may hold meetings with all or any of the Participants, may address any of the clients mentioned in any of the Pre-Qualification Forms, and may visit any site operated by any Participating Entity.

- 10.2.4. Participants will comply with the requests of the Tender Committee and will submit all requested clarifications and additional information by email and in hardcopy in the same number and manner as the submission of its Pre-Qualification Submission, within the time period which shall be stipulated by the Tender Committee.
- 10.2.5. The Tender Committee's requests for clarifications will be made in writing and delivered to the Participants by mail. The receipt thereof shall be confirmed by the Participant by return mail, to the address noted in Section 3.9.1 above, within three (3) days of receipt, all without derogating from the right of the Tender Committee to set different arrangements for clarifications, approvals and submissions.
- 10.2.6. The Participants' responses to the requests for clarifications issued by the Tender Committee will form an integral part of their Pre-Qualification Submissions. In the event of a discrepancy between the Pre-Qualification Submission and the Participant's response to the requests for clarifications, the Participant's response to the requests for clarifications shall prevail.
- 10.2.7. Participants may be invited to meet the Tender Committee and/or to supply clarifications and/or additional information to the Tender Committee face-to-face. For that purpose, the Tender Committee may meet any of the Participants in either separate or joint meetings.
- 10.2.8. The Tender Committee may exercise its right under this Section any number of times during the evaluation of the Pre-Qualification Submissions.

10.3. Dealing with Deviations

- 10.3.1. In any event that a Pre-Qualification Submission contains a Deviation, the Tender Committee may act as it deems appropriate, including, without limitation, in any one or more of the following ways:
 - 10.3.1.1. Disqualifying the Participant and the Pre-Qualification Submission;
 - 10.3.1.2. Ignoring the Deviation or any part thereof;
 - 10.3.1.3. Deeming the Deviation or any part thereof as a technical error;
 - 10.3.1.4. Requesting that the Participant amend the Deviation by resubmitting its Pre-Qualification Submission or any part thereof, by providing a notice of retraction of the Deviation to the Tender Committee, or by any other means deemed necessary in the opinion of the Tender Committee.
- 10.3.2. The Tender Committee shall be entitled, at its sole discretion, to determine whether or not to act in accordance with any of the alternatives specified in Sections 10.3.1.1.-10.3.1.4.
- 10.3.3. The Tender Committee's decision to correct a certain type of Deviation shall not be deemed as approval to correct any other type of Deviation.
- 10.3.4. In the event that a Participant refuses to comply with a request of the Tender Committee regarding Deviations in the Pre-Qualification Submission, without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee may disqualify the Participant's Pre-Qualification Submission.
- 10.3.5. Under exceptional circumstances, the Tender Committee may amend or waive any requirement herein, if the Tender Committee is of the opinion that doing so will be beneficial for the Project.

10.4. Announcement of Eligible Participants

- 10.4.1. Upon the completion of its evaluation of the Pre-Qualification Submissions, the Tender Committee will announce those Participants which the Tender

Committee deemed to have successfully demonstrated compliance with the requirements of the Pre-Qualification Documents, including with all Pre-Qualification Requirements, and which were not otherwise disqualified thereby (“**Eligible Participant**”).

10.4.2. Upon the completion of the Pre-Qualification Process and the selection of Eligible Participants, the Tender Committee may publish the identity of the Eligible Participants (including their Members, Experience Providers and Guarantors) to all Participants and in a press release.

10.4.3. The Pre-Qualification Submission shall be deemed an integral part of the Bid submission submitted by any Eligible Participant (to the extent that such was submitted).

10.5. Rejection of the Pre-Qualification Submissions

Without derogating from the Tender Committee’s rights under the Law:

10.5.1. The Tender Committee reserves the right to reject any or all Pre-Qualification Submissions.

10.5.2. The Tender Committee reserves the right to reject a Pre-Qualification Submission if the Tender Committee is of the opinion that, based on the financial and professional information provided in its Pre-Qualification Submission, the Participant is, prima facie, unable to execute the Project.

10.5.3. Without derogating from the rights and prerogatives of the Tender Committee pursuant to the provisions of this Invitation and the Law, the Tender Committee reserves the right to waive or amend any clerical error, arithmetic error or accidental omission in the Pre-Qualification Submission.

10.5.4. The Tender Committee reserves the right to reject Pre-Qualification Submissions which do not comply with the Pre-Qualification Requirements, or any other applicable provision of this Invitation, or which are partial, reserved, lacking, conditional, or are false or based on false or misleading information.

