

Pre-Qualification 478/2021

INVITATION FOR PRE-QUALIFICATION

**IN RELATION TO THE PARTICIPATION IN A TENDER
FOR THE MANAGEMENT OF (EACH OF) THE TEL
AVIV METROPOLITAN METRO LINES**

December 2021

INVITATION FOR PRE-QUALIFICATION

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<u>Pre-Qualification Form “4”</u>	Experience in Construction Management of Metro Projects
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- Annex 2** Expected Requirements
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1. INVITATION FOR PRE-QUALIFICATION

1.1. Definitions

All terms used in this Invitation shall have the meaning ascribed thereto herein:

“Addendum” or “Addenda”	Shall have the meaning ascribed thereto in Section 2.10 (Addenda) of this Invitation.
“Agreement(s)”	Shall mean the agreement(s) which will be signed between NTA and the Successful Bidder(s).
“Anticipated Holdings”	Shall mean the intended share of holdings of each Member in the Participant.¹
“Applicable EN Standards”	Shall mean the following: <ul style="list-style-type: none">(i) EN 50128 – Railway applications – Communication, signaling and processing systems – Software for railway control and protection systems; and(ii) IEEE 1474 – IEEE Standard for Communications-Based Train Control (CBTC) <u>or ETCS L2 baseline specifications with proven incorporated capability for migration to Moving Block (e.g., ETCS L3)²</u>.
“Authorized Representative”	Shall have the meaning ascribed thereto in Section 3.7 (Authorized Representative) of this Invitation.

¹ Addendum No. 4

² Addendum No. 7

“Completion” or “Completed”	<p>Shall mean the delivery of a referenced project to its client or the commencement of its operation in accordance with its intended use.</p> <p><u>For purpose of this definition, any of the following shall be considered as "delivery of a referenced project to its client":</u></p> <ul style="list-style-type: none">(i) <u>Approval by the client of the final payment invoice with respect to the execution of the project (to the contractor executing the project);</u>(ii) <u>Issuance by the client of a final acceptance certificate or a provisional acceptance certificate (to the contractor executing the project); or</u>(iii) <u>Signed confirmation by the client regarding the completion of all project works (issued to the contractor executing the project).</u>³
“Commercially Operating”	<p>Shall mean a project which is operational, providing services (or products, as applicable), to members of the public.</p>
“Construction Management”	<p>Shall mean the management of <u>the Referenced Project Delivery Phase</u>a referenced project⁴ for a period of at least two (2) consecutive years, including overall management, time schedule and budget management, administration, monitoring, coordination and supervision of the applicable execution of the project works.</p>
“Contract Value”	<p>Shall mean the total amount of all payments which were paid to the Entity <u>entity</u>⁵ which executed the referenced contract, pursuant to that specific referenced contract, excluding VAT, indexation and interest. <u>For the avoidance of doubt, the "Contract Value" refers to payments to the executing entity and not to the entity which was engaged in the design or management of the referenced project.</u>⁶</p>
“Control”	<p>Shall have the meaning ascribed thereto in the Securities Law 1968.</p>

³ Addendum No. 7

⁴ Addendum No. 7

⁵ Addendum no. 4

⁶ Addendum no. 4

“Declared Entity”	Shall mean an entity: (i) declared pursuant to Section 3 and/or Section 9 of the Law for the Struggle with Iran’s Nuclear Program from 2012; and/or (ii) declared pursuant to Section 3 and/or 4 of Law for the Prevention of Distribution and Financing of Weapons of Mass Destruction from 2018; (iii) listed by the Israeli Sanctions Administration (“מטה הסנקציות”) according to any applicable Law.
“Delivery Phase”	Shall mean the execution phase of a referenced project <u>the Programme</u> ⁷ by the various entities executing the referenced project <u>Programme (or the applicable part thereof)</u> ⁸ , including design and construction activities, civil engineering works, Systems interface and Systems integration, until the Completion ⁹ thereof.
<u>“Delivery Phase (RP) or “Referenced Project Delivery Phase”</u> ¹⁰	<u>Shall mean the execution phase of a referenced project by the various entities executing the referenced project (as opposed to the development phase or the commercial operation phase thereof).</u>
“Depot”	Shall mean a workshop for light and heavy maintenance and stabling facilities for heavy rail train, LRT or Metro vehicles, including for the maintenance thereof (in one location or in several separate locations).
“Depot Project”	Shall mean a project for the design and construction of a Depot.
“Design”	Shall mean the preparation of either <u>any of the following:</u> ¹¹ (i) design for construction; or (ii) design in the framework of a design-build (DB) project/ <u>tender</u> ¹² .
<u>“Completed Design”</u> ¹³	<u>Shall mean the award of contract and nomination of contractors (under the applicable tender(s) or other selection process) for execution of the project works.</u>

⁷ Addendum No. 7

⁸ Addendum No. 7

⁹ Addendum No. 7

¹⁰ Addendum No. 7

¹¹ Addendum no. 4

¹² Addendum no. 4

¹³ Addendum No. 7

“Design Management”	Shall mean the management of the <u>Referenced Project</u> ¹⁴ Development Phase of a referenced project ¹⁵ for a period of at least two (2) consecutive years, including the management of all activities related to: (i) the development, consolidation, unification and integration of the project's procurement strategy, execution guidelines, requirements and standards; (ii) the development, advancement and management of the project design, including the planning and designing of S systems ¹⁶ and S systems ¹⁷ integration; and (iii) preparation, assistance and management of any procurement processes up until and including contract awards.
<u>Development Phase</u> ¹⁸	<u>Shall mean the initiation, promotion, planning and design stage of each Metro Line Project, which will commence upon the nomination of the Line Manager and will end upon the appointment of the last contractor for the delivery (execution) of the applicable Metro Line Project.</u>
“Development Phase (RP)” or “ <u>Referenced Project Development Phase</u> ” ¹⁹	Shall mean the initiation, promotion, planning and design stage of a referenced project, including the tendering and contract award of various executing entities, until nomination of contractor(s) and commencement of execution of the works.
“Deviation”	Shall mean any deviation, amendment, omission, addition, condition, reservation or qualification of the contents of this Invitation, including of the Pre-Qualification Requirements, made by the Participant in its Pre-Qualification Submission.

