

APPENDIX J
REPORTS AND MEETING OBLIGATIONS

1. DEFINITIONS

- 1.1. All terms used in this Appendix shall have the definitions ascribed to them herein or in Appendix A.
- 1.2. Reference in this Appendix to Tender Forms shall mean such Tender Forms, as approved by the Tender Committee pursuant to the Tender Process and attached to this Concession Agreement as part of Annex A (*Winning Bid*) of Volume 2B.

2. ACCESS TO BOOKS AND RECORDS

- 2.1. The Concessionaire shall grant the Implementing Authority and any one on its behalf access to all books and records, reports, plans, drawings, and any other information related to the Project, including all information pertaining to the Project Agreements, work papers, and any correspondence of the Concessionaire's auditors. The State shall ensure that anyone appointed by the State for the purpose of performing an audit hereunder shall execute a copy of the Confidentiality and Non Disclosure Agreement attached as Attachment 1 hereto.
- 2.2. The Concessionaire shall cause all Major Subcontractors and Contractors involved in the Project, to provide the Implementing Authority with all information, reports, plans, drawings, and any other information related to the Construction, Operation and Maintenance of the Project (including costs and prices). The Project Agreements and Contracts shall include all necessary provisions to give effect to this requirement, and it will be deemed as a contractual relationship in favor of a third party.
- 2.3. The Concessionaire shall maintain, at its offices, in Israel, a complete set of all books and records prepared or employed by the Concessionaire in its management, scheduling, cost accounting and otherwise with respect to the Project.

3. GENERAL REPORTING OBLIGATIONS

- 3.1. The Concessionaire will be required to provide the Implementing Authority with reports and notices as if it were a company traded on the stock exchange, in accordance with the provisions of the Securities Law and its regulations (including financial reports, periodical reports and immediate reports), as well as a copy from any report and notice a company registered in the State is required to submit to the Companies' Registrar.
- 3.2. The Concessionaire's financial statements will be reviewed in accordance with Israeli GAAP/IFRS, and will accurately reflect the state of the Concessionaire's

business for the applicable dates of such financial reports, and the results of its financial activities during the loss and profit report period ending on such dates.

Without derogating from the generality of the foregoing, the Concessionaire will report to the Implementing Authority promptly upon the occurrence of any change in the accounting principles and/or the taxation reporting methods related to the classification of the Project's assets as financial assets. Such report shall include the reasons which led to the change in the applicable accounting principles and its immediate and future financial implications.

3.3. Without derogating from the generality of the foregoing, the Concessionaire shall provide the Implementing Authority with the following annual and quarterly reports:

3.3.1. three copies of the Concessionaire's complete financial statements for the reported period (prepared in accordance with Israeli GAAP/IFRS and consistently applied). Each such report will include a balance sheet, income report, cash flow report and explanations, true to the end of the reported period and the period beginning with the fiscal Year in question and until the end of such reported period, approved by an officer of the Concessionaire, and including the opinion of the Concessionaire's auditors, confirming that they have reviewed the quarterly reports and audited the annual reports, all, in accordance with the requirements of any Law and Israeli GAAP/IFRS.

3.3.2. a report on any factors of which the Concessionaire is aware materially affecting, or which would be likely adversely to affect, the Concessionaire's business, activities, or financial status.

3.3.3. a list of each of the creditors to which the Concessionaire owes a sum in excess of the equivalent of \$250,000 based on then prevailing exchange rates, including details as to the amount due to each of them, which list shall indicate any changes, as compared to the list previously submitted.

3.3.4. a statement describing in reasonable detail the performance of any Related Party Transaction during the said period; The Implementing Authority shall be entitled to demand any changes to the terms of such Related Party Transaction or instruct the avoidance of such, within thirty (30) days following receipt of the report. The Related Party Transaction agreement shall include all necessary provisions to give effect to all of the above mentioned limitations.

3.3.5. a statement identifying the capital, Construction and Operation and Maintenance costs during that period.

3.3.6. The quarterly reports for the third quarter of each fiscal Year shall include the expected budget of the Concessionaire for the following fiscal Year, including the expected cash flow and an analysis thereof.

3.3.7. The quarterly reports for the first quarter of each fiscal Year shall include an analysis of how last Year's budget was met.

3.4. As soon as is practicable, but in any event no later than the end of half a Year, the Concessionaire will provide the Implementing Authority with the expected cash flow for the next half a Year, and an analysis thereof.

- 3.5. The Concessionaire shall maintain its books and records and auditing in accordance with the provisions of any Law, and in a manner which will enable the submission of the reports detailed in this Section 3.

