

State of Israel ממשלת ישראל

משרד התחבורה  
והבטיחות בדרכים  
Ministry of Transport  
and Road Safety



משרד האוצר  
Ministry of Finance

חברת כביש חוצה ישראל  
Cross Israel Highway Ltd



באמצעות ועדת המכרזים הבין משרדית

Acting through the Inter- Ministerial Tender Committee

הזמנה להשתתף  
בהליך מיון מוקדם במסגרת מכרז BOT  
כביש חוצה ישראל הצפוני  
דרך מס' 6 - "יקנעם -סומך"

INVITATION TO PARTICIPATE IN A  
PRE-QUALIFICATION PROCESS OF  
CROSS ISRAEL NORTHERN HIGHWAY  
NO. 6 - "YOKNEAM-SOMECH"

מרץ 2011 March

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## **1. INVITATION TO PRE-QUALIFICATION**

### **1.1. General Introduction**

The Government of Israel (the "**Government**") acting on behalf of the State of Israel (the "**State**"), through the Ministry of Finance, the Ministry of Transport and Road Safety and Cross Israel Highway Company Ltd. ("**CIH**") (all are acting through the Tender Committee), hereby invites all local and foreign companies and joint ventures thereof, with the required experience and ability, to participate in the Prequalification Stage for the execution of Cross Israel Northern Highway Yokneam-Somech (known as "sections 3 and 7") as toll roads, in cooperation with the private sector, pursuant to the Toll Road (Israel National Highways) Law, 1995 (the "**Project**").

The Project is a Build-Operate-Transfer (BOT) scheme for the design, finance, construction, operation and maintenance of the Project as a road with toll sections for a period of up to thirty (30) years. At the end of the period, the Project will be transferred to the State at no cost.

All terms used in this Invitation shall have the meaning ascribed thereto herein or in **Appendix "A"**.

### **1.2. The Selection Process**

The Tender Committee intends to select an entity from the private sector to execute the Project (the "**Concessionaire**") in the following stages:

1.2.1. This Pre-Qualification Stage

1.2.2. The Tender Selection Stage

### **1.3. The Pre-Qualification Stage**

The purpose of this Pre-Qualification Stage is to select the Eligible Participants, who will be invited to participate in the Tender Selection Stage.

As part of the Pre-Qualification Stage, Participants will be required to submit Pre-Qualification Submissions in accordance with the provisions of this Invitation, in order to demonstrate their compliance with the Pre-Qualification Requirements.

Pre-Qualification Submissions will be evaluated by the Tender Committee in accordance with the provisions of this Invitation. Participants that shall be announced as Eligible Participants pursuant to the Tender Committee's evaluation shall comprise the final list of Participants for the purpose of the Tender Selection Stage.

**1.4. The Tender Selection Stage**

Following completion of the Pre-Qualification Stage, the Tender Committee intends to invite all Eligible Participants to participate in the Tender Selection Stage and submit bids for the Project.

Without derogating from the Tender Committee's rights to postpone any of the dates detailed in Section 1.5 (Anticipated Schedule) in accordance with the provisions of this Invitation, and/or from the State and/or Tender Committee's rights pursuant to Section 2.10 (Reservation of Rights), it is expected that the Invitation to Tender, including the procedures, requirements, selection criteria, and the Project agreement (the "**Tender Documents**"), will be issued to Eligible Participants following the completion of the Pre-Qualification Stage.

**1.5. Anticipated Schedule**

Without in any way limiting the right of the Tender Committee to postpone any of the following dates in accordance with the provisions of this Invitation, the anticipated schedule for the Pre-Qualification Stage is as follows:

Deadline for Submission of Requests for Clarifications	12.5.2011
Pre-Qualification Submission	31.5.2011

The Tender Committee shall provide a more detailed and affirmative timetable and instructions later on during the process.

**1.6. General Description of the Project**

Without derogating from the provisions of Section 2.10 (Reservation of Rights), Participants' attention is drawn to the following indicative description of the Project:

### **1.6.1. Project Overview**

#### Cross Israel Highway - General

Highway no. 6 (Cross Israel Highway), set out within National Outline Plan no. 3 and later in National Outline Plan no. 31/A, was planned in response to the growing transportation and socio-economic needs of the State of Israel. The aim of the Cross Israel Highway is to connect various regions of the State, to improve the accessibility to Israel's periphery and its connection to the center of the State, to encourage immigration of population to the periphery, to serve as a main transportation artery, and as a metropolitan beltway for the congested Tel-Aviv metropolitan area.

In order to promote the planning and execution of the Cross Israel Highway, Cross Israel Highway Ltd. a fully owned governmental company, was established in 1993.

The central section of the Cross Israel Highway is approximately 90 kilometers long, from Iron to Soreq, and operates since 2004. The central section was executed by a private concessionaire granted the concession to finance, build, operate and maintain the central section as a toll road, for a total concession period of 30 years (comprised of an implementation period and an operation and maintenance period), which is due to expire on 2029.

The northern section of the Cross Israel Highway is over 16 kilometers long, from Iron to Ein-Tut interchange (known as "Section 18"). Section 18 was executed by the said concessionaire, and opened to traffic, as a toll road, on 2009.

The southern section is over 35 kilometers long, from Soreq to Ma'ahaz interchange (known as "Sections 19-20"). Sections 19-20 were executed by Cross Israel Highway Ltd., and opened to traffic on December 2007 (Section 19) and July 2008 (Section 20). These sections are toll-free. The same concessionaire maintains Sections 19-20, until November 2012.

### Section 7

Section 7 is planned between Yokneam and Tel-Kashish. Its total length is approx. 5 km. The section shall include the connection of road no. 77 to road no. 722 (in the east), as well as a 1.7 km double tunnel bypassing the commercial area of Yokneam from north-west. Each tunnel shall be comprised of 3 lanes with a basic total width of 15.5m, and two uniquely designed portals. The tunnels' design shall include all emergency and other required equipment. The total estimated area for the bridging works is approximately 32,000 Sq/m.

An interchange will be constructed at the outskirts of Yokneam connecting the local roads to Road no. 6/70 (west side only).

The Tel-Kashish interchange is planned to be a major interchange connecting roads 6, 77, 66 and 70. The interchange shall comprise of a complex structure of bridges separating between all the lanes and roads. The main bridge is planned to be 620m long, and shall be located on road 77 crossing the Kishon River and the Emeq railway. The bridge is planned to be a two way (double lane) segments bridge, enabling its upgrade to three lanes in the future.

Other parts of this section are planned to improve existing roads (including road no. 70) and their construction will include upgrading, extension works and/or other geometrical improvements. In the Kishon River crossing additional drainage works and supporting walls will be necessary.

Total asphalt paving works - lanes and ramps - are estimated to be approximately 300,000 Sq/m.

### Section 3

Section 3 is planned between Tel-Kashish and Somech Interchanges. Its total length is approx. 14km. Parts of this Section (mainly between Tel-Kashish and Ha'amakim interchanges and between Tzipori and Somech interchanges, approx. 6 Km.), are planned as improvements and upgrading of the existing road (no. 70).

The works in Section 3 shall include, *inter alia*, the construction of a new interchange at Ha'amakim, including bridging road no. 70 (to Haifa), the separation of road no. 75 from Cross Israel Highway, and the construction of ancillary ramps.