¹⁴ Addendum No. 7

¹⁵ Addendum No. 7

¹⁶ Addendum No. 7

¹⁷ Addendum No. 7

¹⁸ Addendum No. 7

¹⁹ Addendum No. 7

“Effective”	<p>Shall mean the effective percentage of all Means of Control held by Entity A in Entity X, calculated by multiplying the percentages of Means of Control held by Entity A in each of the Entities in the chain of holdings between Entity A and Entity X.</p> <p>e.g. if Entity A holds 50% of all Means of Control of Entity B which, in turn, holds 50% of all Means of Control of Entity X, then Entity A Effectively holds 25% of all Means of Control of Entity X.</p>
“Eligible Participant”	<p>Shall have the meaning ascribed thereto in Section 9.5 (Announcement of Eligible Participants) of this Invitation.</p>
“Entity”	<p>Shall mean any corporation, company partnership, recognized by law within its domicile, excluding individuals.</p>
“Experience Provider(s)”	<p>Shall mean each of the Local Design Experience Provider and the Metro Management Experience Provider.</p>
“Financial Pre-Qualification Requirement(s)”	<p>Shall mean the requirements of Section 5 (Financial Pre-Qualification Requirements).</p> <p>For the avoidance of doubt, the form of submission referenced in each of the Sections within Section 5 (Financial Pre-Qualification Requirements), shall not be deemed as a Financial Pre-Qualification Requirement.</p>
“Financial Statement(s)”	<p>Shall mean, for each Entity:</p> <p>(i) its audited consolidated financial statement which includes a report signed by the external auditor of the Entity, confirming its compliance with one of the accounting standards specified pursuant to Section 6.4.1; or, in the absence thereof (ii) its audited solo financial statement which includes a report signed by the external auditor of the Entity, confirming its compliance with one of the accounting standards specified pursuant to Section 6.4.1.</p>

“Infrastructure Project”	Shall mean a project, in the State of Israel, for the design and construction of a large scale infrastructure, including, inter alia, any of the following: (i) LRT project, a highway project, a Transportation Project; (ii) a desalination facility; or a water treatment facility ²⁰ ; (iii) a tunnel; (iv) a hospital; (v) a power generation facility; (vi) a depot; (vii) a port; or (viii) an airport; (ix) an educational campus or military campus ²¹ ; (x) <u>complex logistic center</u> ; (xi) <u>an underground structure designated for public or military use</u> ; or (xii) <u>a parking lot, provided such includes an interface with other means of public transportation</u> ²² .
“Interested Parties”	Shall mean with respect to Entity ₁ : (a) any Entity or individual directly holding at least 15% of any of the Means of Control of Entity ₁ (in this definition: “Entity ₂ ”); (b) any Entity or individual Effectively holding at least 70% of any of the Means of Control of Entity ₂ ; (c) the CEO of Entity ₁ ; or (d) any of the directors of Entity ₁ .
“International Designer”	Shall mean the Member demonstrating compliance with the Professional Pre-Qualification Requirements stipulated in Section 4.3 (Design Experience in LRT/Metro and Rail Projects), and which will be responsible on behalf of the Participant (if such is declared as a Successful Bidder) for the overall Design services to be provided to NTA under the Agreement.
“Invitation”	Shall mean this Invitation for Pre-Qualification, including all Annexes thereof.
“Law(s)”	Shall mean the various national (state) laws and legislation, statutes, ordinance, codes, and regulations (including the Regulations), as enacted by the State of Israel, and any by-laws, codes, regulations enacted by the relevant authorities or municipalities, and case law and precedents of relevant competent judicial authorities; all as modified, amended, replaced or created from time to time.

²⁰ Addendum No. 4

²¹ Addendum No. 2

²² Addendum no. 4

“Lead Designer”	Shall mean an entity which was directly responsible for the preparation of the Design of a referenced project, bearing all the risks related to the Design thereof, including: (i) the project detailed design and/or the design for a referenced tender, including civil, architectural, rail and non-rail ²³ systems design; and (ii) the management, administration, supervision, integration and coordination of all sub-designers and design teams; and (iii) the administration and supervision of the implementation of the design in the execution of the applicable project works.
“Line Manager”	Shall have the meaning ascribed thereto in Section 1.2 (Introduction and General Description of the Programme) of this Invitation.
“Local Design Experience Provider”	Shall have the meaning ascribed thereto in Section 3.3 (Local Design Member or Local Design Experience Provider on behalf of the Participant) of this Invitation.
“Local Design Member”	Shall have the meaning ascribed thereto in Section 3.3 (Local Design Member or Local Design Experience Provider on behalf of the Participant) of this Invitation.
“Local Entity”	Shall mean an Entity associated and registered in the State of Israel under the Law, whose management and significant part of the business of the group of companies to which it belongs is in Israel.
“Local Manager”	Shall mean a Member which is: (i) a Local Entity; and which (ii) demonstrating <u>demonstrates</u> ²⁴ compliance with the Professional Pre-Qualification Requirement stipulated in Section 4.1 (Project Management Experience in the State of Israel) of this Invitation, and which will be responsible on behalf of the Participant (if such is declared as a Successful Bidder) for the overall project management services to be provided to NTA under the Agreement.