4. IMMEDIATE REPORTS

The Concessionaire shall immediately report to the Implementing Authority details of any of the following events:

- 4.1. any charge, lien or attachment imposed on any of the Concessionaire's property, and any seizure thereof (For the avoidance of doubt, it is hereby emphasized that the provisions of this Section do not derogate from the provisions of Section 3.4 (*Assignment of Obligations and Rights and Engaging with Sub-Contractors*) and 3.9.5 (*Liquidation and Reorganization*) and any other provision of the Concession Agreement;
- 4.2. any transaction concerning the Concessionaire's Equity.
- 4.3. any claim or action against the Concessionaire or by the Concessionaire against a party to a Project Agreement, and any claim or action between any of the Shareholders, and any claim or actions between a Shareholder and its Parent Company or its Related Entity, including notice of default or expected default, the reasons thereof, its circumstances and expected consequences.
- 4.4. any factors materially and adversely affecting or which might materially and adversely affect the Concessionaire's business and operations or its financial condition, including a report of any litigation, threatened or pending which might impact the ability of the Concessionaire to fulfill its obligations under the Concession Agreement, and any matter that might influence the validity of the Concession Agreement or any matter that constitutes a substantial breach, including, without limitation, any possible event of default by the Concessionaire, the circumstances thereof, and possible results as viewed by the Concessionaire.
- 4.5. any event which is not in the Concessionaire's regular course of business.
- 4.6. any subject the Implementing Authority will require the Concessionaire to report about in order to ensure the Concessionaire's compliance with its obligations under the Concession Agreement.

5. REPORTS CONCERNING THE CONCESSIONAIRE

- 5.1. Without derogating from the generality of the provisions of the Concession Agreement, the Concessionaire will provide the Implementing Authority with a report relating to either one of the following:
 - 5.1.1. Any general assembly of the shareholders of the Concessionaire purporting to amend the Articles of Association of the Concessionaire and a report detailing any change in its Articles of Association;

- 5.1.2. Any change in the Shareholders' Agreement or the Shareholders' undertakings towards the Concessionaire, and the Concessionaire's undertakings towards the Shareholders, and any change in the holdings of any Interested Party in the Concessionaire.
 - 5.1.3. Any change in the composition of the Concessionaire's Board of Directors and officers, and any change in the organizational structure of the Concessionaire, or any other significant change which may affect the Concessionaire's ability to comply with its obligations under the Concession Agreement.
 - 5.1.4. Any agreement or undertaking to be executed between the Concessionaire and an Interested Party.
 - 5.1.5. Without derogating from the generality of the foregoing, any agreement or undertaking not in the Concessionaire's regular course of business.
 - 5.1.6. Any significant change to any of the Insurance Policies.
 - 5.1.7. Any change in the Control of the Parent Company or the Related Entity.
 - 5.1.8. Any material change in the Concessionaire's management or organizational structure (including the set up of a Subsidiary) or any other material change which might affect the fulfillment of the Concessionaire's obligations under the Contract Documents
 - 5.1.9. Any legal action or proceeding submitted or to be brought by the Concessionaire or against it which is likely to materially affect the Concessionaire or its ability to comply with its obligations under the Concession Agreement.
- 5.2. A report required pursuant to the provisions of this Section 5 will be submitted to the Implementing Authority in writing, as soon as reasonably possible under the circumstances and at least fourteen (14) days prior to the entry into force of the event described therein, except for legal actions or proceedings brought against or by the Concessionaire, on which the Concessionaire will immediately report the Implementing Authority.
 - 5.3. Without derogating from the Implementing Authority's rights under the Concession Agreement, it is hereby clarified that any change or undertaking detailed in this Section 5, the amount of which exceeds three million NIS (3,000,000 NIS), will not enter into force without the prior written approval of the Implementing Authority, which will not be unreasonably withheld.

6. UPDATED FINANCIAL MODEL

The Concessionaire shall provide the Implementing Authority with an updated Financial Model:

- 6.1. Thirty (30) days prior to the end of any Year;
- 6.2. Thirty (30) days following any significant change to the Project; or
- 6.3. Immediately upon (and in any event not later than fifteen (15) days) as of the request of the Implementing Authority.

- 6.4. The Concessionaire and the Implementing Authority shall conduct periodic meetings, as necessary, and upon the Implementing Authority's request, in order to discuss any of the matters relating to the updated Financial Model, or any other financial aspects pertaining to the Concessionaire or to the Project.

7. REPORTS AND MEETING OBLIGATIONS DURING THE DEVELOPMENT AND CONSTRUCTION PHASES

- 7.1. Without derogating from the provisions of Volume 11 (*Design, Construction and Quality Control*) and of Appendix 11B (*Schedules*) thereto, the Concessionaire shall provide the State with progress reports as requested by the State.
- 7.2. Without derogating from the generality of the above, the Concessionaire shall monitor the progress of the Development Phase and Construction Phase and provide the State with progress reports once every fourteen (14) days during the Development Phase, and as set forth in Appendix 11B (*Schedules*) of Volume 11 (*Design, Construction and Quality Control*) during the Construction Phase. The progress report shall indicate the actual progress of the Concessionaire's tasks and obligations during the Development Phase and the Construction Phases, as applicable, compared with the planned progress thereof indicated in the Detailed Schedules, specify problems that arose and proposed solutions, and in the event of any delay in such progress, the likely consequences and corrective actions being taken and to be taken with respect to any part of the Development and Construction Phases which is delayed.
- 7.3. Once a month, or more frequently, if deemed necessary by the Implementing Authority, the Implementing Authority and the Concessionaire shall hold a progress meeting in order to discuss the progress of the Development and Construction of the Project, as applicable ("**Progress Meeting**"). The Progress Meetings shall include two parts as follows:
- 7.3.1. Status – in which the parties will discuss the status of the Development and Construction, as applicable, and any problem and/or delays reported within the Progress Reports; and
 - 7.3.2. Engineering – in which the parties shall discuss engineering and technical aspects of the Construction.