An additional extension north of the Ha'amakim interchange crosses the Sha'ar Ha'amakim nature reserve (the works may require roofing part of this extension, to form an ecological corridor.

Double tunnels are planned near Rechasim (approx. 2 km) and east of Ibteen (400 m). The specifications for these tunnels are similar to those of section 7.

This section may also include interchanges in Ibteen, connecting road no. 762 to Cross Israel Highway, and in Tzipori, connecting road no. 70 to Cross Israel Highway.

The total bridging works in this section are estimated to be approximately 15,000 Sq/m.

The total asphalt paving works - lanes and ramps - are estimated to be approximately 400,000 Sq/m.

#### The Tolling System

It is intended that defined parts of the highway, as set out in the map attached to this Invitation, shall operate as toll sections. The scope of the project includes the supply, installation and operation of a free-flow electronic toll system, all in accordance with the requirements and specifications which shall be detailed by the Tender Committee in the Tender Selection Stage.

#### **1.6.2. Legal framework of the Project**

The legal framework for the construction and operation of Cross Israel Highway as a toll road is regulated by two main laws: the Toll Road Law (Israel National Road), 1995 and the Israel National Road Law, 1994.



The national importance of the Northern Cross Israel Highway ("Sections 3 and 7") was recognized by the Government, within its decision no. 1421 dated February 24, 2010 (Israel Lanes - Transportation plan for the development of the Negev and the Galil 2010), instructing the promotion and execution of the Project.

On November 3, 2010, the Government has determined that defined parts of Sections 3 and 7 of Cross Israel Highway, as set out in the map attached to this Invitation, shall operate as toll roads, and has instructed the Tender Committee to issue this Invitation to Pre-Qualification as a first stage of a public tender, in order to select a concessionaire for the design, finance, construction, operation and maintenance of the above sections.

The Government's decision was approved, on February 13, 2011, by the Knesset Economic Affairs Committee in accordance with Section 2 of the Toll Road Law (Israel National Road), 1995.

### **1.6.3. Financial framework of the Project**

The State's financial contribution to the Project may include one or more of the following mechanisms:

1.6.3.1. construction grant;

1.6.3.2. a safety net, to ensure minimum demand, during the operation and maintenance period.

In addition, throughout the operation and maintenance period the Concessionaire will be entitled to collect Tolls from the passengers using those parts of the road determined as "Toll Sections".

### **1.6.4. Statutory Availability of the Designated Site**

Sections 3 and 7 of Cross Israel Highway are statutorily set out within National Outline Plan no. 3. The above sections are currently promoted for approval in the framework of two detailed National Outline Plans (no. 31/A/3 and 31/A/7, respectively), by the relevant statutory planning authorities, as follows.

**National Outline Plan no. 31/A/7** the National Planning Council has adopted the recommended alignment and published the plan for public comments and objections and is currently at the stage of public hearing.

**National Outline Plan no. 31/A/3** is currently under review by the National Planning Council, which adopted the recommended alignment of Section 3 and instructed upon further examinations before approving the publication of the plan for public comments and objections.

## **2. TENDERING RULES**

### **2.1. Governing Law and Jurisdiction**

2.1.1. The Pre-Qualification Stage shall be governed and construed in accordance with the provisions of all applicable Laws, including the Toll Road (Israel National Highway) Law, 1995.

2.1.2. The authorized court in the Jerusalem district shall have the sole jurisdiction over all matters and all disputes arising in connection with this Pre-Qualification Stage.

### **2.2. Conformity with All Applicable Laws**

Each Participant is assumed to have obtained legal advice. The Participants and the Pre-Qualification Submissions shall abide the Laws. Participants shall be subject to any changes in any Laws, should such changes be introduced during the Pre-Qualification Stage.

### **2.3. Severability**

If any of the provisions of this Invitation is or becomes invalid, illegal or unenforceable against any person, party or under any circumstances, the remainder of the Invitation and the validity, legality and enforceability of such provisions to other persons, parties or circumstances, shall not be affected or impaired in any way thereby. Each provision of the Invitation shall, except as otherwise herein provided, be valid and enforceable to the fullest extent permitted by Laws and Regulations.

## **2.4. Purchase of the Invitation**

2.4.1. A copy of this Invitation may be obtained for the payment of twenty thousand NIS (20,000 NIS) per copy and the provision of details regarding the purchasing Entity to the e-mail address detailed in Section 2.7.2. below.

The Pre-qualification documents are available at Cross Israel Highway Ltd. offices (at the address detailed in Section 7.8 below), following prior coordination with Ms. Oshrat Dekel at phone no. 03-6255888.

No additional payment with respect to the Tender Documents will be charged. Purchasing this Invitation shall include payment for the Tender Documents.

2.4.2. It is hereby emphasized that the sale or purchase of this Invitation does not constitute any recognition of an Entity's (including a Participant's) eligibility, qualifications or competence to meet the requirements and terms of this Invitation and/or the Tender Documents.

2.4.3. Without derogating from the provisions of Section 2.10 (Reservation of Rights), in the event that the Tender Committee will not issue the Tender Documents to the Eligible Participants, the above mentioned charge will be refunded to the Eligible Participants.

## **2.5. Cost of Participation in the Pre-Qualification Stage**

Any and all costs and expenses incurred by the Entities (including Participants) and anyone on their behalf or connected to their participation in the Pre-Qualification Stage will be borne by such Entities or Participants. Entities or Participants will not be reimbursed by the Tender Committee, CIH or the State for any costs or expenses so incurred thereby.

## **2.6. Nomination of an Authorized Representative**

2.6.1. Each Participant shall nominate an Authorized Representative. The Participant's Authorized Representative shall be responsible for all communication with the Tender Committee during the Pre-Qualification Stage. The Tender Committee shall not be responsible for

any communication held with or by any other person other than the Participant's Authorized Representative.

- 2.6.2. All correspondence on behalf of the Tender Committee shall be communicated to the Participant's Authorized Representative by fax and/or by mail and/or by e-mail, according to the details provided by the Participants upon purchasing this Invitation, according to the provisions of Section 2.4.1 above.

## **2.7. Requests for Clarification of this Invitation**

- 2.7.1. Participants are responsible for examining, with appropriate care, this Invitation (including all Appendices), Clarifications and Addenda thereto, and for informing themselves with respect to any and all conditions which may in any way affect their participation in the Pre-Qualification Stage, including in the preparation and submission of the Pre-Qualification Submissions.
- 2.7.2. Participants may raise questions and request clarifications or interpretations to this Invitation, in writing, from the Tender Committee, by no later than the deadline for the submission of requests for clarifications, as set forth in Section 1.5 (Anticipated Schedule). Such requests shall be submitted by email only addressed to:

Mr. Gil Shabtai  
Chairman of the Tender Committee  
E-mail: [yokneam-somech@inbal.co.il](mailto:yokneam-somech@inbal.co.il)

Participants are required to verify receipt of e-mails by the Tender Committee by phone with Mr. Shimon Avraham, Coordinator of the Tender Committee: (972-3) 977-8154.

