

B.O.T. PROJECT

**A TENDER FOR THE
FINANCE, DESIGN, CONSTRUCTION, OPERATION,
MAINTENANCE AND TRANSFER OF A SOLAR
PV POWER PLANT**

**AN INVITATION FOR PRE-QUALIFICATION NO.
1/2020**

January 2020

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Pre-Qualification Form “3”	-	The Members of the Participant and Guarantors
Pre-Qualification Form “4”	-	Letter of Guarantee
Pre-Qualification Form “5”	-	Financial Robustness - Non-Financial Entities
Pre-Qualification Form “6”	-	Financial Robustness - Private Investment Fund
Pre-Qualification Form “7”	-	Financial Robustness - Banking Corporation and Institutional Investors

- Pre-Qualification Form “8”¹ - Financial Robustness – Investment Entity
- Pre-Qualification Form “9”² - Form of Affidavit

¹ Addendum No. 1

² Addendum No. 1

1. INVITATION FOR PRE-QUALIFICATION

1.1. Definitions

- | | | |
|---------|--|---|
| 1.1.1. | “Addendum” or
“Addenda” | Shall have the meaning ascribed thereto in Section 2.10.2 of this Invitation. |
| 1.1.2. | "Advisors" | Shall have the meaning ascribed thereto in Section 2.14.1 of this Invitation. |
| 1.1.3. | “Agreement” | Shall mean the agreement which will be signed between the Tender Committee and the Successful Bidder for the execution of the Project. |
| 1.1.4. | “Anticipated Holdings” | Shall mean the intended share of holdings of each Member in the Participant, to the extent applicable, as described in Pre-Qualification Form ”2” (<i>THE PARTICIPANT</i>). |
| 1.1.5. | “Authorized Representative” | Shall have the meaning ascribed thereto in Section 3.6.1 of this Invitation. |
| 1.1.6. | “Average Operating Cash Flow” | Shall have the meaning ascribed thereto in Section 4.1.2 (Financial Pre-Qualification Requirements; Operating Cash Flow) of this Invitation. |
| 1.1.7. | “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 the State of Israel – a similar Entity pursuant to applicable law under the applicable jurisdiction. |
| 1.1.8. | "Bid" | Shall mean the bid submission submitted by an Eligible Participant within the Tender Process. |
| 1.1.9. | "Business Day" | Shall mean any working day (excluding, Friday and Saturday) on which banks are open for business in Israel. |
| 1.1.10. | "Commitments" | Shall mean the overall amount of all financial commitments made available to a Private Financial Fund by its limited partners. |
| 1.1.11. | “Completion” or
“Completed” | Shall mean the delivery of the referenced project to the client, or the commencement of its operation in accordance with its intended use. |
| 1.1.12. | "Conference" | Shall have the meaning ascribed thereto in Section 2.11.1 of this Invitation. |

1.1.13.	“Control”	Shall have the meaning ascribed thereto in the Securities Law 1968.
1.1.14.	“Deviation”	Shall mean any deviation, 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.
1.1.15.	“Eligible Participant”	Shall have the meaning ascribed thereto in Section 7.3 (Announcement of Eligible Participants) of this Invitation.
1.1.16.	“Entity”	Shall mean any incorporated body recognized by law within its domicile, including non-incorporated joint venture of incorporated bodies, but excluding individuals.
1.1.17.	“EPC Contract”	Shall mean a single contract pursuant to which the responsibility for both the design and the construction of a referenced project, including the warranty with respect thereto, is assumed by a single Entity.
1.1.18.	"EPC Contractor"	Shall have the meaning ascribed thereto in Section 1.4.2.1 of this Invitation.
1.1.19.	"EPC Expert"	Shall have the meaning ascribed thereto in Section 1.4.2.2 of this Invitation.
1.1.20.	“Experience Provider(s)”	Shall mean the EPC Expert and/or O&M Expert.
1.1.21.	“Financial Entity”	Shall mean: (i) a Private Investment Fund; (ii) a Banking Corporation; (iii) an Institutional Investor; or (iv) an Investment Entity ³ .

³ Addendum No. 1

- 1.1.22. **“Financial Pre-Qualification Requirement(s)”** Shall mean the requirements of Section 4.1.1 (Financial Pre-Qualification Requirements; Turnover); Section 4.1.2 (Financial Pre-Qualification Requirements; Operating Cash Flow); Section 4.1.3 (Financial Pre-Qualification Requirements; Equity), Section 4.1.5 (Financial Pre-Qualification Requirements; Private Investment Fund) Section 4.1.6 (Financial Pre-Qualification Requirements; Banking Corporation or Institutional Investors) and Section 4.1.7 (Financial Pre-Qualification Requirements; Investment Entity)⁴ of this Invitation.
- 1.1.23. **“Financial Statement(s)”** Shall mean, for each Entity, its annual audited consolidated financial statement 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 4.2.1 of this Invitation; in the event such Entity does not have audited consolidated financial statement as specified above, then such Entity shall issue its annual audited solo financial statement 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 4.2.1 of this Invitation.
- 1.1.24. **“Fund Manager”** Shall mean an individual (i) responsible for implementing the Private Investment Fund's investing strategy and managing its portfolio trading activities; and (ii) authorized to sign on behalf of the Private Investment Fund and to commit it for purposes of this Pre-Qualification Process, for all purposes and intents.
- 1.1.25. **“General Partner”** A general partner of a Private Investment Fund who is responsible for the overall management and administration of the Private Investment Fund.
- 1.1.26. **“Guarantor”** Shall have the meaning ascribed thereto in Section 3.3 (Guarantor) of this Invitation.

⁴ Addendum No. 1

1.1.27.	“Institutional Investor”	Shall mean (i) each of the Entities listed in Sections 1-3 of Schedule 1 of the Securities Law 1968 and/or with respect to an Entity registered outside Israel- a similar Entity pursuant to the applicable law under the applicable jurisdiction; (ii) entities recognized as "institution of higher education" pursuant to the Council for Higher Education Law, 1958 and/or with respect to an Entity registered outside the State of Israel – a similar Entity pursuant to applicable law under the applicable jurisdiction.
1.1.28.	“Interested Party”	Shall have the meaning ascribed thereto in the Securities Law, 1968, provided that for the purpose of this definition - the reference therein to "5%" shall be replaced by "15%".
1.1.29.	“Investment Entity”⁵	Shall have the meaning ascribed thereto in the International Financial Reporting Standard (IFRS) 10 (Consolidated Financial Statements).
1.1.30.	“Invitation”	Shall mean this invitation for pre-qualification including all Annexes thereof.
1.1.31.	“Law(s)”	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 precedents of relevant competent judicial authorities; all as modified, amended, replaced or created from time to time.

⁵ Addendum No. 1

1.1.32.	“Main Contractor”	Shall mean an entity which is directly accountable for the execution of the construction or operation and maintenance (as applicable) of the referenced project, bearing all the risks related to the execution thereof, including its management and administration and the engagement and coordination of all subcontractors. For the avoidance of doubt, entities which are accountable for the execution of the referenced project under (i) a concession agreement due (only) to their position as the Concessionaire (or a member thereof), or (ii) a license pursuant to the Electricity Sector Law due (only) to their position as the license holder, will not be considered as Main Contractor under this definition.
1.1.33.	“Means of Control”	Shall have the meaning ascribed thereto in the Securities Law 1968. Notwithstanding the above, with respect to a joint venture shall mean the power to impose professional decisions on the joint venture and the power to veto decisions made by the joint venture.
1.1.34.	“Member(s)”	Shall have the meaning ascribed thereto in Section 3.2.1 (Members of the Participant) of this Invitation.
1.1.35.	“Member's Average Turnover”	Shall have the meaning ascribed thereto in Section 4.1.1.2 (Financial Pre-Qualification Requirements; Turnover; Member's Average Turnover) of this Invitation.
1.1.36.	"Minimal Required Equity"	Shall have the meaning ascribed thereto in Section 4.1.3 (Financial Pre-Qualification Requirements; Equity) of this Invitation.
1.1.37.	“Minimal Turnover Required”	Shall have the meaning ascribed thereto in Section 4.1.1.3 (Financial Pre-Qualification Requirements; Turnover; Minimal Turnover Required) of this Invitation.

1.1.38.	“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, or any other criminal offence which resulted in a prison sentence of at least one (1) year, or if the relevant entity is not a citizen or a resident of the State of Israel, analogous offences committed under the laws of its domicile, provided that 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.
1.1.39.	“Offence Notification”	Shall have the meaning ascribed thereto in Section 3.5.1 of this Invitation.
1.1.40.	"O&M Contractor"	Shall have the meaning ascribed thereto in Section 1.4.2.1 of this Invitation.
1.1.41.	"O&M Expert"	Shall have the meaning ascribed thereto in Section 1.4.2.3 of this Invitation.
1.1.42.	“Parent Company”⁶	Shall mean with respect to a specified Entity, the Entity which Controls such specified Entity.
1.1.43.	“Participant”	Shall have the meaning ascribed thereto in Section 3.1.1 (The Participant) of this Invitation.
1.1.44.	“Participant's Weighted Turnover”	Shall have the meaning ascribed thereto in Section 4.1.1.1 (Financial Pre-Qualification Requirements; Turnover; Participant's Weighted Turnover) of this Invitation.
1.1.45.	“Participation Fee”	Shall have the meaning ascribed thereto in Section 2.6.2 of this Invitation.
1.1.46.	“Pre-Qualification Documents”	Shall mean this Invitation, its Appendices, the Pre-Qualification Forms and any other document issued by the Tender Committee during the Pre-Qualification Process.