8. REPORTS AND MEETING OBLIGATIONS DURING PARTIAL OPERATION AND MAINTENANCE AND THE COMMERCIAL OPERATION PHASES

- 8.1. The Concessionaire will comply with the reporting requirements set-forth in Volume 12 (*Operation and Maintenance*) throughout the Partial Operation and Maintenance Phase and the Commercial Operation Phase of the Project.
- 8.2. Without derogating from the generality of the foregoing, the State and the Concessionaire shall convene a periodic meeting once a month ("**Periodic Meeting**"). The Periodic Meeting shall discuss, *inter alia*, the operating and

maintenance issues brought up in the Concessionaire's reports, all as detailed in Volume 12 (*Operation and Maintenance*) and any other Contract Document.

9. GENERAL PROVISIONS CONCERNING SUBMISSION OF REPORTS

- 9.1. All reports submitted to the Implementing Authority pursuant to the provisions of this Appendix J (*Reports and Meeting Obligations*) will be submitted in a form complying with the instructions of the Implementing Authority, as shall be provided from time to time.
- 9.2. All reports will be submitted to the Implementing Authority in hard copy and in magnetic media, in accordance with the instructions of the Implementing Authority, as shall be provided from time to time.
- 9.3. For any delay in excess of three business days in the submission of reports in accordance with the Implementing Authority 's instructions the Concessionaire will pay the Implementing Authority liquidated damages in the amount of three thousand NIS (3,000 NIS) per day per event, as of the first day of such delay.

10. RECORDS' MAINTENANCE

The Concessionaire shall retain in safe storage all such records as are referred to in this Appendix J (*Reports and Meeting Obligations*), during the Contract Period and for a period of not less than seven (7) years following termination thereof. The Concessionaire shall deliver all such records (or where such records are required by legislation to remain with the Concessionaire or a Shareholders of the Concessionaire, copies thereof) to the Implementing Authority or to their order in such manner and at such location as the Implementing Authority shall specify.

11. MISLEADING REOPRTS

In the event the Concessionaire omitted to report a detail required pursuant to the provisions of the Concession Agreement, or in the event a report containing misleading information or lacking information, and without derogating from the rights and remedies of the Implementing Authority and/or the State under this Concession Agreement or under any Law, the Concessionaire will pay the Implementing Authority liquidated damages in the amount of fifty thousands NIS (50,000 NIS) per event.

12. ADDITIONAL REPORTING OBLIGATIONS

- 12.1. The provisions of this Appendix J (*Reports and Meeting Obligations*) constitute complementary provisions and do not derogate from the provisions of any other of the Contract Documents imposing reporting and meeting obligations on the Concessionaire.
- 12.2. In any event the provisions of any of the other Contract Documents prescribe liquidated damages for delayed reporting or for a misleading report or lack of

information reporting, the provisions of the liquidated damages attached to such specific report shall apply with respect to such specific report. In any event the other Contract Documents imposing reporting obligations on the Concessionaire do not prescribe liquidated damages for delayed reporting the general provision of liquidated damages set forth in this Appendix J (*Reports and Meeting Obligations*) shall apply with respect thereto.

ATTACHMENT 1

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

To:

[name and address of the Concessionaire to be completed]

(the "**Company**")

Dear Sirs,

Re: Confidentiality and Non-Disclosure Agreement

We, the undersigned, have been appointed by the Implementing Authority pursuant to the provisions of the Concession Agreement dated _____ between the State of Israel and the Company (the "**Agreement**"), for purposes of reviewing the Company's books and records as such are being maintained by the company under the Concession Agreement. In the course of our review, we shall be exposed to various technical, commercial and financial data, know-how and information which shall be identified by the Company in writing as confidential information (the "**Confidential Information**"). As a condition to our being furnished the Confidential Information, we agree to treat such Confidential Information in accordance with the provisions of this letter.

We hereby agree that the Confidential Information will be used solely for the purpose of our review, for the purposes of the Concession Agreement.

We shall exercise the same care and safeguards with respect to the Confidential Information as we use to maintain the confidentiality of our own confidential or proprietary information.

Our obligations hereunder shall not extend to any part of the Confidential Information which (a) is known to us prior to the time of disclosing evidenced by our written records, or (b) is or becomes publicly known through no breach of our obligations under this Section, or (c) is lawfully obtained from a third party without restriction, or (d) is disclosed pursuant to a requirement or request of a governmental agency.

This letter agreement shall be governed by, and construed in accordance with the Laws of the State of Israel.

This letter of agreement shall be valid for two years from the date of signature, after which it shall be considered null and void.

Yours Sincerely,

Auditor Firm

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