- 2.7.3. Although the Tender Committee has no obligation to clarify or interpret this Invitation, the Tender Committee may issue Clarifications and/or Addenda, in accordance with the provisions of Section 2.8 (Clarifications and Addenda). Participants shall acknowledge receipt of

any Clarification and/or Addendum in the manner set forth in Section 2.8 (Clarifications and Addenda).

- 2.7.4. The Tender Committee shall not be bound by, and Participants shall not rely on, any oral interpretation or clarification to this Invitation.
- 2.7.5. The decision whether to respond to any questions, or any requests for clarifications, or interpretation of this Invitation, raised by Participants will be at the sole discretion of the Tender Committee, including with respect to questions and requests for clarifications, or interpretations, raised by the Participants at a later date than the deadline for the submission of requests for clarifications as provided in Section 1.5 (Anticipated Schedule).
- 2.7.6. Without derogating from the rights reserved to the Tender Committee and without in any way limiting its discretion, the Tender Committee will avoid the issuance of Addenda to this Invitation following 7 days prior to the Pre-Qualification Submission Date.

## **2.8. Clarifications and Addenda**

- 2.8.1. Notwithstanding any of the provisions of this Invitation and without derogating from the discretion of the Tender Committee under the provisions of Section 2.10 (Reservation of Rights), the Tender Committee reserves the right to revise, modify, amend, clarify, add, eliminate or otherwise change this Invitation or any part thereof, including, but not limited to, any instruction, requirement, specification, Pre-Qualification Requirement(s) or date contained therein, up to the dates set for the submission of Pre-Qualification Submissions. Such revisions, if any, shall be announced by written clarification and/or addenda to this Invitation (“**Clarifications**” and “**Addenda**”, respectively).
- 2.8.2. Copies of Clarifications and Addenda shall be furnished to all Entities or Participants who have previously purchased this Invitation. Should any Clarification or Addendum result from any request for clarification

or interpretation submitted by a Participant, the identity of that Entity or Participant shall not be disclosed.

- 2.8.3. Receipt of requests submitted by Entities or Participants in accordance with the provisions of Section 2.7 (Requests for Clarification of this Invitation) will not restrict the discretion of the Tender Committee in any way, and it will be free to exercise its right under this Section 2.8 (Clarifications and Addenda) whenever it is of the opinion that this Invitation or any part thereof requires amendment or revision.
- 2.8.4. Without derogating from the generality of the provisions of Section 1.5 (Anticipated Schedule), the date set for the submission of Pre-Qualification Submissions may be postponed by such number of days as shall be necessary, in the opinion of the Tender Committee, to enable the Participants to revise their Pre-Qualification Submissions as a result of any Clarification or Addendum issued. The announcement of such new date, if any, will be included in the Addendum.
- 2.8.5. Participants are required to acknowledge receipt of any Clarifications and/or Addenda in writing no later than two (2) days following receipt thereof by a written notice to the Tender Committee. In addition, Participants shall acknowledge receipt of all Clarifications and Addenda to this Invitation in their Pre-Qualification Submission Letters, specifically detailing each Clarification and Addendum number and the date of receipt thereof.

## **2.9. Site Visit and Conference**

- 2.9.1. The Tender Committee reserves the right to hold a site visit and a conference (the "**Conference**").
- 2.9.2. At the Conference, if will be held, the Tender Committee may answer questions referred to it, in accordance with the provisions of Section 2.7 (Clarification of this Invitation).
- 2.9.3. Should the Tender Committee answer or present any questions referred to it by a Participant, or any clarification, interpretation or amendment resulting from any request for clarification or interpretation submitted

to it by a Participant, the identity of that Participant shall not be disclosed.

- 2.9.4. Following the Conference, if any, the Tender Committee may issue minutes of the Conference to all Participants, and may issue a Clarification and/or an Addenda to this Invitation. Only the minutes issued by the Tender Committee at the end of the Conference or any Clarification and/or Addenda to this Invitation, issued thereafter, shall be binding. The Tender Committee shall not be bound by, and Participants shall not rely on, any oral representation made by the Tender Committee or by Participants during the Conference.
- 2.9.5. The fact that questions, clarifications, interpretations and amendments to this Invitation will be presented by the Tender Committee at the Conference does not, in any way, restrict the Tender Committee's right to issue a Clarification and/or an Addendum to this Invitation or to postpone any of the dates contained therein in accordance with the provisions of Section 2.8 (Clarifications and Addenda).

## **2.10. Reservation of Rights**

- 2.10.1. 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 has not been statutorily approved and is not completely formulated and the Tender Documents have not been completed and/or legally approved. The issuance of this Invitation is not intended to give rise to or create any representation, undertaking or warranty on behalf of the State, CIH or the Tender Committee or anyone on their behalf with respect to the Project.

Furthermore, the State and the Tender Committee reserve the right to redefine and/or change the Project, including the toll sections to be executed as an integral part thereof, the terms and conditions for the Project's execution, including additional requirements concerning the free flow electronic toll system, and the terms and conditions for the

selection of the Concessionaire (including additional pre-qualification or mandatory requirements), as it shall deem appropriate.

The Tender Committee reserves the right to conduct clarification meetings with the Participants or any of them, within the framework of the tender clarification process.

For the avoidance of doubt, participation in this Pre-Qualification Stage 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 Selection Stage (except the right of Eligible Participants to participate in the Tender Selection Stage).

- 2.10.2. Even though the State and the Tender Committee express their intention to carry out a Tender Selection Stage for the selection of a Concessionaire for the Project, the issuance of this Invitation is not intended to guarantee the initiation, execution or the implementation of the Project or any part thereof. It is to be expressly understood that any reliance by any Entity or Participant on any information or intention in their Pre-Qualification Submissions and the making of any deductions, interpretations or conclusions from the intention or information which is made available by the State, CIH and the Tender Committee is at the Entity or Participant's sole responsibility. The State, CIH, the Tender Committee and/or anyone on their behalf, shall not be responsible in any respect to any loss or damage whatsoever suffered by any Entity or Participant, their employees, officers, agents, or any other persons for whom any Entity or Participant may be contractually or legally responsible or accountable, by reason of any use of information contained in this Invitation or provided in connection therewith, or any action or forbearance in reliance thereon.
- 2.10.3. Without derogating from the generality of the above, the State, CIH and the Tender Committee reserve the right not to proceed with this Pre-Qualification Stage, or with the Tender Selection Stage for the Project or any part thereof, and may terminate or cancel this Invitation



or any other proceedings which are conducted with respect thereto, or with respect to the Project, at any time, as it shall deem appropriate.

Under the circumstance described herein, and without derogating from the provisions of Section 2.4 (Purchase of the Invitation), neither the State, CIH nor the Tender Committee nor anyone on their behalf shall be responsible in any respect to any loss or damage whatsoever suffered by any Entity or Participant, 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 for.

The State, CIH and the Tender Committee may publish a new invitation to pre-qualify or other proceedings with respect to the Project, which may include other Pre-Qualification Requirements, or require additional Pre-Qualification or mandatory requirements in the Tender Documents.

## **2.11. Advisors to the Tender Committee**

**Appendix "B"** of this Invitation contains a list of the advisors to the Tender Committee. Subject to the provisions of any and all applicable Laws, the Tender Committee may exercise its rights under this Invitation through its advisors.