⁶ Addendum No. 1

1.1.47.	“Pre-Qualification Forms”	Shall mean the forms attached hereto as forms 1-7 which each Participant is required to complete, execute and submit as part of its Pre-Qualification Submission.
1.1.48.	“Pre-Qualification Process”	Shall have the meaning ascribed thereto in Section 1.2.1 (Introduction and General Description of the Project; Preface) of this Invitation; without derogating from the foregoing, shall mean the first stage of the Tender, ending upon the announcement of Eligible Participants which will be invited to participate in the Tender Process.
1.1.49.	“Pre-Qualification Submission Date”	Shall have the meaning ascribed thereto in Section 6.9 (Pre-Qualification Submission Date) of this Invitation.
1.1.50.	“Pre-Qualification Submission(s)”	Shall mean a submission by the participants of the required documents and forms in accordance with the provisions of this Invitation.
1.1.51.	“Pre-Qualification Requirement(s)”	Shall mean the Financial Pre-Qualification Requirements.
1.1.52.	“Private Investment Fund”	Shall mean an Entity incorporated for the purpose of making financial investments in which at least 50% of its Commitments (at any given time), is provided by Institutional Investors. ⁷
1.1.53.	“Project”	Shall have the meaning ascribed thereto in Section 1.2.1.1 (Introduction and General Description of the Project; Preface) of this Invitation.
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1.1.54.	“Regulations”	Shall mean the Mandatory Tender Regulations 1993, as amended from time to time.
1.1.55.	“Request(s) for Clarifications”	Shall have the meaning ascribed thereto in Section 2.9.1 (Requests for Clarifications) of this Invitation.

⁷ Addendum No. 1

⁸ Addendum No. 1

1.1.56.	"Site"	A plot of approximately 2,763,000 square meters (2,763 dunams) near the city of Dimona, as shown in Annex "A" (Site Map). The size and location of the Site are not final, and may be updated within the Tender Documents.
1.1.57.	"SPC"	Shall have the meaning ascribed thereto in Section 8.2 (Formation of a Single Purpose Company) of this Invitation.
1.1.58.	"Successful Bidder"	Shall mean the Eligible Participant awarded with the Agreement pursuant to the completion of the Tender Process.
1.1.59.	"Tender"	Shall have the meaning ascribed thereto in Section 1.1.1 (Introduction and General Description of the Project; The Selection Process and the Tender Stages) of this Invitation.
1.1.60.	"Tender Committee"	Shall mean the committee appointed by the Government of the State of Israel in accordance with the provisions of the Regulations, in order to control and manage the Pre-Qualification Process and the Tender Process.
1.1.61.	"Tender Documents"	Shall mean the Pre-Qualification Documents and the Tender Process Documents.
1.1.62.	"Tender Process Documents"	Shall mean all documents which shall be issued as part of the Tender Process, including the request for proposals and all forms provided therein, the Agreement, the technical volumes and all appendices attached therein, and any other document which will be issued by the Tender Committee during the Tender Process.
1.1.63.	"Tender Process"	Shall mean the second stage of the selection process, in which Eligible Participants will submit their Bids and a Successful Bidder for the Project shall be selected.
1.1.64.	"Unutilized Commitments"	Shall mean the overall amount of Commitments deducted by funds invested and funds committed to be invested by the Private Investment Fund.
1.1.65.	"Update Statement"	Shall have the meaning ascribed thereto in Section 8.1.1 (General) of this Invitation.
1.1.66.	"Updated Financial Statements"	Shall have the meaning ascribed thereto in Section 8.1.2 (Updated Financial Statements) of this Invitation.

- 1.1.67. **“Website”** Shall have the meaning ascribed thereto in Section 2.6.1 of this Invitation.

1.2. **Introduction and General Description of the Project**

1.2.1. Preface

- 1.2.1.1. The Government of the State of Israel, operating through the Tender Committee, hereby invites Entities to participate in the Pre-Qualification Process in relation to a project for the finance, design, construction, operation, maintenance and transfer of a solar PV power plant at the Site, with maximum power feed to the grid of approximately 300 MW (the exact performance requirements will be determined in the Tender Process Documents), all in accordance with the provisions of the Pre-Qualification Documents, including all Annexes thereof (the "**Pre-Qualification Process**" and the "**Project**", respectively).
- 1.2.1.2. The Tender Committee is issuing this Invitation as part of a tender for the execution of the Project with a pre-qualification stage.

1.2.2. The Selection Process and the Tender Stages

The Tender Committee intends to select the Successful Bidder which will execute the Project through a competitive process with the following two stages (the "**Tender**"):

1.2.2.1. this Pre-Qualification Process; and

1.2.2.2. the Tender Process.

1.2.3. General Description of the Project

Without derogating from the provisions of the Pre-Qualification Documents, hereunder is only a general and indicative description of the Project. It is hereby clarified that the actual scope of works shall be determined in the Tender Process Documents.

The Project includes the finance, design, construction, operation and maintenance of a solar PV power plant near the city of Dimona in the Negev. The Project will be executed at the Site during the term of the Agreement. At the end of the term of the Agreement the Project will be handed over to the State of Israel without any payment.

1.2.3.1. Statutory Plan: National Infrastructure Scheme no. 82.

1.2.3.2. The Site: Part of the polygon laying east to Road no. 204, as marked in the schematic map enclosed in **Annex A**. Such map is general and preliminary, and may be modified in the Tender Process Documents.

1.2.3.3. Energy Storage: The Tender Committee reserves the right: (i) to include within the scope of works of the Project the finance, design, construction, operation and maintenance of an energy storage system, and (ii) to determine whether the Eligible Participants or Experience Providers will be required to demonstrate, themselves or through others, any experience or know-how with respect to energy storage systems and whether such demonstration will be scored or evaluated as part of the Tender Process.

1.2.3.4. The term of the Agreement: the term of the Agreement shall be determined in the Tender Process Documents and shall include a development phase, construction phase and operation and maintenance phase. The period of operation shall not exceed twenty four (24) years and eleven (11) months.

1.3. **The Pre-Qualification Process**

1.3.1. The purpose of this Pre-Qualification Process is to identify Eligible Participants, who will be invited to participate in the Tender Process.

1.3.2. 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 Pre-Qualification Requirements and all other applicable provisions of this Invitation.

- 1.3.3. Pre-Qualification Submissions submitted by the Participants will be evaluated by the Tender Committee, in accordance with the provisions of this Invitation. Without derogating from the provisions of Section 7 (REVIEW AND EVALUATION OF PRE-QUALIFICATION SUBMISSIONS) of this Invitation, at the end of its evaluation, the Tender Committee will announce the Eligible Participants. Only those Participants who: (i) demonstrated compliance with all Pre-Qualification Requirements; (ii) were not otherwise disqualified thereby; and (iii) were announced as Eligible Participants, will be invited to participate in the Tender Process.

1.4. **The Tender Process and Expected Requirements**

- 1.4.1. Following the completion of the Pre-Qualification Process, the Tender Committee intends to invite the Eligible Participants to participate in the Tender Process and submit Bids for the execution of the Project.

1.4.2. **The EPC Contractor, O&M Contractor and Experience Providers**

- 1.4.2.1. As shall further be elaborated in the Tender Process Documents, the Successful Bidder will be required to engage an EPC Contractor which shall assume on a "back-to-back" basis the design 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 ("**O&M Contractor**").

- 1.4.2.2. As shall further be elaborated in the Tender Process Documents, the Successful Bidder will be required to demonstrate to the satisfaction of the Tender Committee, as a pre-condition for executing the Agreement, that the EPC Contractor, or an Entity which will hold at least 50% of all the Means of Control in the EPC Contractor ("**EPC Expert**"), meets the following requirements:

As of January 1, 2014, (i) the EPC Expert or (ii) an Entity which exercises Control over the EPC Expert, or (iii) an Entity in which the EPC Expert directly holds at least 50% of all the Means of Control or (iv) an Entity which is indirectly held by the EPC Expert provided that 100% of the Means of Control are effectively held by the EPC Expert, had Completed, as a Main Contractor under an EPC Contract, one (1) land based PV power plant with a gross power output of at least thirty (30) MW DC, based on the sum of the PV panels name plate capacities,

connected with a single connection of at least 110kV to the grid⁹, which had produced and supplied at least 50 gWhr per year of electricity to the grid over a period of at least twelve (12) consecutive¹⁰ months following Completion.

- 1.4.2.3. As shall further be elaborated in the Tender Process Documents, the Successful Bidder will be required to demonstrate to the satisfaction of the Tender Committee, as a pre-condition for executing the Agreement, that the O&M Contractor, or an Entity which will hold at least 50% of all the Means of Control in the O&M Contractor ("**O&M Expert**"), meets the following requirements:

As of January 1, 2014, (i) the O&M Expert or (ii) an Entity which exercises Control over the O&M Expert, or (iii) an Entity in which the O&M Expert directly holds at least 50% of all the Means of Control or (iv) an Entity which is indirectly held by the O&M Expert provided that 100% of the Means of Control are effectively held by the O&M Expert, had operated and maintained, for at least twelve (12) consecutive months (the "**Relevant Period**")¹¹, as a Main Contractor, one of the following projects:

- (i) land based PV power plant with a gross power output of at least thirty (30) MW DC, based on the sum of the PV panels name plate capacities, connected with a single connection of at least 110kV to the grid and which had produced and supplied at least 50 gWhr electricity to the grid during twelve (12) consecutive months in the Relevant Period;

or

- (ii) Fossil fired power plant with gross power output of at least 50 MW AC based on the sum of steam and/or natural gas turbines and/or diesel generators name plate capacities, connected with a single connection of at least 110kV to the grid and which had produced and supplied at least 75 gWhr electricity to the grid during twelve (12) consecutive months in the Relevant Period.
- (iii) Thermo solar fired power plant with gross power output of at least 50 MW AC based on the sum of steam turbines

⁹ Addendum No. 1

¹⁰ Addendum No. 1

¹¹ Addendum No. 1

name plate capacities, connected with a single connection of at least 110kV to the grid and which had produced and supplied at least 75 gWhr electricity to the grid during twelve (12) consecutive months in the Relevant Period.¹²

1.5. Invitation for Pre-Qualification

The Tender Committee hereby invites Entities to participate in the Pre-Qualification Process, according to the terms and conditions of this Invitation.

1.6. Anticipated Schedule

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

- | | | | |
|-------|---|---|---|
| 1.6.1 | Publication of the Invitation for Pre-Qualification | - | January 22, 2020 |
| 1.6.2 | Final date for the Submission of Requests for Clarifications in accordance with Section 2.9 (Requests for Clarification of this Invitation) of this Invitation. | - | May-June 74 , 2020 ¹³ ¹⁴ |
| 1.6.3 | Pre-Qualification Submission Date | - | May-June 26 23, 2020 ¹⁵ |

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 this Invitation in accordance with the provisions of Section 2.10 (Addenda) of this Invitation.