²³ Addendum No. 7

²⁴ Addendum No. 2

“LRT” or “LRT Project”	Shall mean a light rail-based mass transit system, including the associated facilities required for the supply of transportation services along a Track or Tracks which are integrated into an urban environment and including interfaces with intersections and other public and private transportation (where most of the intersections with other public or private transportation are without barriers and/or other protection means), including any extension thereof; which has not less than ten (10) km of Tracks (cumulative length) and at least four (4) underground Stations.
“Means of Control”	Shall have the meaning ascribed thereto in the Securities Law 1968.
“Member(s)”	Shall have the meaning ascribed thereto in Section 3.2 (Members of the Participant) of this Invitation.
“Metro” or “Metro Project”	Shall mean a fully segregated rail based electric mass transit system, including the associated facilities required for the supply of transportation services along a Track or Tracks in an urban environment, including any extension thereof; which has not less than ten (10) km of Tracks (cumulative length) and at least four (4) underground Stations.
“Metro Line Project”	Shall have the meaning ascribed thereto in <u>Annex 1</u> (General Description of the Programme) of this Invitation.
<u>“Metro Management Member”</u> ²⁵	<u>Shall have the meaning ascribed thereto in Section 3.4 (Metro Management Member or Metro Management Experience Provider) of this Invitation.</u>
“Metro Management Experience Provider”	Shall have the meaning ascribed thereto in Section 3.4 (Metro Management Member or Metro Management Experience Provider) of this Invitation.

²⁵ Addendum No. 7

<u>“Multidiscipline Infrastructure Project”</u> ²⁶	<u>Shall mean an Infrastructure Project, in the State of Israel, utilizing the combined services of specialized civil engineering, mechanical engineering, process engineering, electrical engineering and process instrumentation and control engineering, all of which form an integral part of the projects' completed plants or facilities. Notwithstanding the foregoing, the following projects shall not constitute a “Multidiscipline Infrastructure Project” for purposes of this Invitation: (i) a road (including a highway or freeway project, a toll-road, a road bridge or a road tunnel); (ii) a bridge; (iii) a drainage duct; or (iv) a fuel or water infrastructure.</u>
“NTA”	Shall mean NTA Metropolitan Mass Transit System Ltd.
“Offence”	Shall mean criminal offences included in Chapters 7 (National Security, Foreign Relations and Official Secrets), 8 (Offences against the Public Order and the Society), 9 (Offences against the Government and the Law) and 10 (Bodily Harm) of the Penal Code 1977, Criminal offences in Sections 384A, 402, 413E, 415, 418, 423, 425, 427, 428 and 456 of the Penal Code 1977, offences under the Antitrust Law 1988, offences under the Securities Law 1968, offences under the Prohibition on Money Laundering Law 2000, offences under the Planning and Building Law 1965 or any other criminal offence which results in a prison sentence of at least one (1) year, or if the Entity or any office holder or representative thereof is not a citizen or a resident of the State of Israel, analogous offences committed under the laws of its domicile, provided that the conviction for such offence (committed in Israel or outside of Israel) was given during the seven (7) years preceding the Pre-Qualification Submission Date.
<u>“Parent Company”</u> ²⁷	<u>Shall mean the Entity which Controls a Relying Entity.</u>
“Participant”	Shall have the meaning ascribed thereto in Section 3.1 (The Participant) of this Invitation.

²⁶ Addendum No. 7

²⁷ Addendum No. 7

“Participating Entity”	Shall mean the Participant, a Member (including, for the avoidance of doubt, Local Manager, International Designer and Local Design Member) or an Experience Provider.
“Pre-Qualification Documents”	Shall mean the Invitation, its Annexes, the Pre-Qualification Forms and any other document issued by the Tender Committee during the Pre-Qualification Process.
“Pre-Qualification Forms” or “PQ Forms”	Shall mean the forms attached hereto as forms 1 – 8, which each Participant is required to complete, execute and submit as part of its Pre-Qualification Submission.
“Pre-Qualification Process”	Shall mean the process commencing upon the issuance of this Invitation and ending upon the announcement of Eligible Participants.
“Pre-Qualification Submission Date”	Shall have the meaning ascribed thereto in Section 8.8 (Pre-Qualification Submission Date) of this Invitation.
“Pre-Qualification Submission Letter”	Shall have the meaning ascribed thereto in Section 7.1 (Pre-Qualification Submission Letter) of this Invitation.
“Pre-Qualification Submission(s)”	Shall mean the complete written pre-qualification submission, complying with the terms and conditions contained in this Invitation and including all the information and completed Pre-Qualification Forms.
“Pre-Qualification Requirement(s)”	Shall mean the Professional Pre-Qualification Requirements and the Financial Pre-Qualification Requirements.
“Professional Pre-Qualification Requirement(s)”	Shall mean the requirements of Section 4 (Professional Pre-Qualification Requirements) of this Invitation. For the avoidance of doubt, the form of submission referenced in each of the Sections within Section 4, shall not be deemed as a Professional Pre-Qualification Requirement.
“Programme” or “Network”	Shall have the meaning ascribed thereto in Section 1.2 (Introduction and General Description of the Programme) of this Invitation.
“Public Sector Client”	Shall mean a governmental, municipal, federal or similar authority which is a client of a referenced project (and which is subject to public procurement regulations).

“Rail Project”	Shall mean an LRT Project, a Metro Project, a commuter rail, a mono rail or a heavy rail.
“Related Entity”	Shall have the meaning ascribed to such term (“גורם קשור”, including derivatives thereof), pursuant to: (i) the Law for the Struggle with Iran’s Nuclear Program from 2012; and/or (ii) the Law for the Prevention of Distribution and Financing of Weapons of Mass Destruction from 2018.
<u>“Relying Entity”</u> ²⁸	<u>Shall have the meaning ascribed thereto in Section 6.1 of this Invitation.</u>
“Regulations”	Shall mean the Mandatory Tender Regulations 1993, as amended from time to time.
“Request(s) for Clarification(s)”	Shall have the meaning ascribed thereto in Section 2.9.1 of this Invitation.
“SPV”	Shall have the meaning ascribed thereto in Section 3.1 of <u>Annex 2</u> (Expected Requirements) of this Invitation.
<u>“Sister Company”</u> ²⁹	<u>Shall mean an Entity under the common Control of the same Parent Company as a Relying Entity.</u>
“Station”	Shall mean a point along the alignment of a heavy rail, LRT or Metro system where passengers may board and disembark from trains, including any and all facilities and structures thereon and thereat.
“Subsidiary”	Shall mean a company, joint venture or partnership in which the relevant Entity directly holds 50% <u>30%</u> ³⁰ or more of the shares, all partnership interests and of all other Means of Control.
“Successful Bidder(s)”	Shall mean an Eligible Participant awarded with an Agreement for the Management and Design of a Metro Line Project following the completion of the Tender Process.