Any entity or person, which has provided, or will provide, services to the Tender Committee, CIH, the Government or any relevant authority in relation to the Project or any part thereof, including the advisors listed in **Appendix "B"**, shall not be permitted to render services and/or participate in any other manner in the Pre-Qualification Stage and/or the Tender Selection Stage, other than as advisors to the Tender Committee, without the prior written approval of the Tender Committee.

In the event that a conflict of interest occurs with respect to an Entity or Person, who has provided advisory services to the Government, CIH or any relevant

authority in relation to other sections of the Cross Israel Highway such entity may be prohibited from rendering services and/or participating in any other manner in the Pre-Qualification Stage and/or the Tender Selection Stage, other than as advisors to the Tender Committee, without the prior written approval of the Tender Committee, CIH or such relevant authority.

The Tender Committee shall be entitled to disqualify Participants whose Prequalification Submission does not comply with the provisions of this Section.

## **2.12. Intellectual Property Rights**

The Invitation documents and any and all intellectual property rights therein are exclusively owned by the State and are supplied to the Participants solely for the purpose of participation in the Pre-Qualification Stage.

## **3. GENERAL PROVISIONS RELATING TO PARTICIPANTS**

### **3.1. The Participant**

A Participant shall mean a single Entity or an association of Entities which shall submit a Pre-Qualification Submission ("**Participant**").

Participants are hereby informed that in order to submit a proposal in the Tender Selection Stage, the Eligible Participants will be required to incorporate a sole purpose Israeli company prior to submission of their proposal in the Tender Selection Stage (the "**Single Purpose Company**" or the "**SPC**").

The shares and other interests in the SPC will be held by the Members who submitted, through the Participant, the Pre-Qualification Submission, and were approved by the Tender Committee in the Pre-Qualification Stage, in accordance with the Anticipated Holdings detailed in this Pre-Qualification Submission.

### **3.2. Members of the Participant**

3.2.1. Members of a Participant shall mean each of the Entities committed to hold shares or other interests in the Participant ("**Member**"). Each Member shall comply with all of the following requirements:

3.2.1.1. A Member of a Participant must be duly organized and validly existing under the laws of the jurisdiction in which such a Member was organized;

3.2.1.2. A Member of a Participant (including Interested Parties in the Member, directors or managers thereof, including individuals), shall not be residents or nationals of a hostile state which does not have diplomatic relations with the State and/or of a state which does not have full trade relations with the State.

3.2.2. The Participant shall detail within its Pre-Qualification Submission the anticipated holdings of each of its Members in the share capital of the Participant (“**the Anticipated Holdings**”).

### **3.3. Major Subcontractors**

3.3.1. Major Subcontractors are those Entities, other than Members, which are designated to execute a significant part of the works, or are designated to provide significant services or goods, required for the Project, each of which complies with the following: (“**Major Subcontractor**”):

3.3.1.1. A Major Subcontractor must be duly organized and validly existing under the laws of the jurisdiction in which such a Major Subcontractor was organized;

3.3.1.2. A Major Subcontractor (including Interested Parties, directors or managers thereof, including individuals), shall not be residents or nationals of a hostile state which does not have diplomatic relations with the State and/or of a state which does not have full trade relations with the State.

### **3.4. Registration in Relevant Statutory Registry and Possession of all Relevant Licenses**

All Participants and any Major Sub-Contractors thereof are required to ascertain their conformity with any Laws and Regulations requiring registration in any relevant statutory registry and are required to hold all the relevant and necessary licenses. All Eligible Participants (or Members thereof) will be required to provide a valid certificate or statement pursuant to the Public Entities Transactions (Enforcement of Bookkeeping and Payment of Taxes) Law, 1976, as shall be detailed in the Tender Documents.

### **3.5. Participation in One Pre-Qualification Submission**

#### **3.5.1. General**

3.5.1.1. Each Participant may submit only one Pre-Qualification Submission.

3.5.1.2. Each Member may participate in only one Participant.

3.5.1.3. Each Major Subcontractor may participate in only one Pre-Qualification Submission

3.5.2. For the purpose of the provisions of Section 3.5.1, the following will apply:

3.5.2.1. The terms "Member" and "Major Subcontractor" (if applicable), shall be deemed to include any Entity which exercises Control over such Member or Major Subcontractor, an Entity under the common Control of such Member or Major Subcontractor, and an Entity Controlled by such Member or Major Subcontractor.

3.5.2.2. The term "Major Subcontractor" shall not be deemed to include the senior debt finance providers.

3.5.2.3. Prohibition of Participation

(a) Companies budgeted by the State as defined under Section 21 of the State Budget Law 1985 [יגוף מתוקצב"],

(b) Companies supported by the State as defined under Section 32 of the State Budget Law 1985

[“גור נתמך”], and/or Companies subject to the provisions of the Government Companies Law 1975, are not permitted to participate in the Pre-Qualification Process either as a Participant, as a Member of a Participant nor as a Major Subcontractor of a Participant.

#### **4. PROFESSIONAL PRE-QUALIFICATION REQUIREMENTS**

##### **4.1. Professional Pre-Qualification Requirements - General**

In order to qualify as a Participant in this Pre-Qualification Stage, each Participant is required to possess adequate professional experience, which can be demonstrated by one of the following alternatives:

(a) The Participant or a Member of the Participant shall demonstrate compliance with the pre-qualification requirement set forth in Section 4.2 (Tunneling Experience);

**or -**

(b) The Participant or a Member of the Participant shall demonstrate compliance with the pre-qualification requirement set forth in Section 4.3 (Transportation Infrastructure Project Experience), **and** a Major Sub-Contractor shall demonstrate compliance with the pre-qualification requirement set forth in Section 4.2 (Tunneling Experience).

(the “**Professional Pre-Qualification Requirements**”)

##### **4.2. Tunneling Experience**

4.2.1. The Participant is required to demonstrate that either it, one of its Members whose Anticipated Holdings in the Participant are at least twenty five percent (25%), or one of its Major Subcontractors has experience, obtained during the period between 1.1.2004 until Pre-Qualification Submission Date, in the Construction of transportation tunnel/s, comprised of at least two (2) lanes, in a total aggregated length of at least 4.5 km.

- 4.2.2. The experience under this Pre-Qualification Requirement may be demonstrated through one or more projects, provided however that:
- 4.2.2.1. The experience under this Pre-Qualification Requirement shall be demonstrated by only one entity.
  - 4.2.2.2. The minimum length of any demonstrated transportation tunnel shall be 1.5 km.
  - 4.2.2.3. For the purpose of this Pre-Qualification Requirement double tunnels (each comprised of two lanes) shall be considered as two different tunnels.
- 4.2.3. In the event that the Pre-Qualification Requirements under this Section 4.2 is demonstrated by a Major Sub-Contractor then the Participant shall also demonstrate the professional experience as required under Section 4.3 (Transportation Infrastructure Projects Experience).