10.5.5. The Tender Committee may disqualify any Participant, or impose upon any Participant any conditions, limitations or restrictions, or issue any instruction with respect to its participation in the Pre-Qualification Process and/or the Tender Process in any of the following events:

10.5.5.1. Any changes to a Participating Entity, or to the organizational structure presented by the Participant, including a Member's Anticipated Holdings in the Participant, without the prior written approval of the Tender Committee;

Notwithstanding the foregoing:

(1) Changes to a Participating Entity which is a publicly listed stock company shall not be subject to the prior written approval of the Tender Committee, provided that such changes do not result in the creation of a new "Principal Shareholder" ("בעל עניין") as such term is defined in the Securities Law, 1968;

(2) The Tender Committee shall not object to a change in the identity of a Member which is a Private Investment Fund, that complies with all the following cumulative requirements:

(a) the replacement is a Private Investment Fund is managed by the same General Partner; and

(b) the replacement Private Investment Fund complies with the Financial Pre-Qualification Requirements based on its most recent Financial Statements, or in the event that the replacement Private Investment Fund was recently incorporated and does not have any Financial Statements based on an affidavit duly executed by the General Partner.

10.5.5.2. The commencement of insolvency, bankruptcy, receivership, liquidation or reorganization proceedings against a Participating Entity or against any Entity which a Participating Entity relied upon or presented, or any similar proceeding which may have the same effect, as determined by the Tender Committee, unless such proceedings are discharged within a reasonable period of time, as determined by the Tender Committee;

- 10.5.5.3. The appointment of a temporary or a permanent receiver or liquidator over a Participating Entity;
- 10.5.5.4. A change in circumstances following which a Participating Entity has a “Going Concern Notice” or a notice to similar effect, in its most recent Financial Statements;
- 10.5.5.5. Any engagement of an Advisor other than in accordance with the provisions of Section 3.14 (Advisors to the Tender Committee – Avoidance of Conflicts of Interest);
- 10.5.5.6. In the event that any Participating Entity, an Interested Party thereof or directors or office holders thereof (including individuals) has been convicted of an Offence, which the Tender Committee determines at its sole discretion that such Offence might result in any material or adverse change in its business; or is concerning grave professional misconduct; is concerning fraud and breach of faith; or effects its integrity and/or credibility;
- 10.5.5.7. In the event that any Participating Entity is or becomes a resident of or domiciled in a country which does not have diplomatic relations with the State of Israel;
- 10.5.5.8. Any material breach of the provisions of the Invitation or failure to comply with an instruction of the Tender Committee, including, inter alia, the submission of any false, incomplete or misleading information to the Tender Committee;
- 10.5.5.9. Any material change in, or exceptional circumstances with respect to, a Participating Entity or any Entity which a Participating Entity relied upon or presented, which, in the Tender Committee’s opinion, may hinder its participation in the Pre-Qualification Process and/or the Tender Selection Stage, or its involvement in the Project.
- 10.5.5.10. As a result of any national security or foreign affair considerations, as to be determined by the Tender Committee at its sole discretion;

- 10.5.5.11. Any other reason for which the Tender Committee deems that a Participating Entity will not be capable of executing the Project (or its applicable role therein), should the Participant be invited to participate in the Tender Process, or any other event or exceptional circumstances which the Tender Committee may consider, at its sole discretion, as justifying disqualification, or conditioning or limiting the further participation of a Participating Entity;
- 10.5.6. The Participant shall be required to notify the Tender Committee of the existence of any of the events described in Section 10.5.5 within a reasonable period of time given the circumstances.
- 10.5.7. Notwithstanding the foregoing, the Tender Committee may initiate and request the submission of applicable information with respect to any of the above.
- 10.5.8. The Tender Committee may base its decision under this Section 10.5 (Rejection of the Pre-Qualification Submissions) on the information provided by the Participant as well as on any other information available to it, and may request the Participant to provide it with additional information and act according to its rights pursuant to Section 10.2 (Requests for Clarifications by the Participants), as the Tender Committee deems necessary.

10.6. Notice of Intended Decision

In the event that the Tender Committee intends to disqualify a Pre-Qualification Submission submitted by a Participant or otherwise impose conditions or restrictions with respect to its participation (either in the Pre-Qualification Process or the Tender Selection Stage) pursuant to the provisions of Section 10.5 (Rejection of the Pre-Qualification Submissions), the Tender Committee will allow such a Participant to present its case with respect to such intended decision.