²⁸ Addendum No. 7

²⁹ Addendum No. 7

³⁰ Addendum No. 7

“Systems”	Shall mean all rail and non-rail systems components comprising part of a referenced project in accordance with its specifications, including, but not limited to, Tracks, rolling stock, signaling, fire safety systems, ventilation, security and cyber measurements, communication, radio, power, supervisory control and data acquisition, HVAC, MEP, passenger screen doors, civil and fit-out works.
“Tender Committee”	Shall mean the committee appointed by NTA in order to manage the Pre-Qualification Process and the Tender Process.
“Tender Documents”	Shall mean all documents which shall be distributed to Eligible Participants as part of the Tender Process, including the request for proposals and all forms provided therein, the Agreement, the scope of services, and any other document which will be issued by the Tender Committee during the Tender Process.
“Tender Process”	Shall mean, with respect to the Metro Line Projects collectively, the second stage of the selection process, during which Eligible Participants will submit their bids and Successful Bidders for each of the Metro Line Projects shall be selected.
“Track(s)”	<p>Shall mean the rail track(s) on which any rail transport runs.</p> <p>For purposes of demonstrating the kilometer requirements specified in the Professional Pre-Qualification Requirements: (i) a twin track (or greater) shall be deemed to constitute and shall be counted as one (1) single track (i.e., 2 km of “twin tracks” will be counted as 2 km and not 4 km); and (ii) any Tracks in the Depot shall be reduced from the km cumulation.</p>

“Transportation Project”	Shall mean the design and construction of any of the following projects, in the State of Israel: (a) LRT Project a light rail project ³¹ ; (b) a highway or freeway project, a toll-road, a road bridge, a road tunnel, provided however that the said works were performed for the purpose of national highways and/or intercity roads (main roads) and/or suburban highways; (c) a railway, rail bridge, rail tunnel; (d) mass transit transportation system; <u>(e) an airport; or (f) a seaport</u> ³² . Notwithstanding the foregoing, a project for maintenance works, rehabilitation and/or improvement of existing infrastructure shall not constitute a “Transportation Project” for purposes of this Invitation.
“Update Statement”	Shall have the meaning ascribed thereto in <u>Annex 2</u> (Expected Requirements) of this Invitation.
“Website”	Shall have the meaning ascribed thereto in Section 2.6.1 of this Invitation.

1.2. Introduction and General Description of the Programme

NTA – Metropolitan Mass Transit Systems Ltd. (“**NTA**” or the “**Owner**”) is a government company tasked with the development of the Tel Aviv Metropolitan Mass Transit System, which includes, *inter alia*, a metro network, comprising three (3) mostly underground metro lines of approximately 145 kilometers in length, 108 Stations and more than 760 vehicles and seven (7) transportation hubs (the “**Programme**” or “**Network**”).

The Tender Committee is issuing this Invitation as the first stage of the selection process of three (3) consortiums, which will be responsible each, for the management and design of one of the Metro Line Projects comprising part of the Programme (“**Line Managers**”).

General, indicative information with respect to the Metro Line Projects is further detailed in Annex 1 (General Description of the Programme).

1.3. The Selection Process

³¹ Addendum no. 4

³² Addendum no. 4

The Tender Committee intends to select three Successful Bidders, each to be appointed as a Line Manager for purpose of managing and designing one of the Metro Line Projects through the following stages:

- 1.3.1 this Pre-Qualification Process; and
- 1.3.2 one Tender Process with respect all three (3) Metro Line Projects, as shall be determined by NTA.

1.4. The Pre-Qualification Process

- 1.4.1 The purpose of this Pre-Qualification Process is to identify Eligible Participants, who will be invited to participate in the Tender Process for the selection and appointment of a Line Manager for each of the Metro Line Projects.
- 1.4.2 During the Pre-Qualification Process, Participants will be required to submit Pre-Qualification Submissions, in accordance with the provisions of this Invitation, in order to demonstrate their compliance with all Pre-Qualification Requirements and all other applicable requirements and provisions of this Invitation.
- 1.4.3 Pre-Qualification Submissions submitted by the Participants will be evaluated by the Tender Committee in accordance with the provisions of this Invitation. Without derogating from the provisions of Section 9 (Review and Evaluation of Pre-Qualification Submissions), following its evaluation, the Tender Committee will announce the Eligible Participants. Only those Participants which demonstrated compliance with all Pre-Qualification Requirements and all other applicable requirements and provisions of this Invitation, and were not otherwise disqualified thereby, will be announced as Eligible Participants.
- 1.4.4 The Participants are informed that due to the complexity and the unique nature of the Metro Line Projects, the Pre-Qualification Process and the Tender Process, the Pre-Qualification Requirements and other requirements included herein, have been designated in order to qualify competent and adequate candidates.

1.5. The Tender Process and Expected Requirements

Without derogating from NTA's rights and prerogatives pursuant to this Invitation (including under Section 9.8 (Reservation of Rights)) or Law:

- 1.5.1 Following the completion of the Pre-Qualification Process, the Tender Committee intends to invite all Eligible Participants (and only Eligible Participants) to participate in the Tender Process.
- 1.5.2 The Tender Committee intends to conduct one unified Tender Process for the selection of three (separate) Line Managers, each of which shall be responsible for the management and Design of a Metro Line Project.