#### **4.3. Transportation Infrastructure Project Experience**

- 4.3.1. In the event the Participant demonstrates its professional experience through alternative (b) of Section 4.1, then in addition to demonstrating the Tunneling Experience through a Major Sub-Contractor as required in Section 4.2 (Tunneling Experience) the Participant is required to demonstrate that either it, one of its Members whose Anticipated Holdings in the Participant are at least twenty five percent (25%), or a Related Entity of such Member, has experience obtained during the period between 1.1.2006 until Pre-Qualification Submission Date in the Construction of:
- 4.3.1.1. One Transportation Infrastructure Project, in the total amount of at least one hundred and fifty million (150,000,000) NIS; **or**
  - 4.3.1.2. Several Transportation Infrastructure Projects, in the total aggregated amount of at least two hundred and fifty million (250,000,000) NIS, provided however that:

(a) At least one of the demonstrated Transportation Infrastructure Project is in the total amount of at least eighty million (80,000,000) NIS; **and**

(b) The amount of each Transportation Infrastructure Project shall be at least thirty million (30,000,000) NIS.

4.3.2. For the purpose of this Section 4.3, “**Transportation Infrastructure Project**” shall mean a project under one agreement, for the Construction (excluding contracts the nature of which is upgrading of existing infrastructure and/or maintenance) of one of the following:

4.3.2.1. Roads and/or bridges and/or transportation tunnels and/or interchanges and/or earthworks, provided however that the said works were performed for the purpose of national highways and/or intercity roads (main roads) and/or suburban highways; **and/or**

4.3.2.2. Runway in an airport or an airfield; **and/or**

4.3.2.3. Infrastructure works for sea ports, including platforms, earthworks, paving works and/or concrete works for sea ports.

4.3.3. For the purpose of Sections 4.2 and 4.3:

4.3.3.1. “**Construction**” shall mean: the commencement, execution and completion of the demonstrated project during the applicable period, as a main contractor. In this respect the Participant, Member, Major Sub-Contractor, or Related Entity (as applicable) is required to demonstrate that it was directly accountable for the execution of the demonstrated project, and has borne all the risks related to the execution thereof, including the engagement and coordination with all subcontractors.

4.3.3.2. in the event that the demonstrated project was constructed by the Participant, Member, Major Sub-Contractor, or

Related Entity (as applicable) as a subcontractor, then only the part of the works which were constructed directly by the demonstrating entity shall be taken into account for the purpose of the relevant professional experience Pre-Qualification Requirement.

4.3.3.3. In the event that the demonstrated project was constructed by the Participant, Member, Major Sub-Contractor, or Related Entity (as applicable) as part of a joint venture, then the following shall apply:

(a) Each Participant, Member, Major Sub-contractor or Related Entity (as applicable) was jointly and severally responsible for the execution of the applicable project; **and**

(b) The Participant, Member, Major Sub-contractor or Related Entity (as applicable) was the holder of at least thirty percent (30%) of any Means of Control in the entity which constructed the demonstrated project.

4.3.3.4. For the purpose of compliance with the Professional Pre-Qualification requirement set forth in Section 4.3 (Transportation Infrastructure Project Experience) a Member may seek to rely on the professional experience of an entity which exercises Control over such a Member (a “**Related Entity**”), provided that the Related Entity duly signs the letter of guarantee in the form of Pre-Qualification Form “J”.

## **5. FINANCIAL PRE-QUALIFICATION REQUIREMENTS**

### **5.1. Financial Pre-Qualification Requirements - General Provisions**

5.1.1. In order to qualify as a Participant in this Pre-Qualification Stage, each Participant is required to meet the financial pre-qualification requirements set forth in Sections 5.2 (Turnover), 5.3 (Operating Cash



Flow) and 5.4 (Equity) (hereinafter: “**the Financial Pre-Qualification Requirements**”).

- 5.1.2. For the purpose of compliance with the Financial Pre-Qualification Requirements, a Member may seek to rely on its Related Entity, provided that the Related Entity duly signs the letter of guarantee in the form of Pre-Qualification Form “J”.
- 5.1.3. A Member which relies on a Related Entity as set forth in Section 5.1.2 above must rely on such Related Entity for the purpose of compliance with all Financial Pre-Qualification Requirements.
- 5.1.4. In the event that the Related Entity is also a Member of the Participant; for the purpose of determining compliance with all Financial Pre-Qualification Requirements, the Anticipated Holdings of such Related Entity in the Participant will be deemed to include all Anticipated Holdings of the Member seeking to rely on such Related Entity, i.e. such Related Entity data will be examined with respect to the aggregated Anticipated Holdings of the Related Entity in the Participant (in its capacity as a Member), together with the Anticipated Holdings of the Member seeking to rely on such Related Entity.

## **5.2. Turnover**

A Participant is required to have an average annual turnover ("**Turnover**") of at least four hundred million (400,000,000) NIS (or the equivalent thereof) during the last three (3) fiscal years, based on its most recent available Financial Statements (for the removal of doubt, which is not earlier than 2007).

The Participant's Turnover will be calculated according to the Turnover of its Members, based on their respective Financial Statements of the relevant fiscal years, pro-rata to their Anticipated Holdings in the Participant.

For the purpose of this Pre-Qualification Requirement, the Turnover of each Member shall be calculated in the following manner:

- 5.2.1. For a Member whose Anticipated Holdings in the Participant are less than ten percent (10%):

Average Turnover = Zero (0)

- 5.2.2. For a Member whose Anticipated Holdings in the Participant are equal to ten percent (10%) or more:

$$\text{Average Turnover} = (\text{TO}_t + \text{TO}_{(t-1)} + \text{TO}_{(t-2)}) / 3$$

**Where:**

**TO** - the Turnover

**t** – the year of the most recent available Financial Statement.

### 5.3. Operating Cash Flow

Each Member is required to demonstrate one of the following:

- 5.3.1. The average annual cash flow from operating activities during the last three (3) fiscal years, based on its most recent available Financial Statements (for the removal of doubt, which is not earlier than 2007) (“**Average Operating Cash Flow**”) of the Member is not negative. For the purpose of this Pre-Qualification Requirement, the Average Operating Cash Flow of each Member shall be calculated in the following manner:

$$\text{Average Operating Cash Flow} = (\text{CF}_t + \text{CF}_{(t-1)} + \text{CF}_{(t-2)})/3$$

**Where:**

**CF** - annual Operating Cash Flow

**t** - the year of the most recent available Financial Statement.

**Or:**

- 5.3.2. The ratio between the absolute value of the Member’s Average Operating Cash Flow during the last three (3) fiscal years, based on its most recent available Financial Statements (for the removal of doubt, which is not earlier than 2007) and its equity at the last day of the fiscal year (of the most recent available Financial Statement) is lower than twenty-five percent (25%), so that:

$$|(\text{CF}_t + \text{CF}_{(t-1)} + \text{CF}_{(t-2)})/3 / E < 25\%$$

**Where:**

|x| - x in absolute values

CF - annual Operating Cash Flow

E - the equity at the last day of the fiscal year of the most recent available Financial Statement

t - the year of the most recent available Financial Statement.

**5.4. Equity**

The Participant should demonstrate that each of its Members has, for every one percent (1%) of its Anticipated Holdings in the Participant, an equity of at least one million and five hundred thousand (1,500,000) NIS, for the last day of the fiscal year, based on its most recent available Financial Statements.