2. RULES AND PROCEDURES

2.1. Governing Law and Jurisdiction

2.1.1. Jurisdiction

The Pre-Qualification Process and the Pre-Qualification Documents shall be governed and construed in accordance with the provisions of the Laws of the State of Israel, including the Mandatory Tenders Law 1992, and the Regulations.

2.1.2. The applicable court in Jerusalem shall have the sole jurisdiction over all

¹² Addendum No. 1

¹³ Addendum No. 1

¹⁴ Addendum No. 2

¹⁵ Addendum No. 2

matters and all disputes arising in connection with the Pre-Qualification Process and the Tender Process.

2.1.3. Waiver

Each Participant, Member, and Guarantor (to the extent applicable) and anyone on their behalf, hereby waives any right to seek an injunction with any court, in any legal proceeding, with respect to this process, against the Tender Committee and/or anyone on its behalf and/or against any of the others Participants, including the Eligible Participants, and shall be prohibited from seeking an injunction in such process.

2.1.4. The foregoing does not derogate from the obligation of any Participant, Member, Guarantor (to the extent applicable) and anyone on their behalf, to address the Tender Committee, in writing, with a specific and detailed claim or complaint.

2.2. Preparation for Submission

2.2.1. By submitting a Pre-Qualification Submission each Participant, Member, Guarantor (if applicable), and anyone on their behalf confirms that it has received the complete set of Pre-Qualification Documents, that it has read, considered and understood the Pre-Qualification Documents, and that it accepts the terms and conditions thereof and all obligations and undertakings specified or implied therein.

2.2.2. Each Participant, Member, Guarantor (if applicable), and anyone on their behalf shall be deemed to have the knowledge of any relevant Law with respect to the Pre-Qualification Process, the Tender and the Project, including without limitation the Electricity Sector Law – 1996, as amended from time to time, and all the regulations promulgated thereunder. The Pre-Qualification Submissions shall be prepared and submitted in accordance with any applicable Law, and the Participants, Members, Guarantors and anyone on their behalf are assumed to have obtained professional advice with respect to the relevant disciplines, including legal, financial and constructional disciplines, for participating in the Pre-Qualification Process.

2.3. The Invitation

The Pre-Qualification Documents include this invitation for pre-qualification, its Appendices, the Pre-Qualification Forms and any other document issued by the Tender Committee during the Pre-Qualification Process. Without derogating from the provisions of Sections 6.1 (Compliance with the Requirements of the Pre-Qualification Documents) and 6.2 (No Unauthorized Modification), the Pre-Qualification Forms shall be provided to all Participants also in MS-Word file.

2.4. Priority of Documents

In the event of discrepancies between any of the provisions of this Invitation, the stricter provision, as determined by the Tender Committee at its sole discretion, shall prevail, unless otherwise determined by the Tender Committee and approved

in writing. Any discrepancy shall be brought to the attention of the Tender Committee as soon as possible.

2.5. 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 this Invitation did not contain such invalid or unenforceable part, provision or section.

2.6. Access to Documents and Registration

2.6.1. Any Entity wishing to participate in the Pre-Qualification Process may view the Pre-Qualification Documents by sending Mr. Ohad Ben Yossef a request (via email: DimonaPV@inbal.co.il) to receive the Pre-Qualification Documents by email, or at the following website:

<https://www.mr.gov.il/OfficesTenders/Pages/SearchOfficeTenders.aspx>
(the “**Website**”).

2.6.2. As a pre-condition for the participation in the Tender, including the submission of Requests for Clarifications and the submission of the Pre-Qualification Submission, each Participant shall pay a participation fee in an amount of NIS 5,000 (VAT included) (the “**Participation Fee**”).

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

2.6.3.1. By an Israeli credit card, at the following website:

https://ecom.gov.il/counterspa/home/62/1/AccountantGeneral_1_FastLanes

2.6.3.2. By a bank transfer from an Israeli bank account - to the Bank of Israel (bank code: 99, branch code: 001), bank account number 1310010081303 (Accountant General - NIS income account).

2.6.3.3. By a bank transfer from a foreign bank account -
Final Beneficiary Bank = Bank of Israel, Jerusalem
Swift code = ISRAILIR
Beneficiary Name = Accountant General-NIS income account
Beneficiary IBAN = ILS370990011310010081303
Text in Field 72: TTC/613

2.6.4. Without derogating from the provisions of Section 8.3 (Reservation of Rights) the Participation Fee shall not be refunded in any way.

2.6.5. In the event of discrepancies between the hardcopy and the electronic copy of the Pre-Qualification Documents, the provisions of the hardcopy shall prevail.

- 2.6.6. 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, address, email address etc.) to Mr. Ohad Ben Yossef, the Coordinator of the Tender Committee, via email address DimonaPV@inbal.co.il.
- 2.6.7. It is hereby clarified that 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 Participant or anyone on its behalf, due to an error or omission with respect to any information provided by a Participant under this Section.
- 2.6.8. It is hereby clarified that an Entity who has not paid the Participation Fee may submit a Pre-Qualification Submission, provided that the right to participate pursuant to the payment of the Participation Fee was assigned or transferred from an Entity entitled to participate. A person or an Entity may pay the Participation Fee on behalf of another Entity. For the avoidance of doubt, any single Participation Fee shall entitle the submission of one (1) Pre-Qualification Submission.
- 2.6.9. Participants shall be responsible for informing the Tender Committee of any change in their contact details and by submitting its Pre-Qualification Submission each Participant shall be deemed to have received all Pre-Qualification Documents
- 2.6.10. It is hereby emphasized that the payment of the Participation Fee does not constitute recognition of an Entity's (including a Participants) eligibility, qualifications or competence to meet the requirements of this Invitation.

2.7. Cost of Participation in the Pre-Qualification Process

A Participant, its Members and its Guarantors (to the extent applicable) and anyone on their behalf, will solely bear any and all costs and expenses connected with participation in the Pre-Qualification Process and the preparation of the Pre-Qualification Submission(s) as incurred by such, regardless of any amendments made to the requirements herein by the Tender Committee and will not be reimbursed or otherwise compensated by the Tender Committee and/or anyone on its behalf, for any costs or expenses so incurred thereby, including in the event of termination of the Pre-Qualification Process for any reason whatsoever.

2.8. Language

This Invitation is published in English. Notwithstanding the foregoing, the Tender Committee reserves the right to issue a Hebrew version of this Invitation or any part of the Pre-Qualification Documents, and 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, at any time. In addition, the Tender Committee reserves the right to conduct its business in Hebrew or English, including in meetings, discussions, correspondences, negotiations, etc.

2.9. Requests for Clarifications

- 2.9.1. Participants who have paid the Participation Fee and have provided the Tender Committee with contact details in accordance with the provisions of Section 2.6.6 above, 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 1.6 (Anticipated Schedule) (“**Request(s) for Clarification(s)**”) above. Such Requests for Clarifications shall be addressed to:

Mr. Yitsik Marmelshtein, Chairman of the Tender Committee

Via: Mr. Ohad Ben Yossef, Coordinator of the Tender Committee, Address: Division of Public Private Partnership Projects, Inbal Insurance Company Ltd., Inbal House, 4 Arava St., Airport City, P.O.B 282 Ben-Gurion Airport

And via email address: dimonaPV@inbal.co.il

Participants shall verify the receipt of Requests for Clarifications by the Tender Committee.

- 2.9.2. Requests for Clarifications shall be submitted via email in a signed PDF file and in an open for editing MS-Excel file, in the form of **Annex D** (Form of Participants' Requests for Clarification of the Tender Documents).

The Tender Committee reserves the right to ignore Requests for Clarifications which are not submitted in accordance with the requirements of submission specified in this Section 2.9.2 (including, submission via email in a signed PDF file and in an open for editing MS-Excel file).

- 2.9.3. The Tender Committee may request Participants to provide clarifications to any part of their Request for Clarifications as described in Section 7.2 (Requests for Clarifications) below, including by way of meeting with the Participants or any of them.

- 2.9.4. 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. Without derogating from the generality of the above, the Tender Committee reserves the right not to respond to a Request submitted by an Entity who has not paid the Participation Fee.

- 2.9.5. In its response to a Request for Clarification the Tender Committee may, rephrase any Request for Clarification including adding to the original language or omitting from the original language, as it shall deem fit under the circumstances.

- 2.9.6. The Tender Committee's responses shall be distributed to the Participants as an Addendum in accordance with Section 2.10 below.

- 2.9.7. Any Request for Clarification of the Pre-Qualification Documents raised at a date following the deadline for the submission thereof as provided in

Section 1.6 (Anticipated Schedule), will be accepted or rejected, answered or not, at the discretion of the Tender Committee.

- 2.9.8. For the avoidance of doubt, 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 2.10 (Addenda).

2.10. Addenda

- 2.10.1. Notwithstanding any of the provisions of the Pre-Qualification Documents and without derogating from the discretion of the Tender Committee under the provisions of Section 8.2 (Reservation of Rights), 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(s) or date contained therein, at any time, whether at the discretion 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 (“**Addenda**” or “**Addendum**”, respectively) and will be deemed an integral part of this Invitation.

The Tender Committee shall not be bound by, and Participants shall not rely on, any oral clarification to the Pre-Qualification Documents.

For the avoidance of doubt, no clarification or amendment to the Pre-Qualification Documents shall be binding unless issued in the form of an Addendum.

- 2.10.2. Copies of Addenda published by the Tender Committee shall be published at the Website and furnished to all Entities or Participants who have paid the Participation Fee and have provided the Tender Committee with contact details in accordance with the provisions of Section 2.6.6.

Should any Addendum result from any Request for Clarification submitted by a Participant, the identity of such Entity or Participant shall not be disclosed.

- 2.10.3. Participants are required to acknowledge receipt of Addenda in writing no later than two (2) Business Days following receipt thereof. Such acknowledgements shall be sent to the Tender Committee's address as described in Section 2.9 (Requests for Clarifications) above.

- 2.10.4. Without derogating from the generality of the provisions of Sections 1.6 (Anticipated Schedule) and 2.10 (Addenda) above, the Tender Committee may postpone the Pre-Qualification Submission Date, 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 2.10 (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.