1.5.3 Without derogating from NTA's rights and prerogatives pursuant to Section 9.6.5.1 below (including the approval of changes to the organizational structure presented by the Participants), it is expected that Eligible Participants will be permitted to participate in the Tender Process(s) only in the composition which was prequalified pursuant to the Pre-Qualification Process (i.e. the same Members and Experience Providers).

1.5.4 It is expected that an Eligible Participant, if announced as a Successful Bidder, will be awarded with the management and Design of only one of the Metro Line Projects (either M1, M2 or M3), all in accordance with the terms and conditions which will be further detailed in the Tender Documents.

Without derogating from NTA's rights and prerogatives pursuant to this Invitation (including under Section 9.8 (Reservation of Rights)) or Law, it is expected that, within its proposal during the Tender Process each Eligible Participant and each Participating Entity will be required to comply with the requirements specified in **Annex 2** (Expected Requirements).

1.6. Invitation for Pre-Qualification

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

1.7. Anticipated Schedule

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

1.7.1 Meetings of the Tender Committee with the Participants: October/November 2021.

1.7.2 Final date for notification re. participation in a meeting with the Tender Committee: October 5th, 2021.

1.7.3 Final date for the Submission of Requests for Clarifications: ~~October 15th~~ November 5th³³ November 30th³⁴, 2021.

1.7.4 Pre-Qualifications Submission Date: ~~December 15th, 2021~~ January 31st, 2022³⁵.

The Tender Committee reserves the right to amend any date contained herein, at any time, at its sole discretion by issuing a written clarification or Addenda to this Invitation in accordance with the provisions of Section 2.10 (Addenda).

³³ Addendum No. 3

³⁴ Addendum No. 5

³⁵ Addendum No. 4

2. RULES AND PROCEDURES

2.1. Governing Law and Jurisdiction

- 2.1.1 The Pre-Qualification Process shall be governed and construed in accordance with the provisions of all applicable Laws, including the Mandatory Tenders Law 1992, and the Regulations.
- 2.1.2 The applicable court in Tel Aviv shall have the sole jurisdiction over all matters and all disputes arising in connection with the Pre-Qualification Process and the Tender Process.
- 2.1.3 The foregoing does not derogate from the obligation of any Participating Entity and anyone on their behalf, to address the Tender Committee, in writing, with a specific and detailed claim or compliant.

2.2. Preparation for Submission

- 2.2.1 By submitting a Pre-Qualification Submission each Participating Entity confirms and will be deemed to have confirmed that it has received the complete Pre-Qualification Documents, that it has read, considered and understood the Invitation, and that it accepts the terms and conditions thereof and all obligations and undertakings specified or implied therein.
- 2.2.2 Each Participating Entity is assumed to have obtained legal advice.
- 2.2.3 Each Participating Entity and the Pre-Qualification Submissions shall: (i) abide by the Laws; and (ii) shall be subject to any changes in any of the Laws, even if such changes will be introduced during the Pre-Qualification Process.

2.3. The Invitation

The Pre-Qualification Documents include this invitation for pre-qualification, its Annexes, the Pre-Qualification Forms and any other document issued by the Tender Committee during the Pre-Qualification Process.

2.4. Priority of Documents

In the event of discrepancies between any of the provisions of this Invitation, the stricter provision, as determined by the Tender Committee at its sole discretion, shall prevail, unless otherwise determined by the Tender Committee and approved in writing. Any discrepancy shall be brought to the attention of the Tender Committee as soon as possible.

2.5. Severability

The invalidity or unenforceability of any part, provision or section of the Pre-Qualification Documents shall not affect the validity or enforceability of other parts, provisions or sections thereof. Any invalid or unenforceable part, provision

or section shall be deemed severed from the Pre-Qualification Documents, and the Pre-Qualification Documents shall be construed and enforced as if this Invitation did not contain such invalid or unenforceable part provision or section.

2.6. Access to Documents

2.6.1 The Pre-Qualification Documents are available for online review and download (at no cost) at the following website: www.nta.co.il (the “**Website**”).

2.6.2 Participants shall submit the Participant’s contact details (inter alia, the name of the Participant, its Authorized Representative, address, phone number, fax number, address, email address etc.) to the email address referenced in Section 2.9.1 below. Participants shall be responsible for informing the Tender Committee of any change in their contact details.

2.7. Cost of Participation in the Pre-Qualification Process

A Participating Entity and anyone on its behalf, will bear any and all costs and expenses connected with participation in the Pre-Qualification Process as incurred by such, and will not be reimbursed or otherwise compensated by the Tender Committee or NTA for any costs or expenses so incurred thereby, including in the event of termination of the Pre-Qualification Process for any reason whatsoever.

2.8. Language

2.8.1 Other than certain documents or parts thereof which may be provided in Hebrew, the Pre-Qualification Documents are published in English. Notwithstanding, NTA may publish the Tender Documents in Hebrew or in both Hebrew and English, all as shall be determined by NTA, at its sole discretion.

2.8.2 The Tender Committee reserves the right to conduct its business in Hebrew or in English, including in meetings, discussions, minutes, correspondences, negotiations, and responses to Requests for Clarification, etc.

2.8.3 All communication between the Participants and the Tender Committee will be in English and in writing, in accordance with the provisions of this Invitation.

