

This Appendix is pending approval of the Ministry of Justice

## APPENDIX K2

### Letter of Appointment for the Arbitrators

Date: \_\_\_\_\_

To: *[Insert name of the Arbitrator]*

#### Letter of Appointment

You are hereby appointed by the undersigned as an Arbitrator (hereinafter in this Letter of Appointment: “**Arbitrator**”) as per the Concession Agreement, signed between the State of Israel (hereinafter: the “**State**”) and \_\_\_\_\_ *[insert name of Concessionaire]* (hereinafter: the “**Concessionaire**”; the State and the Concessionaire are hereinafter collectively referred to as the “**Parties**” and individually as the “**Party**”), as follows:

(All capitalized terms used in this Letter of Appointment, and not defined or modified herein, shall have the same meaning as set forth in the Concession Agreement.)

**1. Term of Appointment**

Your appointment shall come into effect on \_\_\_\_\_ *[insert date]* for a period of five (5) years or as may be renewed or earlier terminated in accordance with Appendix K (*Dispute Resolution*) to the Concession Agreement, which is attached hereto and forms an integral part of this letter of appointment (hereinafter: “**Tenure**”).

**2. Arbitration**

2.1. You are hereby appointed to hear all disputes, controversies and/or claims, referred to you during your Tenure pursuant to the provisions of the Concession Agreement and Appendix K (*Dispute Resolution*), even if such proceedings continue after the end of your Tenure.

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- 2.2. The procedures, schedules and conduct of hearing of disputes and the decisions of the Dispute Resolution Panel shall be performed by you in accordance with the provisions of the Concession Agreement and Appendix K (*Dispute Resolution*) thereto and the rules of procedure specified in the Arbitration Law, 1968.

### **3. Powers and Duties**

- 3.1. Your powers and duties as an Arbitrator shall be in accordance with the provisions of the Concession Agreement and Appendix K (*Dispute Resolution*) thereto.
- 3.2. Without derogating from the generality of Section 3.1 above, you shall:
  - 3.2.1. Set forth the reasoning for your decisions in proceedings over which you preside, you shall make your decision in accordance with the provisions of the Concession Agreement, shall be bound by substantive law, but you shall not be bound by other laws of evidence and procedure (except as specified in Section 2.2 hereinabove).
  - 3.2.2. Shall render your decision on the basis of substantive Israeli law, the Contract Documents, the Project Documentation and the facts and circumstances of the dispute, as found by Arbitrators; and
  - 3.2.3. Be entitled to order mandatory injunctions, payment of compensation, time extensions and all other measures which you might consider necessary, in accordance with Israeli substantive law and the Contract Documents.

### **4. Independence and lack of Conflict of Interest**

- 4.1. This appointment is made based on the complete disclosure statement and undertaking, you have submitted to the Parties, confirming the absence of any conflict of interest and describing all your past, present and anticipated or planned future relations to the Project and all your

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past, present and anticipated or planned future relations with all parties involved in the Project (including the Concessionaire, the Shareholders, the Sub-Contractors, the State and the Implementing Authority), including disclosure of past or current professional or close personal relationships with any of the above, or with any key member of any of the above.

4.2. This appointment is subject to and conditioned upon the accuracy and completeness of your aforementioned statement and your undertaking:

4.2.1. not to be in any kind of situation of a nature, which would be grounds for disqualification of a judge, or which could otherwise compromise your ability to impartially resolve disputes; and

4.2.2. to keep confidential all matters coming to your knowledge by reason of your appointment, the performance of your duties and the exercise of your powers.

By accepting this appointment you undertake to be bound by the provisions of the Concession Agreement and Appendix K (*Dispute Resolution*) to the Concession Agreement.

## **5. Fiduciary Duty**

Your appointment is entailed with a fiduciary duty to all Parties referring any dispute for your resolution.

## **6. Fees**

Your fees will be paid by the parties, in accordance with the provisions of Appendix K (*Dispute Resolution*) to the Concession Agreement.

## **7. Incorporation of provisions of the Concession Agreement and Appendix K (*Dispute Resolution*)**

Without derogating from any of the above, this Letter of Appointment hereby incorporates all relevant provisions of the Concession Agreement and Appendix K (*Dispute Resolution*), attached hereto. Such provisions shall oblige you, where and as applicable, and you shall act in accordance therewith.

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Upon your acceptance of this appointment we, the State and the Concessionaire, hereby accept the authorities and powers granted to you by this letter of appointment and we are obliged to any of your decision made in accordance with this Letter of Appointment and the Concession Agreement (including Appendix K (*Dispute Resolution*)).

\_\_\_\_\_  
Concessionaire

\_\_\_\_\_  
State

By signing hereunder I accept my appointment as an Arbitrator and undertake to act in accordance with this Letter of Appointment and the Concession Agreement (including Appendix K (*Dispute Resolution*)) and I am obliged to all duties and restrictions set forth therein.

Name : \_\_\_\_\_

Signature: \_\_\_\_\_