2.11. Site Visit and Conference

- 2.11.1. The Tender Committee reserves the right to hold a conference and/or a site visit (the "**Conference**"), which will take place at the location and at the time to be announced by the Tender Committee.
- 2.11.2. The Tender Committee may limit the number of participants on behalf of a Participant in the Conference, and may request a prior confirmation for participation in the Conference.
- 2.11.3. It is hereby clarified that the participation of the Participant or its Authorized Representative in the Conference shall not be a Pre-Qualification Requirement nor a requirement for submission of the Pre-Qualification Submissions, and shall not be mandatory.
- 2.11.4. At the Conference, the Tender Committee may answer questions referred to it by Participants. However, it is hereby clarified that the Tender Committee shall not be bound by, and Participants shall not rely on, any oral representation or information made by the Tender Committee or Participants during the Conference, and any such information shall be provided for informative purposes only. Only an Addenda or written minutes issued by the Tender Committee, if issued, following the Conference in accordance with the provisions of Section 2.10 (Addenda) above, shall be binding.

2.12. Intellectual Property Rights

The Pre-Qualification Documents and any and all intellectual property rights therein, including any professional and general matters with respect to the Project, are exclusively owned by the Tender Committee and are supplied to the Participants solely for the purpose of participation in the Pre-Qualification Process.

2.13. Information Supplied to the Participants

- 2.13.1. The description of the Project detailed in each section of this Invitation is general and indicative only. The actual scope of works and further particulars with respect to the Project may differ from the description thereof in this Invitation.
- 2.13.2. In any event and without derogating from the foregoing, to the extent applicable during the Pre-Qualification Process, Participants are required to independently examine and verify all aspects of the Project, *inter alia*, the Site, its borders and surrounding, 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.

- 2.13.3. The Tender Committee does not represent or warrant that the information contained in the Pre-Qualification Documents or any other information which it or anyone on its behalf is making available to Participants, is either complete or accurate or has undergone any independent verification of the Tender Committee, and the Tender Committee shall not be responsible for such information and/or any use of such information by the Participants and/or anyone on their behalf and/or the Successful Bidder and/or anyone on its behalf.
- 2.13.4. The issuance of the Pre-Qualification Documents, including any information and data provided therein or by the Tender Committee or anyone on its behalf, shall not be construed as giving rise to or creating any representation, undertaking or warranty by the Tender Committee or anyone on its behalf with respect to the Project and its execution.
- 2.13.5. It is expressly understood that any reliance of the Participants, Members, Guarantors (if applicable) and/or any Entity and/or anyone on their behalf, including their employees, officers, agents, or any other persons for whom Participants may be contractually or legally responsible or accountable, on any information contained in the Pre-Qualification Documents or provided in connection therewith, and the making of any deductions, interpretations or conclusions from information which is made available by the Tender Committee or anyone on its behalf, is at the Participants' sole responsibility, and the Participants shall refrain from any claim against the Tender Committee and/or against anyone on its behalf with respect thereto. The Tender Committee shall not be responsible in any respect for any loss or damage whatsoever suffered by the Participants, its Members, Guarantor (to the extent applicable) and/or any Entity, their employees, officers, agents, or any other persons for whom Participants may be contractually or legally responsible or accountable, by reason of any use of information contained in the Pre-Qualification Documents or provided in connection therewith, or any action or forbearance in reliance thereon.

2.14. **Advisors to the Tender Committee**

- 2.14.1. **Annex B** of this Invitation contains a list of the advisors to the Tender Committee (the "**Advisors**"). Subject to the provisions of any and all applicable Laws, the Tender Committee may exercise its rights under any of the Pre-Qualification Documents through its Advisors. The Tender Committee reserves the right, from time to time, to release any Advisor or to engage additional Advisors, update or otherwise amend **Annex B** or any part thereof as it shall deem appropriate under the circumstances.
- 2.14.2. Any Entity or person listed in Part A of **Annex B**, shall not participate in the Pre-Qualification Process, the Tender Process or the Project on behalf of any third party other than the Tender Committee and shall not advise, directly or indirectly, Participants, Members and Guarantors with respect to the Pre-Qualification Process, the Tender Process or the Project.
- 2.14.3. Any Entity or person, which is listed in Part B of **Annex B**, shall not participate in the Pre-Qualification Process, the Tender Process or the

Project on behalf of any third party other than the Tender Committee, and shall not advise directly or indirectly, Participants, Members, or Guarantors with respect to the Pre-Qualification Process, the Tender Process or the Project, without a prior written approval of the Tender Committee.

- 2.14.4. Without derogating from the provisions of this Section 2.14 (Advisors to the Tender Committee) and from any and all of the Tender Committee's rights under the Pre-Qualification Documents and under any Law, the Tender Committee shall be entitled, at its sole discretion, to take any action required to ensure the absence of a conflict of interests including, *inter alia*, request to amend or amend the terms of any engagement of an Advisor, to disqualify Participants, Members or Guarantors from participating in the Pre-Qualification Process or to impose further restrictions with respect to their participation in the Pre-Qualification Process, as the Tender Committee shall deem fit.

3. GENERAL PROVISIONS RELATING TO PARTICIPANTS

3.1. The Participant

- 3.1.1. A Participant is required to be: (i) a single Entity which complies with the provision of Section 3.2 (Members of the Participant); or (ii) a number of Entities, each of which complies with the provision of Section 3.2 (Members of the Participant), acting jointly for the purpose of submitting a Pre-Qualification Submission (“**Participant**”).
- 3.1.2. The incorporation of a Participant as a special purpose company for the purposes of the Project, will be only required during the Tender Process as described in Section 8.2 (Formation of a Single Purpose Company).
- 3.1.3. In order to demonstrate compliance with this Section 3.1 (The Participant), each Participant and each of its Members shall complete, execute and submit Pre-Qualification Form “2” (*THE PARTICIPANT*) and Pre-Qualification Form “3” (*THE MEMBERS OF THE PARTICIPANT AND GUARANTORS*).

3.2. Members of the Participant

- 3.2.1. Members of a Participant shall mean each of the Entities committed to hold Anticipated Holdings in the Participant, as detailed in Pre-Qualification Form “2” (*THE PARTICIPANT*) and Pre-Qualification Form “3” (*THE MEMBERS OF THE PARTICIPANT AND GUARANTORS*), and which comply with:
 - 3.2.1.1. all of the requirements of Section 3.4 (Participation - General Requirements); and
 - 3.2.1.2. If the Entity is not a Financial Entity - The Financial Pre-Qualification Requirements in accordance with the provisions of Sections 4.1.1 (Financial Pre-Qualification Requirements; Turnover), 4.1.2 (Financial Pre-Qualification Requirements;

Operating Cash Flow) and 4.1.3 (Financial Pre-Qualification Requirements; Equity) (all subject to the provisions of the aforementioned sections);

- 3.2.1.3. if the Entity is a Private Investment Fund – all the Financial Pre-Qualification Requirements in accordance with the provisions of Section 4.1.5 (Financial Pre-Qualification Requirements; Private Investment Fund);
- 3.2.1.4. if the Entity is a Banking Corporation or Institutional Investor – all the Financial Pre-Qualification Requirements in accordance with the provisions of Section 4.1.6 (Financial Pre-Qualification Requirements; Banking Cooperation or Institutional Investor);
- 3.2.1.5. if the Entity is an Investment Entity – all the Financial Pre-Qualification Requirements in accordance with the provisions of Section 4.1.7 (Financial Pre-Qualification Requirements; Investment Entity)¹⁶;

(a “**Member**”).

3.2.2. In order to demonstrate compliance with, *inter alia*, the provisions of Section 3.2.1.1, each Member shall complete, execute and submit Pre-Qualification Form “3” (*THE MEMBERS OF THE PARTICIPANT AND GUARANTORS*).

3.3. **Guarantor**

3.3.1. A Guarantor shall mean a single Entity, which:

3.3.1.1. is a Parent Company of a Member; or

3.3.1.2. a Member (which acts as a Guarantor for another Member)

and which complies with:¹⁷

3.3.1.3. all of the requirements of Section 3.4 (Participation - General Requirements); and

3.3.1.4. the applicable¹⁸ Financial Pre-Qualification Requirements in accordance with the provisions of Section 4.1.4 (Reliance on a Guarantor);

(“**Guarantor**”).

3.3.2. In order to demonstrate compliance with this Section 3.3 (Guarantor), each

¹⁶ Addendum No. 1

¹⁷ Addendum No. 1

¹⁸ Addendum No. 1

Guarantor shall complete, execute and submit Pre-Qualification Form “3” (*THE MEMBERS OF THE PARTICIPANT AND GUARANTORS*), Pre-Qualification Form “4” (*LETTER OF GUARANTEE*) and Pre-Qualification Forms “5”, “6”, “7” or “8” (*FINANCIAL ROBUSTNESS*), as applicable¹⁹.

3.4. Participation - General Requirements

Each Member and Guarantor (if applicable) needs to comply and satisfy all of the following requirements:

- 3.4.1. It is a duly organized and a validly existing Entity under the laws of the jurisdiction in which it is organized.
- 3.4.2. There are no actions or proceedings pending nor, to the best of its knowledge, are there any actions or proceedings, which might result in dissolution, liquidation, freeze of assets, bankruptcy, insolvency, appointment of a trustee, a liquidator or a receiver (including temporarily), or any other analogous situation.
- 3.4.3. Its most recent Financial Statements do not include a "going concern notice".
- 3.4.4. It and any Interested Party thereof (including individuals) are not residents or citizens of a state which does not have diplomatic relations with the State of Israel.
- 3.4.5. Subject to Section 3.5 below, 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 (submitted) against it and any Interested Party thereof (including individuals).
- 3.4.6. If 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, in the form of Pre-Qualification Form “9” (*Form of Affidavit*)²⁰, and an authorized dealer certificate from the VAT (Value Added Tax) authorities.
- 3.4.7. If not incorporated in the State of Israel it shall provide a signed declaration that it has all the approvals and statements equivalent to the approvals and statements in Section 3.4.6, as required by law within its domicile.

3.5. An Entity Convicted of an Offence or Indicted

- 3.5.1. In the event that a Participant, a Member, a Guarantor or any Interested Party thereof which is required to comply with the provisions of Section 3.4 (Participation - General Requirements) and does not comply with the

¹⁹ Addendum No. 1

²⁰ Addendum No. 1

requirement of Section 3.4.5, the Authorized Representative, on behalf of the Entity or the Interested Party, shall submit to the Tender Committee, no later than 30 days prior to the Pre-Qualification Submission Date, relevant information with respect to the filing (submission) of an indictment (criminal charges) with respect to an Offence or with respect to a conviction of an Offence (as applicable) ("**Offence Notification**").