2.9. Requests for Clarification of this Invitation

2.9.1 Participants may raise questions and requests for clarifications or interpretations to the Pre-Qualification Documents, in writing, by no later than the deadline for the submission of requests for clarifications as set forth in Section 1.7 (Anticipated Schedule) (“**Request(s) for Clarification(s)**”). Such Requests for Clarifications shall be addressed in writing only to Tender’s Mailbox: Metro-LM@nta.co.il. As part of the request, any Participant shall provide details about its appointed representative, including its postal address, telephone and facsimile numbers and e-mail address

- 2.9.2 Requests for Clarifications shall be submitted via email in a signed PDF file and in an **open** Excel file, in the format attached as **Annex 4** (Requests for Clarification) of this Invitation.
- 2.9.3 The Tender Committee reserves the right to ignore Requests for Clarifications which are not submitted in accordance with the requirements of submission specified in Section 2.9.2.
- 2.9.4 The Tender Committee may request Participants to provide clarifications to any part of their Request for Clarifications, including by way of meeting with the Participants or any of them (in a joint meeting or in separate meetings).
- 2.9.5 The Tender Committee has no obligation to clarify or interpret this Invitation, to respond to any specific question or to publish any of the Requests for Clarifications submitted to it.
- 2.9.6 Although the Tender Committee has no obligation to clarify or interpret this Invitation, the Tender Committee may issue an Addendum for the purpose of clarifying or interpreting the Pre-Qualification Documents in response to Requests for Clarifications, in accordance with the provisions of Section 2.10 (Addenda). Participants shall acknowledge receipt of any Addendum in the manner set forth in Section 2.10 (Addenda).
- 2.9.7 The Tender Committee may rephrase any Request for Clarification as it shall deem fit under the circumstances, including adding to the original language or omitting from the original language.
- 2.9.8 Any Request for Clarification not responded by the Tender Committee shall be deemed rejected.
- 2.9.9 Any Request for Clarification raised at a date following the deadline for the submission thereof as provided in Section 1.7 (Anticipated Schedule), will be accepted or rejected, answered or not, at the discretion of the Tender Committee.
- 2.9.10 A response by the Tender Committee to any Request for Clarification shall not derogate from the discretion or the prerogative of the Tender Committee under this Invitation, including under Section 2.10 (Addenda).

2.10. Addenda

- 2.10.1 Without derogating from its rights and prerogatives pursuant to this Invitation (including under the provisions of Section 9.8 (Reservation of Rights)) or Law, the Tender Committee reserves the right to revise, modify, amend, clarify, add, delete or otherwise change the Pre-Qualification Documents or any part thereof, including, but not limited to, any instruction, requirement, specification, Pre-Qualification Requirement(s) or date contained therein, whether at the discretion of NTA or the Tender Committee or as a result of a Request for Clarification. Such revisions, if any, shall be announced by written clarification or addenda to the Pre-Qualification Documents

(“**Addenda**” or “**Addendum**”, respectively) and will be deemed an integral part of this Invitation.

- 2.10.2 No answers, clarification or amendment to the Pre-Qualification Documents shall be binding unless issued in the form of an Addendum.
- 2.10.3 Neither NTA nor the Tender Committee shall not be bound by, and Participants shall not rely on, any oral clarification to the Pre-Qualification Documents.
- 2.10.4 Should any Addendum result from any Request for Clarification submitted by a Participant, the identity of such Entity or Participant shall not be disclosed.
- 2.10.5 Copies of Addenda published by the Tender Committee shall be published at the Website and notices regarding such publications shall be furnished to all Entities or Participants who have addressed the Tender Committee with Request(s) for Clarification(s) in accordance with Section 2.9 (Request for Clarification of this Invitation).

Participants are required to acknowledge receipt of notice of Addenda in writing no later than two (2) days following receipt thereof by a returned email to the Tender Committee.

The foregoing does not derogate from the provisions of Section 2.10.6 below, and shall not be construed as creating any obligation on the part of NTA or the Tender Committee to inform any Participant of any Addenda published at the Website.

- 2.10.6 Participants are required to check the Website on a regular basis for any addenda, updates, postponements, changes, clarifications or modifications, during the Pre-Qualification Process and prior to the Pre-Qualification Submission Date.
- 2.10.7 Without derogating from the generality of the provisions of Sections 1.7 (Anticipated Schedule) and 2.10 (Addenda), the Tender Committee may postpone the date for submission of Pre-Qualification Submissions, or any other date herein, 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 Addendum issued by the Tender Committee. The announcement of a new date, if any, will be included in the Addendum.

2.11. Participants' Conference

- 2.11.1 The Tender Committee: (i) reserves the right to hold one or more Participants' conference(s); and (ii) intends to hold meetings with each of the Participants separately during October/November 2021 (each, a “**Conference**”) and shall, at its discretion, determine whether attendance at any Conference is mandatory. Participants interested in attending such separate meeting with the Tender Committee shall notify the Tender Committee in writing by no later

than October 5, 2021. Additional details with respect to the Conference(s) will be notified to all Participants in an Addendum in accordance with the provisions of Section 2.10 (Addenda) above.

- 2.11.2 At the Conference(s) (to the extent held), the Tender Committee may answer Requests for Clarifications referred to it in advance by the attendees and may present and explain the Pre-Qualification Documents and all clarifications and amendments to the Pre-Qualification Documents introduced by it in accordance with the provisions of Section 2.10 (Addenda) above.
- 2.11.3 However, the Tender Committee shall not be bound by, and no entity or person shall rely on, any oral representation made by the Tender Committee or by any other attendee during the Conference.
- 2.11.4 Following the Conference(s), the Tender Committee may issue Addenda in accordance with the provisions of Section 2.10 (Addenda), addressing requests raised by the attendees or clarifications provided by the Tender Committee at the Conference(s). Only answers and clarifications issued in the form of an Addendum shall be binding.
- 2.11.5 The Tender Committee may limit the number of attendees on behalf of each Participant at any of the Conference(s) and may require prior confirmation of attendance.

2.12. Intellectual Property Rights

The Pre-Qualification Documents and any and all intellectual property rights therein are exclusively owned by NTA and are supplied to the Participants solely for the purpose of participation in the Pre-Qualification Process.