**6. PRE-QUALIFICATION SUBMISSION**

**6.1. Pre-Qualification Submission Letter**

Each Participant shall attach to its Pre-Qualification Submission the Pre-Qualification Submission Letter as provided in Form "A", duly completed and signed.

**6.2. Description of the Participant, Members and the Major Subcontractors**

6.2.1. In order to demonstrate compliance with the provisions of Sections 3.1 (The Participant), 3.2 (Members of the Participant) and 3.3 (Major Subcontractors), each Participant shall submit Forms "B", "C", "D" and "E" duly completed and signed.

6.2.2. Without derogating from the generality of the foregoing:

6.2.2.1. The Anticipated Holdings of each Member in the Participant shall be specified in Form "B".

6.2.2.2. The identity of the Participant's Major Sub-Contractors shall be detailed in Form "D".

**6.3. Not used.**

**6.4. Receipt of Purchase**

Each Participant shall include in its Pre-Qualification Submission a copy of the receipt of the purchase of the Invitation by the Participant or any one of its Members.

**6.5. Demonstration of Professional Pre-Qualification Requirements**

6.5.1. In order to demonstrate compliance with the Professional Pre-Qualification Requirements, Forms “F”, “G” and “H” shall be duly completed and signed by the Participant, Member and/or Sub-Contractor, Related Entity (as applicable).

6.5.2. In the event that the Professional Pre-Qualification requirement set forth in Section 4.2 (Tunneling Experience) is demonstrated by a Major Sub-Contractor then Form “E” shall be duly signed by the said Sub-Contractor.

**6.6. Demonstration of Financial Pre-Qualification Requirements**

In order to demonstrate compliance with the Financial Pre-Qualification Requirements, the following shall apply:

6.6.1. The chief executive officer or chief financial officer of the Participant and/or of the Members (as applicable) shall duly complete and sign Form "I".

6.6.2. In addition, the Participant shall submit a complete copy of the three (3) most recent available Financial Statements (for the removal of doubt, which is not earlier than 2007) of each Member, duly prepared and presented in accordance with one of the following:

6.6.2.1. Israeli GAAP (including, with respect to the cash flow statements, Standard No. 51 of the Institute of Certified Public Accountants in Israel); **or**

6.6.2.2. US GAAP (including, with respect to the cash flow statements, FAS (Financial Accounting Standards) No. 95); **or**

6.6.2.3. International GAAP (including, with respect to the cash flow statements, IAS (International Accounting Standards) IAS No. 7 and IFRS updates);

Members presenting Financial Statements which are based on different accounting principles than those listed in sub-Sections 6.6.2.1-6.6.2.3 above, are required to submit a specific request to the Tender Committee to approve submission of such Financial Statements, at least thirty (30) days prior to the Pre-Qualification Submission Date; the Tender Committee will consider each request on a case by case basis and may issue an Addendum as a result thereof.

- 6.6.3. Without derogating from Section 6.6.2 above, the Financial Statements must include balance sheet, profit and loss, cash flow, and auditor's report and notes.
- 6.6.4. The Financial Statements will be provided either in English or in Hebrew, but not in any other language.
- 6.6.5. In the event of reliance by a Member on a Related Entity, the relevant Financial Statements of such Related Entity shall be included (instead of those of the Member), and the provisions of this Section 6.6 shall apply with respect thereto.
- 6.6.6. A Member whose Financial Statements do not include cash flow statements should provide such statements in accordance with one of the GAAP versions set out in Section 6.6.2 above (as applicable), duly executed and approved by the Member's external auditors.
- 6.6.7. Without derogating from the rights of the Tender Committee under the Invitation and under Law, in the event of a contradiction between the Financial Statements of a Member submitted within the Pre-Qualification Submission, and the Pre-Qualification Forms or any

other document submitted within the Pre-Qualification Submission, the Financial Statements will prevail.

6.6.8. Currencies Conversion

All financial data shall be submitted in NIS terms. In the event that the Financial Statements are presented in any currency other than NIS, the Participant shall be required to complete the Pre-Qualification Forms in NIS, in accordance with the following provisions:

**(a) Turnover and Operating Cash Flow.** The Turnover and the Operating Cash Flow will be converted to NIS according to the following average exchange rates of the relevant fiscal year:

	2007 Average*	2008 Average*	2009 Average*	2010 Average*
	NIS			
1 US\$	4.1081	3.5878	3.9326	3.733
1 €	5.6243	5.2585	5.4685	4.9529

**(b) Equity.** The Equity will be converted to NIS according to the exchange rates on the last day of the last fiscal year of the applicable Financial Statement:

	31/12/2009	31/12/2010
	NIS	
1 US\$	3.775	3.549
1 €	5.4417	4.7379

\* **Exchange Rates Sources.** The source for the exchange rates detailed in sub-Sections (a) and (b) above is the Bank of Israel.

**(c) Conversion of Other Currencies.** Members whose financial data is presented in currencies other than NIS/US\$/€ (the exchange rates

specified above), are required to submit a specific request to the Tender Committee for other currency conversions to NIS, at least thirty (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.

**(d) Conversion rates for fiscal years which are not January to December.** A Member whose financial data in the Financial Statements is provided for fiscal years which are not parallel to the above specified calendar years, are required to submit a specific request to the Tender Committee for applicable conversions rates to NIS, at least thirty (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.

## **7. METHOD OF SUBMISSION**

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

### **7.1. Compliance with the Requirements of the Invitation**

Participants shall prepare their Pre-Qualification Submissions in strict conformity with the requirements of this Invitation. Participants shall answer all parts relevant to 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 submitted by the Participant.

### **7.2. 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 cause the Pre-Qualification Submission to be deemed non-compliant to this Invitation. For the purposes of this Section 7.2, 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 2.7 (Requests for Clarification of this Invitation) and approved by the Tender Committee in the form of a clarification or an Addendum to this Invitation, issued in accordance with the provisions of Section 2.8 (Clarifications and Addenda), may be deemed unauthorized.

**7.3. Language of the Invitation, the Pre-Qualification Submission and the Tender Documents**

- 7.3.1. The Tender Committee reserves the rights to issue a Hebrew version of this Invitation or any part thereof. In any case of contradictions, the English version shall prevail.
- 7.3.2. Without derogating from the foregoing, the Tender Committee reserves the right to issue the Tender Documents in a Hebrew version only.
- 7.3.3. Other than the Pre-Qualification Forms and the statements contained therein which are to be submitted in English, Pre-Qualification Submissions may be in English or in Hebrew.

Supporting documents and printed literature furnished by a Participant in any other language should be accompanied by a translation to Hebrew or English (authenticated by a Notary Public), in which case, for purposes of interpretation, the translation to Hebrew or English (as the case may be), shall prevail.

**7.4. Signing of the Pre-Qualification Submission**

The Pre-Qualification Submission and all forms submitted by Participants or their Members shall be duly signed by the Participant, its Members, and if and where applicable, by the Major Subcontractors and/or by the Related Entities.



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

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

Adjacent to every signature (excluding signatures in initials only) of the Participants, their Members, Major Subcontractors and Related Entities (if applicable) within the Pre-Qualification Submission, there shall be a confirmation by an attorney that the signatory is authorized to commit such Entity in relation to the document on which such signatures appear.