- 3.5.2. The provisions of Section 7.2 (Requests for Clarifications) below apply with respect to the Offence Notification, mutatis mutandis, as if expressly set out herein.
- 3.5.3. Without derogating from the provisions of Section 8.3 (Reservation of Rights) and Section 8.4 (Prerogatives of the Tender Committee), the Tender Committee shall decide (at its sole discretion), based on the information provided according to Section 3.5.1 and Section 3.5.2 above, whether an Entity which does not comply with the provisions of Section 3.4.5 may participate in a Pre-Qualification Submission or impose conditions with respect to its participation.
- 3.5.4. Any decision reached by the Tender Committee prior to the Pre-Qualification Submission Date shall be provided to the Participant, and an Addendum shall be published in accordance with the provisions of Section 2.10 (Addenda), conveying to all other Participants that the Tender Committee has approved or rejected the participation of an Entity or any Interested Party which does not comply with the provisions of Section 3.4.5, without disclosing the identity of such Entity or the nature of the Offence (unless otherwise determined by the Tender Committee, at its sole discretion).

3.6. **Authorized Representative**

- 3.6.1. 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 the Participant (including any and all the Members and Guarantors) (an "**Authorized Representative**"). It is hereby clarified that a notice delivered by the Authorized Representative shall be deemed to have been duly delivered by the Participant and shall bind it for all intents and purposes.
- 3.6.2. 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.

3.7. **Participation in a Pre-Qualification Submission**

3.7.1. General

- 3.7.1.1. Each Participant may participate in only one Pre-Qualification

Submission.

3.7.1.2. Each Member may participate in only one Pre-Qualification Submission.

3.7.1.3. Each Guarantor may participate in only one Pre-Qualification Submission.

3.7.2. Interpretations

For the purpose of the provisions of Section 3.7.1, the terms **“Participant”**, **“Member”** and **“Guarantor”** (if applicable), shall be deemed to include any Entity which exercises Control over such entity, is under the common Control of such entity or is Controlled by such entity.

3.8. Government Companies

3.8.1. Any Company budgeted by the Government of the State of Israel 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 Government of the State of Israel 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 Pre-Qualification Process, including as a Participant, a Member or a Guarantor.

3.8.2. Notwithstanding the above, an "institution of higher education", as such term is defined in the Council for Higher Education Law (1958), may participate in the Pre-Qualification Process in a capacity of an investor in a Member which is a Private Investment Fund.

3.9. Promotion of Competition and Reduction of Concentration Law, 2013

Participants are hereby informed that additional limitations in relation to the participation in this process may be imposed due to the Promotion of Competition and Reduction of Concentration Law, 5774-2013 (the, "**Competition Law**").

The participation of the Participant, Members and Guarantors (if applicable) in any stage of the Pre-Qualification Process and Tender Process will be subject to any further instructions, restrictions or conditions, issued by the Tender Committee or by any other applicable body pursuant to the Competition Law, including without limitation following the Pre-Qualification Process.

3.10. Participating in Multiple Capacities

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

4. PRE-QUALIFICATION REQUIREMENTS

4.1. The Financial Pre-Qualification Requirements

Each Participant is required to demonstrate its Members' compliance (by themselves or through a Guarantor as described in this Section 4.1.4 below), with all of the following Financial Pre-Qualification Requirements:

4.1.1. Financial Pre-Qualification Requirements; Turnover

Each Participant is required to demonstrate that the Participant's Weighted Turnover (as such term is defined in Section 4.1.1.1 below), is not lower than the Minimal Turnover Required (as such term is defined in Section 4.1.1.3 below).

4.1.1.1. Participant's Weighted Turnover

The Participant's Weighted Turnover shall be calculated in the following manner:

$$\text{Participant's Weighted Turnover} = \sum_{i=1}^{i=n} ATO_i \cdot HS_i$$

Where:

ATO_i = Member (i)'s Average Turnover (as such term is defined in Section 4.1.1.2 below).

HS_i = the Anticipated Holdings of Member (i) in the Participant.

n = the number of Members in the Participant.

("Participant's Weighted Turnover").

4.1.1.2. Member's Average Turnover

The average turnover of each Member in the Participant shall be calculated in the following manner:

4.1.1.2.1. For: (i) any Member in the Participant who is a Financial Entity; and (ii) any Member in the Participant whose Anticipated Holdings in the Participant is lower than 10% – the Member's Average Turnover shall be deemed as Zero (0);

4.1.1.2.2. For any Member in the Participant who is not a Financial Entity and whose Anticipated Holdings in the Participant is equal to or exceeds 10% – the Member's Average Turnover shall be calculated as a simple average of the Member's annual turnover during the last three (3) years, based on its most recent three (3) years Financial Statements (for the removal of doubt, the Member's most recent

Financial Statements shall not be earlier than 2018), as follows:

$$ATO_i = \frac{TO_c + TO_{c-1} + TO_{c-2}}{3}$$

Where:

TO_c = Member (i)'s annual turnover 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 2018).

("Member's Average Turnover")

4.1.1.3. **Minimal Turnover Required**

The minimal turnover required of the Participant is:

4.1.1.3.1. In the event that all Members of the Participant are not Financial Entities – not less than NIS 200,000,000²¹.

4.1.1.3.2. In the event that one or more of the Members of the Participant is a Financial Entity – the minimal turnover required of a Participant shall be equal to the product of (A) NIS 200,000,000²² and (B) the aggregate sum of the Anticipated Holdings of all Members who are not Financial Entities.

("Minimal Turnover Required")

4.1.2. Financial Pre-Qualification Requirements; Operating Cash Flow

4.1.2.1. Each Member of the Participant who is not a Financial Entity, is required to demonstrate that its Average Operating Cash Flow during the last three (3) years, based on its most recent three (3) Financial Statements (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2018), is not negative (either positive or equal to zero).

4.1.2.2. For the purpose of this Pre-Qualification Requirement, the Average Operating Cash Flow of each Member who is not a Financial Entity, shall be calculated in the following manner:

²¹ Addendum No. 1

²² Addendum No. 1

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

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 2018).

("Average Operating Cash Flow")

or:

4.1.2.3. In the event that the Average Operating Cash Flow of a Member who is not a Financial Entity, is negative, the Member is required to demonstrate, based on the same Financial Statements used in order to calculate its Average Operating Cash Flow, that the ratio between the absolute value of (a) and (b) below is less than 25%:

- (a) Shall be the lesser of:
 - (i) The Average Operating Cash Flow of the Member; or-
 - (ii) The annual operating cash flow of the Member, for the year for which the Member has published its most recent Financial Statements (for the removal of doubt, which is not earlier than 2018), based on the same Financial Statements used in order to calculate its Average Operating Cash Flow.
- (b) 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 2018), 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 (as defined in section 4.1.2.2 above).

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 2018).

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 2018).

MRE = the Minimal Required Equity of that Member (as defined in section 4.1.3 below).

4.1.3. Financial Pre-Qualification Requirements; Equity

Each Member who is not a Financial Entity is required to demonstrate equity of not less than NIS 2,000,000, 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 2018).

("Minimal Required Equity")

4.1.4. Reliance on a Guarantor

4.1.4.1. Each Member who 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 (in aggregate) with all Financial Pre-Qualification Requirements applicable to the Guarantor²³, and provided that both the Member and its Guarantor comply with the requirement under Section 3.4 above. A Member relying on a Guarantor shall attach to its Pre-Qualification Submission Pre-Qualification Form "4" (*LETTER OF GUARANTEE*), and Pre-Qualification Form "5", "6", "7" or "8" (*FINANCIAL ROBUSTNESS*), as applicable²⁴, which shall be completed based on the Guarantor Financial Statements.

4.1.4.2. In the event that the Guarantor is itself also a Member, for the purpose of determining compliance with all Financial Pre-Qualification Requirements, the Anticipated Holdings of such Guarantor in the Participant will be deemed to include also all Anticipated Holdings of the Member seeking to rely on such

²³ Addendum No. 1

²⁴ Addendum No. 1

Guarantor in the Participant.

4.1.5. Financial Pre-Qualification Requirements; Private Investment Fund

Any Member, who is a Private Investment Fund, is required to demonstrate that as of the date falling 14 days prior the Pre-Qualification Submission Date, the amount of Unutilized Commitments under its management is not less than NIS 6,000,000, for each one percent (1%) of its Anticipated Holdings in the Participant.

4.1.6. Financial Pre-Qualification Requirements; Banking Corporation or Institutional Investors

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

4.1.6.1. Its equity (excluding minimal equity required by Law, to the extent relevant) is not less than NIS 3,000,000 for each one percent (1%) of Anticipated Holdings in the Participant, based on the Member's most recent Financial Statement (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2018); **or**

4.1.6.2. It manages assets with a net worth of not less than NIS 50,000,000 for each one percent (1%) of Anticipated Holdings in the Participant, based on the Member's most recent Financial Statement (for the removal of doubt, the Member's most recent Financial Statements shall not be earlier than 2018).

4.1.7. Financial Pre-Qualification Requirements; Investment Entity

Any Member who is an Investment Entity is required to demonstrate equity of not less than NIS 6,000,000, for each one percent (1%) of Anticipated Holdings in the Participant, based on its most recent annual Financial Statements (provided such is not earlier than for the year 2018)²⁵.

4.2. **Content and Submission Form**

4.2.1. In order to demonstrate compliance with the Financial Pre-Qualification Requirements, the Participant shall submit the most recent three (3) Financial Statements of each Member and each Guarantor (to the extent relevant), (for the removal of doubt, the most recent Financial Statements shall not be earlier than 2018), duly prepared and presented in accordance with one of the following:

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

²⁵ Addendum No. 1

- 4.2.1.2. US GAAP (published by the FASB);
- 4.2.1.3. International Financial Reporting Standards (including, with respect to the cash flow statements, IAS (International Accounting Standards) IAS No. 7 and IFRS updates);
- 4.2.1.4. FFSS²⁶;
- 4.2.1.5. Hong Kong Financial Reporting Standards (HKFRS)²⁷;
- 4.2.1.6. Chinese Accounting Standards (CAS)²⁸.