2.13. Information Supplied to the Participants

- 2.13.1 The description of the Programme and the Metro Line Projects detailed in this Invitation is general and indicative only. The actual scope of works and further particulars may differ from the description thereof in this Invitation.
- 2.13.2 In any event and without derogating from the foregoing, to the extent applicable during the Pre-Qualification Process, Participating Entities are required to independently examine and verify all aspects of the Metro Line Projects, inter alia, all statutory plans relating thereto, the Pre-Qualification Documents and any other legal, organizational, operational, technical or financial detail relevant to the Pre-Qualification Submission.
- 2.13.3 Any reliance by a Participant, a Participating Entity or anyone on its behalf on any such information and the making of any deductions, interpretations or conclusions from information which is made available by the NTA or the Tender Committee or anyone on their behalf, is at the Participating Entity's sole responsibility.
- 2.13.4 NTA and the Tender Committee do not represent or warrant that the information contained in the Pre-Qualification Documents or any other

information which they or anyone on their behalf are making available to Participants, is either complete or accurate or undergone any independent verification of the Tender Committee. Any and all information presented hereby with respect to the Programme and the Metro Line Projects, including with respect to the Tender Process, the time schedule for the execution of the Programme and the Metro Line Projects and the expected requirements with respect thereof, may change.

- 2.13.5 Without derogating from the foregoing, this Programme is a challenging and complex project with unique characteristics, technical features, restrictions and execution restraints. It involves complex interfaces, including, inter alia, with relevant authorities (governmental as well as municipal) and other public transportation lines and networks. The implementation of the Programme and each Metro Line Project will require, inter alia, coordination and management of many different professional disciplines, with many different Entities, project managers, designers, service providers, authorities and municipalities, taking into account the dynamic nature of the Programme and the Metro Line Projects and the need, if such will arise, to make adjustments and changes during the execution thereof. Participants are required to take the foregoing into consideration (and shall be deemed to have so taken) and independently examine and verify all aspects relating thereto.
- 2.13.6 NTA and the Tender Committee shall not be responsible in any respect for any loss or damage whatsoever suffered by a Participating Entity and anyone on its behalf (including their employees, officers, agents, or any other persons for whom Participants may be contractually or legally responsible or accountable), by reason of any use of information contained in the Pre-Qualification Documents or provided in connection therewith, or any action or forbearance in reliance thereon.

2.14. Advisors to the Tender Committee

- 2.14.1 Each Participating Entity acknowledges that in the preparation of the Pre-Qualification Submission (and consequently, if declared as Eligible Participant, the Bid) is strictly prohibited from having any conflict of interests between any of its other activities and/or its other obligations, and/or any of its employees, consultants or subcontractors and the obligations and rights with respect to this Invitation, the Tender Process or the Metro Line Project(s), including a conflict of interest which may arise as a result of engaging employees, advisors or sub-contractors of NTA.
- 2.14.2 Without derogating from the foregoing, **Annex 3** (Advisors to the Tender Committee) of this Invitation contains a list of advisors currently engaged or which have been engaged as consultants to NTA, either directly or indirectly, in connection with this Pre-Qualification Process (“**Advisors**”), and therefore Participants are strictly prohibited from employing or engaging any of them for the purpose of this Pre-Qualification Process, the Tender Process or the Metro Line Projects, whether directly or indirectly. The aforesaid prohibition shall not apply to engagement of Advisors by the Participant for purposes which are not connected to the Pre-Qualification Process, the Tender Process or the Metro Line Projects. The Tender Committee reserves the right, from

time to time, to update **Annex 3** (Advisors to the Tender Committee) as it shall deem appropriate under the circumstances.

- 2.14.3 The prohibition in Section 2.14.2 above shall apply to any of the following: (i) where the Advisor is an Entity, in respect of any person employed thereby, whether or not such person is listed in **Annex 3** (Advisors to the Tender Committee); and (ii) the persons listed in **Annex 3** (Advisors to the Tender Committee), regardless if their employment by a prohibited Entity has ended.
- 2.14.4 Without derogating from the foregoing, Participants are required to request the approval of NTA for engagements with any other advisors, which are not listed in **Annex 3** (Advisors to the Tender Committee), to the extent the Participant has knowledge that such are involved or were involved as consultants to NTA in connection with the Pre-Qualification Process, the Tender Process or the Programme.
- 2.14.5 Without derogating from the provisions of this Section 2.14 (Advisors to the Tender Committee) and/or from the provisions of Section 3.9 (Successful Bidder in the NM Tender) below, it is hereby clarified that the following advisors and/or Entities engaged by NTA may participate in the Pre-Qualification Process, the Tender Process or the Metro Line Projects: (i) advisors and/or Entities engaged by NTA in connection with the conduction of the Programme feasibility study; and (ii) the design firms appointed by NTA to carry out the design of the Network transportation hubs.

3. GENERAL PROVISIONS RELATING TO PARTICIPANTS

3.1. The Participant

- 3.1.1 A Participant shall mean an association of Entities participating in the Pre-Qualification Process and submitting a Pre-Qualification Submission, each of which complies with the provision of Section 3.2 (Members of the Participant) ("**Participant**").
- 3.1.2 The formation by the Participant of an SPV for purpose of managing a Metro Line Project will only be required during the Tender Process, and the registration of the SPV shall be a precondition for signing the Agreement(s) (following the announcement of the Successful Bidder(s)).
- 3.1.3 **Form of Submission.** In order to demonstrate compliance with this Section 3.1 (The Participant), each of the Entities associated in relation with the Participant (its Members) shall complete, execute and submit Pre-Qualification Form "1" and Pre-Qualification Form "2".

3.2. Members of the Participant

3.2.1 Members of a Participant shall mean each of the Entities committed to hold ~~Anticipated Holdings~~³⁶ interests³⁶ in the Participant, ~~as detailed in Pre-Qualification Form “2”~~³⁷ and which comply with:

3.2.1.1 all of the requirements of Section 3.5 (General Requirements – Participating Entities);

3.2.1.2 the applicable Professional Pre-Qualification Requirements in accordance with the provisions of Section 4 (Professional Pre-Qualification Requirements); and

3.2.1.3 the applicable Financial Pre-Qualification Requirements in accordance with the provisions of Section 5 (Financial Pre-Qualification Requirements);

(a “Member”).