10.7. Disclosure of Documents

- 10.7.1. Following the determination of the Eligible Participants and the completion of the Pre-Qualification Stage, each Participant shall be entitled to review the relevant protocols of the Tender Committee and any of the other Pre-

Qualification Submissions submitted by other Eligible Participants and to receive a copy thereof.

10.7.2. The Tender Committee may condition such review on the payment of a fee by the Participant conducting the review.

10.7.3. Participants shall not be entitled to review Pre-Qualification Submissions submitted by other Eligible Participants before a decision is issued by the Tender Committee with respect to the Participants' requests regarding Privileged Information and those parts of the Pre-Qualification Submissions which are commercially sensitive or confidential under this Invitation or Law. The procedure, including the time schedule, with respect to disclosure of documents and review by the Participants shall be determined by the Tender Committee.

10.7.4. The Tender Committee shall evaluate as it deems necessary the requests with respect to Privileged Information submitted by each of the Participants in accordance with the provisions of Section 8.4 (Identification of Sensitive or Classified Information), as it deems necessary. The decision of the Tender Committee with respect thereto will be issued to each Participant.

10.7.5. If a Participant has identified parts of its Pre-Qualification Submission as being **Privileged Information**, such Participant:

10.7.5.1. Will not be entitled to claim that the other parts of its Submission which it has not identified as Privileged Information are of a commercially sensitive or confidential nature and cannot be reviewed by other Participants; and

10.7.5.2. Will not be entitled to review the parts of any other Participant's Pre-Qualification Submission that are parallel to what it has marked as Privileged Information in its own Pre-Qualification Submission; and

Each Participant shall be deemed to have waived any claims it may have with respect thereto.

10.7.6. The foregoing shall apply even if:

- 10.7.6.1. the request of a Participant with respect to Privileged Information is rejected by the Tender Committee;
- 10.7.6.2. the Tender Committee decides, of its own initiative and not following a specific request, to apply its decision with respect to information it considers to be of a commercially sensitive or confidential nature in a consistent manner with respect to all Pre-Qualification Submissions;
- 10.7.6.3. a Participant did not submit any request with respect to Privileged Information in accordance with the provisions of Section 8.4 (Identification of Sensitive or Classified Information). The fact that no request with respect to Privileged Information was submitted by a Participant will not be construed or interpreted as derogating from the discretion and prerogatives of the Tender Committee in this respect.

11. **THE TENDER PROCESS**

11.1. **Issuance of the Tender Selection Stage Documents; Update Statement**

11.1.1. **General.**

- 11.1.1.1. Each Eligible Participant shall include within its Bid a statement detailing any and all changes with respect to the Eligible Participant, its Members, and, if applicable, its Related Entities and/or its Major Subcontractors, which took place following the submission of the Pre-Qualification Submission (the “**Update Statement**”). Should no such changes take place, the Update Statement will be a confirmation of such. Additionally, the Tender Committee may, at its sole discretion, request a Pre-Qualification Update Statement from any Participant and/or Participating Entity at any time.

In addition to, and without derogating from, the aforementioned, the Eligible Participants are expected to update the Tender Committee immediately upon the occurrence of any change, and in any case, by no later than the Bid Submission Date.

11.1.1.2. The Tender Committee shall review the information and, without derogating from its rights under Law or under the Tender Document, shall be entitled to either disqualify any Eligible Participant in the event that such Eligible Participant no longer meets the requirements of this Invitation, or impose any condition or instruction restricting its participation in the Tender Selection Stage, including in the event that concerns regarding the capability of the Eligible Participant to execute the Project arise following the review of the Update Statements, at such time, all as shall be deemed suitable by the Tender Committee.

11.1.2. Updated Financial Statements.

11.1.2.1. Pursuant to the provisions of the Tender Documents, each Eligible Participant shall be required to submit its Participating Entities' most recent available audited Financial Statements on the Bid Submission Date.

11.1.2.2. The Tender Committee may request an Eligible Participant or any of its Participating Entities to clarify, complete, or add any information or documents, as it sees fit, for the purpose of examining the Updated Financial Statement. The Tender Committee may disqualify an Eligible Participant at any stage, or limit or restrict its continued participation in the Tender Selection Stage upon any conditions it deems fit, including in the event that concerns regarding the capability of the Eligible Participant to execute the Project arise out of any of the updated Financial Statements.