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

Entities whose Financial Statements are presented based on acceptable accounting principles in their domicile, which are different than those specified in Sections 4.2.1.1-4.2.1.4²⁹³⁰ above, are required to submit at least 30 days prior to the Pre-Qualification Submission Date a specific request to the Tender Committee in accordance with the provisions of Section 2.9 (Requests for Clarifications) in order to receive its approval for submission of such Financial Statements; the Tender Committee will consider each request on a case by case basis, at its sole discretion, and may issue an Addendum as a result thereof.

- 4.2.2. Without derogating from the generality of Section 4.2.1 above, the Financial Statements must include a balance sheet, a profit and loss statement, a cash flow, and auditor's report and notes.
- 4.2.3. An Entity whose Financial Statements do not include cash flow statements, shall provide such statements in accordance with one of the accounting principles set out in Sections 4.2.1.1-4.2.1.4³¹³² above, duly executed by the Entity's external auditors.
- 4.2.4. The Financial Statements will be provided either in English or in Hebrew, but in no other language.
- 4.2.5. In the event of a reliance by a Participant or by a Member 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 4.1.4

²⁶ Addendum No. 1

²⁷ Addendum No. 2

²⁸ Addendum No. 2

²⁹ Addendum No. 1

³⁰ Addendum No. 2

³¹ Addendum No. 1

³² Addendum No. 2

(Reliance on a Guarantor) above.

4.2.6. In order to demonstrate compliance with the Financial Pre-Qualification Requirements, each Member and to the extent it is relevant – each Guarantor, shall complete, execute and submit Pre-Qualification Form “5”, “6”, “7” or “8”³³ (*FINANCIAL ROBUSTNESS*), as applicable.

4.2.7. Without derogating from the rights reserved by the Tender Committee in accordance with these Pre-Qualification Documents and pursuant to any Law, in the event of a discrepancy between the Financial Statements and the Pre-Qualification Forms, as applicable, the provisions of the Financial Statements shall prevail.

4.2.8. Exchange of Currency

4.2.8.1. All of the financial figures included in the Pre-Qualification Documents must be submitted using New Israeli Shekels (NIS).

4.2.8.2. In the event that the Financial Statements are presented using USD (US\$), Euro (€), British Pounds (£) or Chinese Yuan (¥)³⁴, the Entity shall convert the financial data in the following manner:

4.2.8.2.1. Turnover and Operating Cash Flow

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

³³ Addendum No. 1

³⁴ Addendum No. 1

Calendar Fiscal Year	Currency	NIS (₪)
January 1, 2016, until December 31, 2016	1 USD (US\$)	3.8406
	1 EUR (€)	4.2496
	1 GBP (£)	5.2101
	1 Chinese Yuan (¥) ³⁵	0.5781
	<u>1 HK\$³⁶</u>	<u>0.4944</u>
January 1, 2017, until December 31, 2017	1 USD (US\$)	3.5997
	1 EUR (€)	4.0622
	1 GBP (£)	4.6324
	1 Chinese Yuan (¥) ³⁷	0.5329
	<u>1 HK\$³⁸</u>	<u>0.4652</u>
January 1, 2018, until December 31, 2018	1 USD (US\$)	3.5970
	1 Euro (€)	4.2442
	1 British Pound (£)	4.7973
	1 Chinese Yuan (¥) ³⁹	0.5439
	<u>1 HK\$⁴⁰</u>	<u>0.4540</u>
<u>January 1,</u>	<u>1 USD (US\$)</u>	<u>3.5638</u>

³⁵ Addendum No. 1

³⁶ Addendum No. 2

³⁷ Addendum No. 1

³⁸ Addendum No. 2

³⁹ Addendum No. 1

⁴⁰ Addendum No. 2

<u>2019, until December 31, 2019</u> ⁴¹	<u>1 Euro (€)</u>	<u>3.9908</u>
	<u>1 British Pound (£)</u>	<u>4.5504</u>
	<u>1 Chinese Yuan (¥)</u>	<u>0.5161</u>
	<u>1 HK\$</u>	<u>0.4589</u>

4.2.8.2.2. Equity

An Entity's equity shall be converted to NIS, based on the exchange rates detailed below in this Section (as applicable)⁴²:

Day	December 31, 2018	<u>December 31, 2019</u> ⁴³
Currency	NIS (₪)	<u>NIS (₪)</u>
1 USD (US\$)	3.7480	<u>3.4560</u>
1 Euro (€)	4.2916	<u>3.8782</u>
1 British Pound (£)	4.7934	<u>4.5597</u>
1 Chinese Yuan (¥) ⁴⁴	0.5434	<u>0.4960</u>
<u>1 HK\$</u> ⁴⁵	<u>0.4717</u>	<u>0.4449</u>

⁴¹ Addendum No. 2

⁴² Addendum No. 2

⁴³ Addendum No. 2

⁴⁴ Addendum No. 1

⁴⁵ Addendum No. 2

4.2.8.2.1. 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 (as applicable)⁴⁶:

Day	December 31, 2018	<u>December 31, 2019</u> ⁴⁷
Currency	NIS (₪)	<u>NIS (₪)</u>
1 USD (US\$)	3.7480	<u>3.4560</u>
1 Euro (€)	4.2916	<u>3.8782</u>
1 British Pound (£)	4.7934	<u>4.5597</u>
1 Chinese Yuan (¥) ⁴⁸	0.5434	<u>0.4960</u>
<u>1 HK\$</u> ⁴⁹	<u>0.4717</u>	<u>0.4449</u>

4.2.8.3. An Entity whose financial data is presented in currencies other than the currencies presented in Section 4.2.8.2 above⁵⁰ 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.

4.2.8.4. 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.

⁴⁶ Addendum No. 2

⁴⁷ Addendum No. 2

⁴⁸ Addendum No. 1

⁴⁹ Addendum No. 2

⁵⁰ Addendum No. 1

5. PRE-QUALIFICATION SUBMISSION

5.1. Pre-Qualification Submission Letter

Each Participant shall attach to its Pre-Qualification Submission the Pre-Qualification Submission Letter provided in Pre-Qualification Form “1” (*THE PRE-QUALIFICATION SUBMISSION LETTER*) duly completed and signed.

5.2. Description of the Participant, Members, and Guarantors

Each Participant shall submit all of the Pre-Qualification Forms specified in Sections 3 (GENERAL PROVISIONS RELATING TO PARTICIPANTS) and 4 (PRE-QUALIFICATION REQUIREMENTS) above, with respect to the Participant, Members in the Participant, and Guarantors (if applicable) duly completed and signed⁵¹.

5.3. Receipt for Payment of Participation Fee

Each Participant shall include in its Pre-Qualification Submission a copy of the receipt for payment of the Participation Fee.

5.4. Identification of Sensitive or Classified Information

5.4.1. Without derogating from the generality of the provisions of Regulation 21(e) of the Regulations and/or the discretion granted to the Tender Committee thereunder and pursuant to the Pre-Qualification Documents and the provisions of any applicable Law, each Participant shall detail, within Pre-Qualification Form “1” (*THE PRE-QUALIFICATION SUBMISSION LETTER*), in a clear, complete and legible manner, all information contained in their Pre-Qualification Submissions, which they consider to be of a commercially sensitive or confidential nature and which in their mind should not be disclosed to other Participants and the reasons for such assertion of confidentiality for each of the items identified as such. For the removal of doubt, general confidentiality statements will be disregarded. In addition, each Participant shall submit as part of the Pre-Qualification Submission one (1) CD containing a marked copy of the Pre-Qualification Submission pursuant to the provisions of Section 6.7.2(ii) below.

5.4.2. For the avoidance of doubt, the Tender Committee may allow the review of information which the Participant considers to be of a commercially sensitive or confidential nature and to act in accordance with the provisions of Section 7.6 (Disclosure of Documents) below.

6. METHOD OF SUBMISSION

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

⁵¹ Addendum No. 1

provisions:

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

Participants shall prepare their Pre-Qualification Submissions in strict conformity with the requirements of the Pre-Qualification Documents. 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 as **Annex C** (Pre-Qualification Forms) to this Invitation.

6.2. No Unauthorized Modification

Participants shall not modify or supplement the instructions of this Invitation. Unauthorized conditions, limitations, modifications, supplements, reservations, disclaimers or provisions attached to a Pre-Qualification Submission may result in the disqualification of the Pre-Qualification Submission and of the Participant, all in accordance with the rights and prerogatives of the Tender Committee. For the avoidance of doubt, any conditions, limitations, modifications, supplements, reservations, disclaimers or provisions attached to the Pre-Qualification Submission, which were not submitted by the Participant to the Tender Committee in accordance with the provisions of Section 2.9 (Requests for Clarification) and approved by the Tender Committee in the form of an Addendum, issued in accordance with the provisions of Section 2.10 (Addenda), may be deemed as unauthorized and may result in the disqualification of the Pre-Qualification Submission and of the Participant.

6.3. Language of the Pre-Qualification Submission

All Pre-Qualification Submissions, including Pre-Qualification Forms and statements contained therein shall be either in English or in Hebrew. Supporting documents and printed literature submitted by a Participant in any other language, other than Hebrew or English, should be accompanied by a translation to Hebrew or English (authenticated by a Public Notary in English), in which case, for purposes of interpretation, the translation to Hebrew shall prevail.

6.4. Signing of the Pre-Qualification Submission

6.4.1. Each page of the Pre-Qualification Submission including all Pre-Qualification Forms and appendices shall be duly signed by the authorized signatories of the Participant and each of its Members. Each form of the Pre-Qualifications Forms and any information submitted therein, shall be duly signed by the authorized signatories of the relevant Entity described in such form, as applicable.

6.4.2. Without derogating from the generality of the foregoing, in the event a document or a set of documents consisting part of the Pre-Qualification

Submission are set in binders, the relevant Entities which are required to sign on such documents may only sign the first and last pages of each of the binders and clearly indicate the number of pages of such binder.

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

6.5. Table of Contents

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

6.6. Authorization of Signatures by an Attorney

Adjacent to each signature (excluding signatures by initials) on the signature page of each Pre-Qualification Form within the Pre-Qualification Submission of the Participant, its Members and Guarantors (if applicable), there shall be a confirmation by an attorney, or any person who is legally qualified by law within his/her domicile to do so, that the signatory is authorized to submit the required information on behalf of such Entity and to commit such Entity in relation to the document on which such signature appears.