**7.6. Identification of Sensitive Information**

Without derogating from the generality of the provisions of Regulation 21(5) of the Regulations (and the discretion granted there under to the Tender Committee), Participants will detail, within 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 secret nature.

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

Pre-Qualification Submissions must be submitted, and clearly marked so, as an original and five (5) identical copies (six (6) altogether).

Each copy shall include a CD containing a copy of the Pre-Qualification Submission in original PDF format (i.e. not scanned).

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

**7.8. Sealing and Marking of Pre-Qualification Submissions**

Participants shall seal the original and each of the five (5) copies of the Pre-Qualification Submissions in separate envelopes. The envelopes shall then be sealed in an outer envelope or a box.

The envelopes and boxes shall be addressed to the Tender Committee at the following address:

The Tender Committee  
C/o Adv. Talia Yerushalmi  
Cross Israel Highway Ltd.  
65 Igal Alon St., Tel Aviv (7<sup>th</sup> floor)

**7.9. Pre-Qualification Submission Date**

- 7.9.1. Pre-Qualification Submissions should be submitted at the address noted in Section 7.8 (Sealing and Marking of Pre-Qualification Submissions) by the date designated for such submission, as set forth in Section 1.5 (Anticipated Schedule) ("**Pre-Qualification Submission Date**"), no later than 12:00 noon, Israel time.
- 7.9.2. The Tender Committee may, at its sole discretion, extend the Pre-Qualification Submission Date by issuing an Addendum in accordance with the provisions of Section 2.8 (Clarifications and Addenda).

**7.10. Validity of the Pre-Qualification Submissions**

- 7.10.1. The Pre-Qualification Submission shall be valid for a period of eighteen (18) months, commencing on the Pre-Qualification Submission Date.
- 7.10.2. The Tender Committee may request Participants, or any of them, to extend the validity of their Pre-Qualification Submission for a specified additional period.

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

The Tender Committee will leave unopened any and all Pre-Qualification Submissions received after the deadline for submission of the Pre-Qualification Submissions specified in Section 7.9 (Pre-Qualification Submission Date). All unopened Pre-Qualification Submissions will be promptly returned to the applicable Participants.

The opening of the Pre-Qualification Submissions shall be documented in a protocol.

## **8. EXAMINATION OF THE PRE-QUALIFICATION SUBMISSIONS**

### **8.1. Examination of the Pre-Qualification Submissions by the Tender Committee**

The Tender Committee shall examine the Pre-Qualification Submissions in order to determine whether each of the Participants meets the requirements of this Invitation, including all Pre-Qualification Requirements.

The Pre-Qualification Submissions will not be graded by the Tender Committee.

### **8.2. Requests for Clarifications of the Pre-Qualification Submissions**

The Tender Committee may request a Participant to clarify any item contained in its Pre-Qualification Submission and to submit any additional information necessary, in the opinion of the Tender Committee, for the evaluation of its Pre-Qualification Submission.

Participants will comply with the requests of the Tender Committee and will submit all clarification and additional information requested within the time period stipulated in the request.

The requests for clarifications will be in writing, delivered to the Participants by mail, messenger or facsimile. Their receipt should be confirmed by return mail, to the E-mail noted in Section 2.7.2 above, within forty-eight (48) hours of receipt.

Participants' responses to the requests for clarifications will form an integral part of their Pre-Qualification Submissions. The said responses will be attached to the Pre-Qualification Submission, along with copies of the requests for clarifications, and will replace or take precedence over corresponding items within the Pre-Qualification Submission documents that are contradictory.

The Tender Committee may exercise its right under this Section 8.2 any number of times during the examination of the Pre-Qualification Submissions.

### **8.3. Announcement of Eligible Participants**

Upon the completion of its examination of the Pre-Qualification Submissions, the Tender Committee will announce those Participants which the Tender Committee deemed to successfully comply with the requirements of this Invitation, including with all Pre-Qualification Requirements and which were not disqualified thereby in accordance with the provisions of Sections 8.4 (Rejection of the Pre-Qualification Submissions) and 8.5 (Disqualification of the Pre-Qualification Submissions) ("**Eligible Participant**").

Without derogating from the generality of the provisions of Section 2.10 (Reservation of Rights), following the publication of the Tender Documents, the Eligible Participants will be invited to submit a bid in accordance with the provisions of the Tender Documents.

Participants who will be deemed by the Tender Committee to have failed to meet any one of the Pre-Qualification Requirements will not be announced as Eligible Participants.

### **8.4. Rejection of the Pre-Qualification Submissions**

Without derogating from the Tender Committee's rights under the Invitation and under the Law, the Tender Committee reserves the right:

- 8.4.1. to reject any or all Pre-Qualification Submissions.
- 8.4.2. to reject any Pre-Qualification Submission in the event that the Tender Committee is of the opinion that such Pre-Qualification Submission or any part thereof does not conform to the requirements of the Invitation.
- 8.4.3. to waive minor irregularities or errors in any Pre-Qualification Submission if it appears to the Tender Committee that such irregularities or errors were made inadvertently or are of a minor nature.

### **8.5. Disqualification of the Pre-Qualification Submissions**

Without derogating from the rights of the Tender Committee under the Invitation and under Law, the Tender Committee will be entitled to disqualify any Participant, or impose any condition or instruction with respect to its participation in the Pre-Qualification Stage and/or the Tender Selection Stage in the following events:

- 8.5.1. Any changes of the Members or their Anticipated Holdings in the Participant; changes in the Control of a Related Entity directly controlling the Member; change of an Entity demonstrating compliance with any or all of the Pre-Qualification Requirements; or change of the Major Subcontractors; (for purposes of this Section, Member, Related Entity, an Entity demonstrating compliance with the Pre-Qualification Requirements, or a Major Subcontractor, shall be referred to as a "**Participant**"), without the prior approval of the Tender Committee;
- 8.5.2. The commencement of bankruptcy, receivership, liquidation or reorganization proceedings against a Participant or any similar situation, unless such proceedings are discharged within a reasonable period of time, as determined by the Tender Committee, or if an interim or permanent receiver or liquidator is appointed over a Participant, or if a Participant has become insolvent;
- 8.5.3. The commencement of any voluntary action for the liquidation of any Participant, except for the purposes of merger or restructuring on terms approved by the Tender Committee in writing;
- 8.5.4. In the event that any of the Entities required to submit a statement pursuant to Sections 3.2 (Members of the Participant) or 3.3 (Major Sub-Contractors), has been convicted in an Offence, or in the event any criminal proceedings with respect to an Offence are being conducted against such Entity;
- 8.5.5. In the event that any Participant (including Interested Parties therein, directors or managers thereof) is a resident or national of a hostile state which does not have diplomatic relations with the State and/or of a country which does not have full trade relations with the State;

- 8.5.6. Employment or engagement of any Entity as defined under Section 2.11 (Advisors to the Tender Committee) by any Participator, directly or indirectly, for the purposes of the Pre-Qualification Stage, without the prior written approval of the Tender Committee;
- 8.5.7. In the event of unusual events which materially and adversely affect, to the Tender Committee judgment, the Participator's and/or the Participator's professional and/or financial ability to execute the Project; and
- 8.5.8. The submission of any false or misleading information to the Tender Committee.