11.1.3. The Tender Committee may refer to an Eligible Participant's Update Statements or Updated Financial Statements and the implications arising therefrom upon the Eligible Participant's participation, at any time after its submission, as it may deem fit at its sole discretion. The Tender Committee's abstention from referring to an Eligible Participant's Update Statements or Updated Financial Statements shall not derogate, in any way, from its prerogative to disqualify the Eligible Participant, at any later date, due to the information contained therein, or to impose any conditions or restrictions upon

the Eligible Participant regarding its continued participation in the Tender Process, and the Eligible Participant shall have no arguments or claims against the Tender Committee in this regard.

- 11.1.4. The above shall not derogate from the Tender Committee's discretion to act upon significant developments or shifts in any financial or business environment.

11.2. Formation of a Special Purpose Company

- 11.2.1. Following completion of the Pre-Qualification Process, in order to participate in the Tender Process and submit a Bid thereunder, it is expected that each Eligible Participant will be required to form a Special Purpose Company, incorporated in accordance with all relevant Laws, whose sole purpose shall be the participation in the Tender Process, the submission of a Bid therein and the execution of the Project, if eventually selected to do so ("**SPC**").
- 11.2.2. The shares and other interests in this SPC will be wholly held by the Member or Members which participated, through the Participant, in the Pre-Qualification Submissions, or by the Participant, and were approved by the Tender Committee pursuant to the Pre-Qualification Process. The shareholdings and the holdings of other interests by each such Member in the SPC shall be as provided in Pre-Qualification Form "3", all as shall be further detailed in the Tender Documents. If the Participant was a single Entity, all shareholdings and holdings of other interests in the SPC shall be as provided in Pre-Qualification Form "3", all as shall further be detailed in the Tender Documents.
- 11.2.3. Requirements and options with respect to the incorporation of the SPC shall be included in the Tender Selection Stage documents.

11.3. **Reservation of Rights**

- 11.3.1. All Participants acknowledge that the Project description as specified in this Invitation is general and indicative only. All Participants further acknowledge that at the date of issuance of this Invitation, the Project is not completely formulated and the Tender Documents have not been completed and/or approved. The issuance of this Invitation is not intended to give rise to or create any representation, undertaking or warranty on behalf of the Tender Committee or anyone on their behalf with respect to the Project.
- 11.3.2. Participation in this Tender Process shall not confer upon an Entity, a Participant or an Eligible Participant, any right with respect to the Project or any future proceedings which will be conducted with respect thereto, including the Tender Process. The Tender Committee reserves all rights and prerogatives to determine the exact scope, the content, and the terms and conditions of the Tender Documents and for the execution of the Project.
- 11.3.3. The issuance of this Invitation is not intended to guarantee the execution or the implementation of the Project or any part thereof. It is expressly understood that any reliance by any Entity, Participant or Eligible Participant, and the making of any deductions, interpretations or conclusions with respect to the Project which is expressed hereby, or inferred from any information provided hereby by the Tender Committee, or by virtue of participation in this Pre-Qualification Process, is at the Entity, Participant or Eligible Participant's sole responsibility. Neither the Tender Committee nor anyone on their behalf, shall be responsible in any respect for any loss or damage whatsoever suffered by any Entity, Participant or Eligible Participant, their employees, officers, agents, or any other persons for which any Entity, Participant or Eligible Participant may be contractually or legally responsible or accountable, by reason of any assumption, inference, conclusion or reliance on the information contained in this Invitation, in connection therewith, or any action or forbearance in reliance thereon.
- 11.3.4. Without derogating from the generality of the forgoing, the Tender Committee reserves the right not to proceed with this Pre-Qualification Process, or with

the Tender Selection Stage for the Project or any part thereof, and may terminate or cancel this Invitation or any other proceedings which are conducted with respect thereto, or with respect to the Project or any part thereof, at any time, as it shall deem appropriate.

- 11.3.5. It is clarified that the Project is subject to governmental budgetary approval, without which this Pre-Qualification Process, the Tender Selection Stage and the Project may be cancelled without entitling any Entity, Participant or Eligible Participant to any compensation or remedy for loss or damage whatsoever, as provided below.
- 11.3.6. Under the circumstance described herein, the Tender Committee or anyone on their behalf shall not be responsible in any respect for any loss or damage whatsoever suffered by any Entity, Participant or Eligible Participant, their employees, officers, agents, or any other persons for which any Entity, Participant or Eligible Participant may be contractually or legally responsible or accountable, and shall not be required to compensate the Entity, the Participant or the Eligible Participant, their employees, officers, agents, or any other persons for which the Entity, Participant or Eligible Participant may be contractually or legally responsible or accountable.
- 11.3.7. The Tender Committee, and anyone on their behalf may publish a new pre-qualification invitation or other proceedings, including a new tender, with respect to the Project or any part thereof, which may include other or additional pre-qualification requirements, or minimum requirements in the Tender Documents. They may or may not invite the Participants to take part in such proceedings, or to execute the Project or any part thereof, in any other way deemed appropriate.

