

## **TENDER FORM C**

### **MEMBER'S UNDERTAKING**

*(to be completed by each Member, Related Entity and Parent Company (as applicable), on a separate Tender Form, if necessary)*

To:  
The Accountant General  
Ministry of Finance  
Jerusalem

**Re: Tender for Build, Operate and Transfer (BOT) Project of  
Cross Israel Northern Highway No. 6 -  
Yokneam-Somech ("Sections 7 and 3") - (the "Project")**

All capitalized terms not defined herein shall have the meaning attributed to them in Appendix A (*Definitions*) to the Concession Agreement.

We, the undersigned, hereby issue this undertaking, as part of the Bid submitted by \_\_\_\_\_ [*name of Bidder to be inserted*] (the "Company"), pursuant to the Tender Documents.

Name of Member	% of Company's Share Capital	Name of Related Entity / Parent Company of the Member
1.		
2.		
3.		
4.		

Each, hereby warrants, represents, covenants, and guarantees all of the following:

1. We execute this document as part of the materials comprising the Bid Documents for the Project. Our Bid Documents shall remain valid and in full force and effect for the time period set forth in the Tender Documents.
2. The Members of the Company (referred to hereinabove and below as the "**Initial Shareholders**") and their Related Entities and their Parent Companies, if any, are set forth hereinabove and there are no other Initial Shareholders [or Related Entities and/or Parent Companies] of the Company except for the above.
3. Each of the warranties and representations set forth under the Tender Documents and under the Bid submitted by the Company with respect to us, as warranted, represented and covenanted by the Company should be deemed to have been given by each of us.
4. We acknowledge and agree that our signatures on the Bid Documents and the Tender Forms shall fully bind us with regard thereto. Specifically we acknowledge the provisions with respect to holdings and change in control, binding agreements, shareholders' agreements, transfer of equity and any other commitments the fulfillment of which is dependant on our actions, acting as

Shareholders of the Concessionaire. The aforesaid commitments shall be deemed to be given by us and shall remain valid throughout the Contact Period, unless we shall be specifically released there from by the State.

5. We have carefully read and examined the Tender Documents in their entirety. We have understood the contents thereof. We are fully familiar with all the provisions thereof, and have executed this undertaking in accordance with the provisions of the Tender Documents.
6. We have no claims with regard to misunderstandings, confusion, or conflict of provisions with regard to any of the provisions of the Tender Documents and/or with regard to the evaluation and procedures for choosing the Successful Bidder, and that to the extent that we had such claims we submitted such claims prior to the Bid Submission Date. Where we have not made such claims by the Bid Submission Date we hereby waive any such claims.
7. We are fully acquainted with the provisions of the Tender Documents and all appendices and attachments thereto, and specifically with the provisions of Tender Forms H (*Principals for Engagement with the EPC Contractor / The Tunneling Expert / The Transportation Infrastructure Expert / The O&M Contractor*) and of Appendix J (*Reports and Meeting Obligations*) of the Concession Agreement and we confirm that each of the undertakings set forth therein should be deemed to have been given by each of us, insofar as such undertakings directly pertain to us.
8. We hereby guarantee (namely, each Initial Shareholder jointly and severally with its Parent Company/Companies) to invest our share of the aggregate Equity investment, Shareholders' Loan and/or any Subordinated Debt (to the extent such Subordinated Debt will be provided by the Initial Shareholder) (collectively the **"Initial Shareholders' Investment"**), in the Company, pro rata according to our percentage interest in the share capital of the Company (as set out in the preamble of this undertaking), all, in accordance with the provisions of the Bid and the Shareholders Agreements, and/or the Financing Agreements (as the case may be). This guarantee shall be in force until the State approves in writing that each of us (namely, each Initial Shareholder jointly and severally with its Parent Company/Companies), has invested its pro rata share of the Initial Shareholders' Investment in the Bidder and such Initial Shareholders' Investment has been invested by the Company in the Project.
9. The validity of our guarantee under Section 8 above and liability and their extent shall not be effected or prejudiced even if the Tender Documents (or any part thereof) are changed or amended, all or in part, from time to time, and we hereby confirm our consent and willingness to any change and amendment as stated above and shall remain guarantors and liable for all undertakings of the Company as changed or as amended. It is hereby clarified that this section 9 shall be valid solely with respect to changes and amendments, both as made in accordance with the provisions of the Tender Documents.
10. We acknowledge that our obligations concerning the Initial Shareholders' Investment pursuant to Section 8 above and the applicable Bonds, as set forth under the Tender Documents, shall not derogate from the right of the State to

make claims against us and against our Parent Companies, jointly or severally, in any of the following events:

- 10.1 any of the Members', Related Entity's/ies' or Parent Company's/ies' warranties or representations set forth under the Pre Qualification submission and the Bid, including Tender Forms B and C (e.g., representations regarding the Member's financial capabilities, experience, etc.) are found to be inaccurate or invalid at the time they were made;
- 10.2 any of the Members engaged, in connection with the Tender Process in an unlawful act, willful misconduct (e.g., fraud).
- 11. The Laws of the State of Israel shall apply to this undertaking, its interpretation and the rights and undertakings of the Company and any other parties hereunder and any matter relating thereto or deriving therefrom.
- 12. The address of each of the undersigned shall be c/o the Company and the Company shall be authorized to accept notices and legal documents for us and on our behalf.
- 13. We understand that the submission of this Bid shall not be deemed in any way to create an obligation on the part of the Tender Committee to declare the Company the Successful Bidder; that the Tender Committee has the unfettered right to reject any or all Bid Submissions; to request additional information from the Company or other parties; to cancel or modify the Tender Documents at any time and to negotiate with any or all Company.
- 14. The Bid has not been prepared in collusion with any other Bidder participating in the Tender Process, or with any affiliate thereof.
- 15. We undertake to keep confidential all information, whether written or oral, concerning the Tender Process which we receive or obtain as a result of the information supplied in the Tender Documents, or in discussions relating thereto.
- 16. The provisions of Appendix K (*Dispute Resolution*) of the Concession Agreement, shall apply, *mutatis mutandis*, to any dispute between the parties to this undertaking. Without derogating from the generality of the above, the District Court of Jerusalem shall have exclusive jurisdiction over any matter relating to this undertaking.

IN WITNESS WHEREOF, the parties hereto have executed this undertaking.

Name of Initial Shareholder	Signature	Attorney Confirmation*
1.		
2.		
3.		
4.		

Name of Related Entity/Parent    Signature  
Company

Attorney Confirmation\*

- 1.
- 2.
- 3.

*(\*) In its signature the attorney attests and confirms that the signatory(ies) on behalf of the Member or Related Entity or Parent Company (as the case may be) appeared before him and signed this form and are authorized to sign on behalf of the Member or Parent Company or Related Entity (as the case may be) and to commit such Entity for all purposes and intents of the above stated Tender Form.*