6.7. Number of Pre-Qualification Submission Copies

- 6.7.1. Pre-Qualification Submissions must be submitted, and clearly marked as an (1) original and two (2) identical copies (three (3) altogether).

- 6.7.2. In addition, the Pre-Qualification Submission shall include: (i) three (3) CDs each containing a copy of the Pre-Qualification Submission (including the Financial Statements) in PDF format. Such CDs shall also contain the completed Pre-Qualification Forms in WORD format; and (ii) one (1) CD containing a copy of the Pre-Qualification Submission in WORD format (except for the Financial Statements which may be in PDF format) wherein the Participant marked in black, in a manner that the marked information cannot be read, all the information it detailed in Pre-Qualification Form "1" (THE PRE-QUALIFICATION SUBMISSION LETTER) as being commercially sensitive or of a confidential nature and which in its mind should not be disclosed to other Participants (notwithstanding the foregoing and without derogating from Section 5.4 (Identification of Sensitive or Classified Information) above, in the event a Participant is of the view that an entire document or Pre-Qualification Form should not be disclosed to other Participants it does not have to mark the whole of such document or form in black).

- 6.7.3. In the event of a discrepancy between the original and the other Pre-Qualification Submission documents, and/or the CD, the original shall prevail.

6.8. Sealing and Marking of Pre-Qualification Submissions

- 6.8.1. The Pre-Qualification Submissions shall be submitted between Sunday to

Thursday, not before two (2) Business Days prior the Pre-Qualification Submission Date, and between the hours 09:00-14:00 (Israel time), at the allocated tender box to be placed in 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.

- 6.8.2. Each envelope or box submitted as part of the Pre-Qualification Submission shall be clearly marked with the following words:

‘Pre-Qualification Submission for Pre-Qualification Process No. 1/2020 in relation with a Tender for the Financing, Designing, Construction and Operation of a Solar PV Power Plant Near Dimona, submitted by [*the name of the Participant*]’. No other details shall be indicated on the outer envelope or box.

6.9. Pre-Qualification Submission Date

- 6.9.1. Without derogating from the Provisions of Section 2.10 (Addenda) above, Pre-Qualification Submissions should be submitted at the address provided in Section 6.8 (Sealing and Marking of Pre-Qualification Submissions) above on the date designated for such submission, as set forth in Section 1.6 (Anticipated Schedule) above, no later than 14:00 (2p.m.) (ISR time), (the “**Pre-Qualification Submission Date**”).
- 6.9.2. 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 who shall consequently be disqualified from participating in the Tender Process.

6.10. Opening of Pre-Qualification Submissions

All Pre-Qualification Submissions shall be kept in the tender box until the opening thereof. For the purpose of this Section: the "tender box" shall mean also a closed and locked room. The opening of any Pre-Qualification Submission shall be documented.

7. REVIEW AND EVALUATION OF PRE-QUALIFICATION SUBMISSIONS

7.1. Review and Evaluation by the Tender Committee

7.1.1. 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 the Pre-Qualification Documents, including all Financial Pre-Qualification Requirements.

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

7.2. Requests for Clarifications

7.2.1. Without derogating from any of its rights under the Pre-Qualification Documents and any applicable Law, the Tender Committee, at its sole discretion, may conduct an independent evaluation in connection with any Pre-Qualification Submission. As part of such evaluation 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 7.2.2.

7.2.2. 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 the Participants or any of them.

7.2.3. Participants shall comply with the requests of the Tender Committee and shall submit all requested clarifications and additional information by email and in original hardcopy to be delivered by hand, within the time period which shall be stipulated by the Tender Committee.

7.2.4. Such requests for clarifications from Participants will be in writing and delivered to the Participants by email, and the receipt thereof shall be confirmed by the Participant by return mail, to the address noted in Section 2.9.1 above, within forty-eight (48) hours of receipt, all without derogating the rights of the Tender Committee to set different arrangements for clarifications, approvals and submissions.

7.2.5. The responses of Participants to the requests for clarifications from 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 response of the Participant to the requests for clarifications, the response of the Participant to the requests for clarifications shall prevail.

7.2.6. The Tender Committee may exercise its right under this Section 7.2 (Requests for Clarifications) at its sole discretion and any number of times during the evaluation of the Pre-Qualification Submissions.

7.2.7. Deviation

In any event that a Pre-Qualification Submission contains an unauthorized modification or a Deviation, the Tender Committee may act as it deems appropriate, including without limitation, in any one or more of the following ways:

- 7.2.7.1. disqualify the Participant and the Pre-Qualification Submission;
- 7.2.7.2. ignore the unauthorized modification or the Deviation or any part thereof;
- 7.2.7.3. deem the unauthorized modification or the Deviation or any part thereof as a technical error;
- 7.2.7.4. request of the Participant to amend the unauthorized modification or the Deviation by resubmitting its Pre-Qualification Submission or any part thereof, by providing a notice of absolution to the Tender Committee, or by any other means deemed necessary in the opinion of the Tender Committee.

It is hereby clarified that 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 7.2.7.1.-7.2.7.4. In the event that a Participant refuses to comply with a request of the Tender Committee, without derogating from any of its other rights pursuant to the provisions of the Pre-Qualification Documents or under applicable Law, the Tender Committee may disqualify the Participant's Pre-Qualification Submission. Under exceptional circumstances, the Tender Committee may amend or waive any requirement herein following the Pre-Qualification Submission Date, if the Tender Committee is of the opinion that it is beneficial for the Project.

7.2.8. The Tender Committee may request Participants to provide clarifications which are necessary in the opinion of the Tender Committee for the evaluation of the Pre-Qualification Submission or any part thereof.

7.3. **Announcement of Eligible Participants**

7.3.1. Upon the completion of its evaluation of the Pre-Qualification Submissions, the Tender Committee will announce those Participants who the Tender Committee deemed to have: (i) successfully demonstrated compliance with the requirements of the Pre-Qualification Documents, including with all Pre-Qualification Requirements; and (ii) which were not otherwise disqualified thereby (“**Eligible Participant**”).

7.3.2. Without derogating from the generality of the provisions of Section 8.3

(Reservation of Rights) below, the Tender Committee intends to issue⁵² the Tender Process Documents to the Eligible Participants, who will be allowed to submit their Bids in accordance with the provisions of the Tender Process Documents.

- 7.3.3. 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).
- 7.3.4. 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 the Members and Guarantors thereof) to all Participants and in a press release.

7.4. Rejection of the Pre-Qualification Submissions

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

- 7.4.1. The Tender Committee reserves the right to reject any or all Pre-Qualification Submissions.
- 7.4.2. The Tender Committee reserves the right to reject a Pre-Qualification Submission if the Tender Committee is of the opinion that, based on the information included in its Pre-Qualification Submissions, including financial and technical information, the Participant is prima facie unable to execute the Project.
- 7.4.3. Without derogating from the rights of the Tender Committee pursuant to the provisions of the Pre-Qualification Documents 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.
- 7.4.4. Without derogating from the rights of the Tender Committee pursuant to the provisions of the Pre-Qualification Documents and the Law, 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 the Pre-Qualification Documents, or which are partial, reserved, lacking, conditional, or are false or based on false or misleading information.
- 7.4.5. The Tender Committee may disqualify any Participant, or impose any condition 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:
 - 7.4.5.1. Any changes to a Participant, a Member or a Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated), or to a Member's Anticipated Holdings in the Participant, without the prior approval of the Tender

⁵² Addendum No. 1

Committee;

- 7.4.5.2. The commencement of insolvency, receivership, liquidation or reorganization proceedings against a Participant, a Member or a Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated) 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;
- 7.4.5.3. The commencement of self-liquidation or bankruptcy proceedings and/or cease of activity by a Participant, a Member or a Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated);
- 7.4.5.4. The commencement of mergers proceedings and/or reorganization proceedings by a Participant, a Member or a Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated), without the prior written approval of the Tender Committee;
- 7.4.5.5. In the event that any Participant, Member or Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated), or an Interested Party thereof has been convicted of an Offence, or an indictment (criminal charges) has been served against him, with respect to an Offence, which might, in the opinion of the Tender Committee, (i) result in an any material or adverse change in its business; (ii) concern grave professional misconduct; (iii) concern fraud and breach of faith; or (iv) effect its integrity and/or credibility.
- 7.4.5.6. In the event that any Participant, Member or Guarantor (through which compliance with the Pre-Qualification Requirements was demonstrated) is or becomes a resident of or domiciled in a country which does not have diplomatic relations with the State of Israel;
- 7.4.5.7. Any engagement with Advisors other than in accordance with the provisions of Section 2.14 (Advisors to the Tender Committee) above.
- 7.4.5.8. Any event which has an adverse effect on the ability of the Participant or any other Entity demonstrating compliance with the Pre-Qualification Requirements, to execute the Project, in the opinion of the Tender Committee.
- 7.4.5.9. Any material breach of the provisions of the Pre-Qualification Documents or failure to comply with an instruction of the Tender Committee, including but not limited to the submission of any false incomplete, or misleading information to the Tender

Committee or collision with other Participants;

- 7.4.5.10. Any material change in the Participant, its Members' or Guarantor's, which, in the Tender Committee's opinion, may hinder its participation in the Pre-Qualification Process and/or the Tender Process, or its involvement in the Project;
- 7.4.5.11. The Financial Statements of a Participant, a Member or a Guarantor, which were submitted in accordance with Section 4.1.4 (Reliance on a Guarantor) above, include a notice by an auditor with respect to the ability of such Entity to perform its activity.
- 7.4.5.12. A change in circumstances following which a Participant, a Member or a Guarantor has a "going concern notice" in its most recent Financial Statements;
- 7.4.5.13. Any reason for which the Tender Committee deems that a Participant or any other Entity demonstrating compliance with any of the Pre-Qualification Requirements, will not be capable of executing the Project, should it be declared the Successful Bidder, or any other event or exceptional circumstances which the Tender Committee may consider (at its sole discretion), as justifying disqualification of the Participant (including circumstances which materially and adversely affect, a Participant's, a Member's or a Guarantor's ability to execute the Project);
- 7.4.5.14. Any other reason for which the Tender Committee deems that a Participant is not eligible to be announced as the Successful Bidder, including due to dishonesty of such Participant during the Pre-Qualification Process. The Tender Committee reserves its right to take any action, at its sole discretion, with respect to dishonesty of a Participant.