11.4. **Additional Prerogatives of the Tender Committee**

Without derogating from any other provision herein, due to the complexity of the Project and the preliminary stages of certain aspects thereof, the Tender Committee reserves the right to act upon any of the following prerogatives, whether at the Pre-Qualification Process or at the Tender Selection Stage, and neither, the Tender Committee, nor anyone on their behalf shall be responsible in any respect for any loss

or damage whatsoever suffered by any Entity, Participant or Eligible Participant as a consequence of exercising such prerogatives.

- 11.4.1. The Tender Committee reserves the right to add to or amend the requirements of this Invitation, the Pre-Qualification Process and the Tender Selection Stage at any point.

Without derogating from the forgoing, the Tender Committee reserves the right to add requirements or determine additional Pre-Qualification Requirements, determine minimum requirements, determine new professional requirements and/or financial requirements or any other requirements which will be deemed necessary under the circumstances, or require a change in the composition of the Participant (including waiving a requirement for the participation of an Experience Provider of a certain discipline or requiring the addition of an Experience Provider of a certain discipline), at any stage (including during the Tender Selection Stage).

- 11.4.2. The Tender Committee reserves the right to evaluate or reevaluate, at any stage, the compliance of any Pre-Qualification Submission with the requirements herein, to request additional information, to request the correction of any Deviation, and to modify or nullify any decision of the Tender Committee, all for any reason as the Tender Committee may deem fit.

- 11.4.3. Without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, in evaluating the Pre-Qualification Submissions, decisions will be reached by the Tender Committee on the basis of substance rather than form. Thus, the Tender Committee may:

- 11.4.3.1. in requests for clarification issued by it pursuant to the provisions of this invitation, request the demonstration of the Pre-Qualifications Requirements by a form of submission other than that which is specified pursuant to the provisions of this Invitation, including by providing documents which have been prepared following the Pre-Qualification Submission Date;

- 11.4.3.2. accept the demonstration of compliance with the Pre-Qualifications Requirements by Members or Experience Providers on behalf of a Participant other than those originally presented;
- 11.4.3.3. accept the demonstration of compliance with the Pre-Qualifications Requirements based on any information available to it, or raise questions and requests for clarifications with respect to lack of compliance with the Pre-Qualifications Requirements or other provisions of this Invitation, based on information available to it;
- 11.4.3.4. Without derogating from the provisions of Section 7.1 (Relying on the experience of a Supporting Entity), ascribe the qualifications of one Entity to another:
 - 11.4.3.4.1. following a Merger as such term is defined under the Companies Law 1999 (or, with respect to Entities established outside the State of Israel, a similar amalgamation, which, in accordance with the applicable law under the applicable jurisdiction, has the same essential outcome), which was completed prior to the Pre-Qualification Submission Date; and/or
 - 11.4.3.4.2. following an acquisition of 100% of all Means of Control of another Entity prior to the Pre-Qualification Submission Date; and/or
 - 11.4.3.4.3. following a transfer of some or all assets of an Entity, a business or a division of an Entity (in this Section, the “Former Holding Entity”), as part of a corporate reorganization, to a newly formed Entity or an existing Entity, provided that (i) the Former Holding Entity no longer holds any of the transferred assets, business or division (as applicable), and (ii) the transfer was completed prior to the Pre-Qualification Submission Date.

so long as the Tender Committee is provided with a confirmation of the date of the completion of the merger, acquisition, or the transfer of assets, business or division (as the case may be), and a description of the main features of the said merger, acquisition, or the transfer of assets, business or division (as the case may be), issued by the Entity’s external auditor or legal advisor. An Experience Provider relying on a Supporting Entity under one of the circumstances listed

in this Section 11.4.3.4, must complete, execute and submit Pre-Qualification Form “6”.

- 11.4.4. The Tender Committee may exercise any of the prerogatives pursuant to this Invitation, including this Section 11.4 (Additional Prerogatives of the Tender Committee), at any time, including following the issuance of the Tender Documents, any number of times as it deems necessary.
- 11.4.5. For the avoidance of doubt, the Tender Committee shall not be obligated to exercise any of the prerogatives pursuant to this Section 11.4 (Additional Prerogatives of the Tender Committee).

(***)