The Participant shall be required to notify the Tender Committee of the existence, during the Pre-Qualification Stage, of any of the events described in this Section 8.5, within a reasonable period of time, under the circumstances. The Tender Committee may base its decision under this Section 8.5 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.

#### **8.6. Issuance of the Tender Documents; Update Statement**

Without derogating from the generality of the provisions of Section 2.10 (Reservation of Rights), it is expected that pursuant to the Tender Documents, each Eligible Participant will be required to include a statement detailing any and all changes with respect to the Participant, its Members, and, if applicable, its Related Entities and/or its Major Subcontractors, which will have occurred since the date of the Pre-Qualification Submission. It is expected that even in the absence of any changes, a statement to that effect will be required.

The Tender Committee will review the information and, without derogating from its rights under Law or under the Tender Documents, shall be entitled to either disqualify any Eligible Participant in the event that such Eligible Participant will no longer meet the requirements of this Invitation and/or impose any condition or instruction on its participation in the Tender Selection Stage.

## **APPENDIX A**

### **DEFINITIONS**

<b>"Addenda"</b>	Shall have the meaning ascribed thereto in Section 2.8.1 (Addenda) of this Invitation.
<b>"Anticipated Holdings"</b>	Shall have the meaning ascribed thereto in Section 3.2.2 of this Invitation.
<b>"Average Operating Cash Flow"</b>	Shall have the meaning ascribed thereto in Section 5.3.1 of this Invitation.
<b>"CIH"</b>	Shall have the meaning ascribed thereto in Section 1.1 (General Introduction) of this Invitation.
<b>"Clarifications"</b>	Shall have the meaning ascribed thereto in Section 2.8.1 (Addenda) of this Invitation.
<b>"Concessionaire"</b>	Shall have the meaning ascribed thereto in Section 1.2 (The Selection Process) of this Invitation.
<b>"Conference"</b>	Shall have the meaning ascribed thereto in Section 2.9.1 (Conference) of this Invitation.
<b>"Construction"</b>	Shall have the meaning ascribed thereto in Section 4.3.3.1 of this Invitation.
<b>"Control"</b>	Shall have the meaning ascribed thereto in Section 1 of the Securities Law 1968.
<b>"Eligible Participant"</b>	Shall have the meaning ascribed thereto in Section 8.3 (Announcement of Eligible Participants) of this Invitation.
<b>"Entity"</b>	Any corporation, company, voluntary association, partnership, trust or unincorporated association.
<b>"Financial Statement"</b>	Shall mean for each entity its annual audited consolidated financial statement.

<b>"Financial Pre Qualification Requirements"</b>	Shall have the meaning ascribed thereto in Section 5.1 (Financial Pre-Qualification Requirements – General Provisions) of this Invitation.
<b>"Government"</b>	Shall have the meaning ascribed thereto in Section 1.1 (General Introduction) of this Invitation.
<b>"Interested Parties"</b>	Shall have the meaning ascribed thereto in The Communication (Bezeq and Broadcasting) Law 1982 ("בעל עניין").
<b>"Invitation"</b>	Shall mean this invitation to pre-qualify for participation in a BOT tender for the design, finance, construction, operation and maintenance of Cross Israel northern highway "Yokneam – Somech", including the appendices to this Invitation.
<b>"Law(s)"</b>	The various national (or state) laws and legislation, statutes, ordinance, codes, and regulations as enacted by the State, and any by-laws, codes and regulations and precedents enacted by the relevant authorities or municipalities, as modified, amended, replaced or created from time to time.
<b>"Major Sub-Contractor"</b>	Shall have the meaning ascribed thereto in Section 3.3.1 of this Invitation.
<b>"Member"</b>	Shall have the meaning ascribed thereto in Section 3.2.1 (Definition of Members of a Participant) of this Invitation.
<b>"Offence"</b>	Shall mean a criminal offence, in Israel or abroad, which constitutes a felony ("עוון") or worse, or another criminal offence which resulted in prison sentence of at least one (1) year (or longer), and which verdict was given during the last seven (7) Years.
<b>"Operating Cash Flow"</b>	Shall have the meaning ascribed thereto in Section 5.3 (Operating Cash Flow) of this Invitation.
<b>"Participant"</b>	Shall have the meaning ascribed thereto in Section 3.1 (the Participant) of this Invitation.



<b>"Participator"</b>	Shall have the meaning ascribed thereto in Section 8.5.1 of this Invitation.
<b>"Pre-Qualification Requirements"</b>	The Professional Pre-Qualification Requirements and the Financial Pre-Qualification Requirements.
<b>"Pre-Qualification Stage"</b>	Shall mean the Pre-Qualification Stage commencing upon the issuance of this Invitation, and ending upon the announcement of Eligible Participants.
<b>"Pre-Qualification Submission"</b>	The complete written pre qualification submission, and completed <u>Forms</u> pursuant to this Invitation, as submitted by a Participant.
<b>"Pre-Qualification Submission Date"</b>	Shall have the meaning ascribed thereto in Section 7.9 (Pre-Qualification Submission Date) of this Invitation.
<b>"Professional Pre-Qualification Requirements"</b>	Shall have the meaning ascribed thereto in Section 4.1 (Professional Pre-Qualification Requirements – General) of this Invitation
<b>"Project"</b>	Shall have the meaning ascribed thereto in Section 1.1 (General Introduction) of this Invitation.
<b>"Related Entity"</b>	Shall have the meaning ascribed thereto in Section 4.3.3.4 of this Invitation.
<b>"Signature Date"</b>	Shall mean the signature date of the Project agreement with the Seller.
<b>"SPC"</b>	Shall have the meaning ascribed thereto in Section 3.1 (The Participant) of this Invitation.
<b>"State"</b>	State of Israel.
<b>"The Tender Committee"</b>	Committee appointed by the Accountant General on 27.6.2010 in order to control and manage the Pre-Qualification Stage.
<b>"The Tender Documents"</b>	Shall have the meaning ascribed thereto in Section 1.4 (The Tender Selection Stage) to this Invitation.
<b>"The Tender Selection Stage"</b>	Shall have the meaning ascribed thereto in Section 1.4 (The Tender Selection Stage) to this Invitation.
<b>"Transportation Infrastructure Project"</b>	Shall have the meaning ascribed thereto in Section 4.3.2 of this Invitation.

**“Turnover”**

Shall have the meaning ascribed thereto in Section 5.2 (Turnover) of this Invitation.

**"Year(s)"**

The twelve (12) months period immediately preceding the Pre-Qualification Submission Date.

## **APPENDIX B**

### **LIST OF ADVISORS**

The following are the advisors to the Tender Committee:

**Amy-Matom Engineers & Consultants Ltd.**, Engineering Consultants

**Tedem Civil Engineering Ltd.** - Lead Designer (Section 7)

**Gruner - D.E.L Engineering Ltd.** – Lead Designer (Section 3)

**A. Rozen Engineering Ltd.** - **Eng. Arnon Rozen**, Tunnel Consultant

**GLRM Consultants**, Financial and Economic Advisors,

**Mr. Moshe Haviv**, Financial and Economic Advisor

**Weinstock Zecler & Co, Attorneys-at-Law**, Legal Advisors,