The Participant shall be required to notify the Tender Committee of the existence of any of the events described in Section 7.4 (Rejection of the Pre-Qualification Submissions) within a period of time reasonable under the circumstances. In addition, the Tender Committee may initiate and request the submission by the relevant Participant of applicable information with respect to any of the above. The Tender Committee may base its decision under this Section 7.4 (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, as the Tender Committee deems necessary.

7.5. Intended Decision

In the event that the Tender Committee intends to disqualify a Pre-Qualification Submission submitted by a Participant or otherwise imposes conditions or restrictions with respect to its participation pursuant to the provisions of Section 7.4 (Rejection of the Pre-Qualification Submissions), the Tender Committee will allow such a Participant to present its case, verbally or in writing as to be determined by the Tender Committee, with respect to such intended decision.

7.6. Disclosure of Documents

- 7.6.1. In accordance with the provisions of regulations 21(e) and 21(f) of the Regulations, each Participant shall be entitled to review the relevant protocols of the Tender Committee, correspondences with the Participants, opinions and any Pre-Qualification Submissions submitted by other Eligible Participants and to receive a copy thereof.
- 7.6.2. 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 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 other Participants shall be determined solely by the Tender Committee.
- 7.6.3. The Tender Committee shall evaluate, as it deems necessary, the commercially sensitive or confidential nature of parts of the Pre-Qualification Submission which were identified as such by the Participant in accordance with the provisions of this Invitation. The decision of the Tender Committee with respect thereto will be issued to such Participant.
- 7.6.4. Participants shall not be entitled to claim that any part of the Pre-Qualification Submission other than those parts identified by them in the Pre-Qualification Submission as being of a commercially sensitive or confidential nature cannot be reviewed by other Participants and each Participant shall be deemed to have waived any claims it may have with respect thereto.
- 7.6.5. A Participant shall not be entitled to review information included in the Pre-Qualification Submissions of other Participants, which it identified to be of a commercially sensitive or confidential nature in its own Pre-Qualification Submission, unless otherwise determined by the Tender Committee. The foregoing shall apply, even in the event that the information identified by a Participant as commercially sensitive or confidential was not approved as such by the Tender Committee and even if the other Participants have not claimed that such part of the Pre-Qualification Submission is commercially sensitive or confidential.

8. THE TENDER PROCESS

8.1. Issuance of the Tender Process Documents; Update Statement

8.1.1. General

- 8.1.1.1. Without derogating from the generality of the provisions of the Tender Process Documents, each Participant, Member and Guarantor is required to provide a statement detailing any and all changes with respect thereto, which occurred after the Pre-Qualification Submission Date, immediately when such changes occur or at the latest, within its Bid submission. It is expected that even in the absence of any changes, a statement to that effect will be required (“**Update Statement**”). Without derogating from the foregoing, the Tender Committee may request all or any Eligible Participants to submit an Update Statement at any time.
- 8.1.1.2. The Tender Committee will review the information provided in the Update Statement and, without derogating from its rights under Law, shall be entitled to request a Participant to provide further clarifications and/or documents and/or any other information as shall be deemed necessary at the sole discretion of the Tender Committee, in order to examine and evaluate the Update Statement. The Tender Committee may, at any stage, disqualify any Eligible Participant in the event that such Eligible Participant no longer meets the requirements of the Pre-Qualification Documents, or impose any condition or instruction with respect to its participation in the Tender Process at such time as shall be suitable by the Tender Committee.
- 8.1.1.3. The Tender Committee reserves the right to evaluate the Update Statement, *inter alia*, the repercussions thereof on the Participant's eligibility, at any time, at its sole discretion. It is hereby clarified, that the refraining of the Tender Committee from evaluating the Update Statement upon its receipt shall not derogate from the Tender Committee's right to disqualify the Participant due to a change specified in the Update Statement, and the Eligible Participant shall not have any claim against the Tender Committee with respect thereto.

8.1.2. Updated Financial Statements

- 8.1.2.1. In addition to the Update Statement it is expected that each Participant shall be required to submit the most recent available audited Financial Statements of its Members and the Guarantor(s), as applicable (the "**Updated Financial Statements**").
- 8.1.2.2. The Tender Committee shall evaluate the information in the Updated Financial Statements and, without derogating from its

rights under Law, may request an Eligible Participant and/or any of its Members or Guarantors to clarify, complete or add any information or documents, as may be required, at its sole discretion, for the review of the Updated Financial Statements. The Tender Committee shall be entitled to disqualify any Eligible Participant, in any stage, in the event that such Eligible Participant no longer meets the requirements of this Invitation or impose any condition or instruction with respect to its participation in the Tender Process, including in the event that concerns regarding the capability of the Eligible Participant to execute the Project arise following the review of the Updated Financial Statements of any of the Members or the Guarantor(s).

- 8.1.2.3. For the avoidance of doubt, nothing in the foregoing shall derogate from or limit the discretion of the Tender Committee in the occurrence of a material adverse effect in the market conditions.

8.2. Formation of a Single Purpose Company

- 8.2.1. 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 single purpose company, incorporated under the Laws, the sole purpose of which 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), all in accordance with the provisions of the Tender Process Documents (“**SPC**”).
- 8.2.2. The shares and other interests in this SPC will be wholly held by the Member (if the Participant was a single Entity), or by the Members who participated, through the Participant, in the Pre-Qualification Submissions, and were approved by the Tender Committee pursuant to the Pre-Qualification Process. The shareholdings and the holdings of other interests by the Members in the SPC (or by the Member if the Participant was a single Entity) shall be as provided in Pre-Qualification Form “2” (*THE PARTICIPANT*), all as shall further be detailed in the Tender Process Documents.

8.3. Reservation of Rights

- 8.3.1. 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 Process 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 its behalf with respect to the Project. The Tender Committee reserves the right to update, amend or change the Project, including the site of the Project, the required works and services for the Project, general conditions for the execution of the Project and the selection of Eligible Participants, including determining additional

pre-qualification requirements or minimum requirements, whether as part of the Pre-Qualification Process or the Tender Process.

- 8.3.2. For the avoidance of doubt, without derogating from the provisions of the Pre-Qualification Documents, Participation in this Pre-Qualification 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.
- 8.3.3. It is further clarified that the issuance of this Invitation is not intended to guarantee the initiation, execution or the implementation of the Project or any part thereof.
- 8.3.4. It is expressly understood that any reliance by any Entity or Participant on any information in the Pre-Qualification Documents, or any information provided or which will be provided by the Tender Committee or anyone on its behalf, including any assumption, conclusion, interpretation, intention or information with respect to the Project and the Tender Process, is at the sole responsibility of the Entity or Participant, and such shall not have any claim against the Tender Committee or anyone on its behalf with respect thereto. The Tender Committee and anyone on their behalf, shall not be responsible in any respect to any loss or damage whatsoever suffered by any Entity and/or Participant and/or anyone on their behalf, by reason of any assumption, conclusion or reliance on the information contained in this Invitation in connection therewith, or any action or forbearance in reliance thereon.
- 8.3.5. Without derogating from the generality of the foregoing, the Tender Committee reserves the right not to proceed with this Pre-Qualification Process, or with the Tender Process for the execution of 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.
- 8.3.6. Under the circumstances described herein, the Tender Committee or anyone on its behalf shall not be responsible in any respect to any loss or damage whatsoever suffered by any Entity or Participant and/or anyone on their behalf, including their employees, officers, agents, or any other persons for whom any Entity or Participant may be contractually or legally responsible or accountable, and shall not be required to compensate the Entity or the Participant, their employees, officers, agents, or any other persons for whom the Entity or Participant may be contractually or legally responsible or accountable.
- 8.3.7. The Tender Committee or anyone on its behalf may publish a new invitation to pre-qualify or other proceedings with respect to the Project or any part thereof, which may include other pre-qualification requirements, or require additional pre-qualification or minimum requirements in the Tender Documents, or invite or not the Participants to take part in such process, or execute the Project or any part thereof, in other way deemed appropriate.

8.4. Prerogatives of the Tender Committee

Without derogating from any provision under the Tender Documents or any applicable Law, the Tender Committee reserves the right to act upon any of the following prerogatives, whether at the Pre-Qualification Process or at the Tender Process, and the Tender Committee or anyone on its behalf shall not be responsible in any respect to any loss or damage whatsoever suffered by any Entity or Participant as a consequence of exercising such prerogatives.

- 8.4.1. The Tender Committee reserves the right to determine or amend the requirements of the Pre-Qualification Process and the Tender Process, at any stage.
- 8.4.2. Without derogating from the foregoing, the Tender Committee may, *inter alia*, determine new technical requirements and/or financial requirements or any other requirements it deems necessary under the circumstances, and require a change in the composition of the Participant and/or Member and/or Experience Provider (including waiving a requirement for the participation of an Experience Provider of a certain discipline or request the addition of an Experience Provider of a certain discipline).
- 8.4.3. The Tender Committee reserves the right to evaluate, at any stage, the compliance of any Pre-Qualification Submission with the requirements herein, including the compliance of any Pre-Qualification Submission reviewed by the Tender Committee (or any part thereof), to request additional information, to request the correction of any Deviation, to modify or nullify any decision of the Tender Committee, all for any reason as the Tender Committee may deem fit.
- 8.4.4. It is hereby clarified that the approval of the Tender Committee to correct a certain type of Deviation shall not be deemed as approval to correct any other type of Deviation.
- 8.4.5. The Tender Committee may exercise any of the prerogatives pursuant to this Section 8.4 (Prerogatives of the Tender Committee) at any time (including following the issuance of the Tender Process Documents), up until Bid submissions.
- 8.4.6. For the avoidance of doubt the Tender Committee shall not be obligated to exercise any of the prerogatives pursuant to this Section 8.4 (Prerogatives of the Tender Committee).

Annex A - Site Map

Incorporated herein by reference

Annex B - Advisors to the Tender Committee

Part A

Adan Technical and Economic Services Ltd., Technical Advisors

M.L.G.R - Urban, Transportation & Infrastructure Planning & Projects Management Ltd., Statutory Advisors

Ziv Sade Finance Ltd., Financial Advisors

Yigal Arnon & Co., Law Firm, Legal Advisors

Annex C - Pre-Qualification Forms

Incorporated herein by reference

Annex D - Form of Participants' Requests for Clarification of the Tender Documents

Incorporated herein by reference