3.2.2 Without derogating from the generality of the foregoing, a Participant shall not have more than ~~three (3)~~ four (4)³⁸ Members.

Form of Submission. In order to demonstrate compliance with, inter alia, the provisions of this Section 3.2 (Members of the Participant), each Member shall complete, execute and submit Pre-Qualification Form “2”.

3.3. Local Design Member or Local Design Experience Provider on behalf of the Participant

Each Participant will be required to demonstrate that an Entity on its behalf, which:

3.3.1 complies with all of the requirements of Section 3.5 (General Requirements – Participating Entities);

3.3.2 demonstrates compliance with the Professional Pre-Qualification Requirements in Section 4.4 (Design Experience of Transportation Projects in the State of Israel); and

3.3.3 demonstrates compliance with the Financial Pre-Qualification Requirements in Section 5.2 (The Local Manager, Local Design Member and Local Design Experience Provider);

is either a Member or an Experience Provider of the Participant.

³⁶ Addendum No. 4

³⁷ Addendum No. 4

³⁸ Addendum No. 7

If the foregoing requirements are demonstrated by a Member of the Participant, the provisions of Section 3.2 (Members of the Bidder) shall apply and the Member shall be referred to as a “**Local Design Member**”; if however the foregoing requirements are not demonstrated by a Member of the Participant, the Participant shall be required to present an engagement with an Entity complying with all of the foregoing requirements by submitting Pre-Qualification Form “2” and Attachment “A” thereto, and the Entity demonstrating such compliance shall be referred to as the “**Local Design Experience Provider**”.

3.4. Metro Management Member or³⁹ **Metro Management Experience Provider**

Each Participant will be required to demonstrate that ~~either its International Designer or an Entity on its behalf~~ an Entity on its behalf, which⁴⁰:

3.4.1 complies with all of the requirements of Section ~~3.4~~⁴¹3.5 (General Requirements – Participating Entities);

3.4.2 demonstrates compliance with the Professional Pre-Qualification Requirements in Section 4.2 (Experience in Construction Management of Metro Projects); and

3.4.3 demonstrates compliance with the Financial Pre-Qualification Requirements in Section ~~5.2~~⁴²5.1 (The International Designer, Metro Management Member and the Metro Management Experience Provider);

is either a Member or an Experience Provider of the Participant.⁴³

~~If the foregoing requirements are demonstrated by the International Designer of the Participant, the provisions of Section 3.2 (Members of the Bidder) shall apply (for the removal of doubt, the foregoing requirements may not be demonstrated by a Member of the Participant which is not the International Designer); if however the foregoing requirements are not demonstrated by the International Designer of the Participant, the Participant shall be required to present an engagement with an Entity complying with all of the foregoing requirements by submitting Pre-Qualification Form “2” and Attachment “A” thereto, and the Entity demonstrating such compliance shall be referred to as the “Metro Management Experience Provider”.~~⁴⁴

³⁹ Addendum No. 7

⁴⁰ Addendum No. 7

⁴¹ Addendum No. 7

⁴² Addendum No. 7

⁴³ Addendum No. 7

⁴⁴ Addendum No. 7

If the foregoing requirements are demonstrated by a Member of the Participant, the provisions of Section 3.2 (Members of the Bidder) shall apply and the Member shall be referred to as a “Metro Management Member”; if however the foregoing requirements are not demonstrated by a Member of the Participant, the Participant shall be required to present an engagement with an Entity complying with all of the foregoing requirements by submitting Pre-Qualification Form “2” and Attachment “A” thereto, and the Entity demonstrating such compliance shall be referred to as the “Metro Management Experience Provider”.⁴⁵

3.5. General Requirements – Participating Entities

Each Participant (if already incorporated on the Pre-Qualification Submission Date), and each Member (including, for the avoidance of doubt, the Local Manager, International Designer and Local Design Member) and Experience Providers needs to comply and satisfy all of the following requirements:

- 3.5.1 It is a duly organized and a validly existing Entity under the laws of the jurisdiction in which it is organized.
- 3.5.2 It has all requisite corporate power and authority for the ownership and operation of its properties and for the carrying on of its business as currently conducted or proposed to be conducted for the purposes of the Metro Line Project (including the participation in this Pre-Qualification Process).
- 3.5.3 There are no actions or proceedings pending nor, to the best of its knowledge, there are no actions or proceedings which might result in dissolution, liquidation, freeze of assets, bankruptcy, insolvency, appointment of a trustee, a liquidator or a receiver (including temporarily), or any other analogous situation.
- 3.5.4 Its most recent Financial Statements do not include a “going concern notice” or a notice of a similar effect.
- 3.5.5 It and any Interested Party, including the office holders thereof involved in the Pre-Qualification Process, in the Tender Process or in the Metro Line Projects (including individuals) are not residents or citizens of a state which does not have diplomatic relations with the State of Israel.
- 3.5.6 Subject to the provisions of Section 3.6 (An Entity Charged with, or Convicted of, an Offence) below, it and any Interested Party thereof (including individuals), have not been convicted of an Offence and no indictment (criminal charges) with respect to an Offence has been filed (submitted) against any of such.
- 3.5.7 It is not a Declared Entity and it is not a Related Entity of a Declared Entity; and the office holders thereof involved in the Pre-Qualification Process, in the Tender Process or in the Metro Line Project (including individuals) are not Declared Entities or Related Entities of the Declared Entities.

⁴⁵ Addendum No. 7

- 3.5.8 Its incorporation documents do not contain any provision which may restrict or limit its ability to undertake and provide the applicable part of the services for which it is pre-qualified (management and/or Design) for the execution of the Metro Line Projects.
- 3.5.9 To the extent required under Law, each Entity incorporated in the State of Israel, or registered in Israel as a Foreign Company as defined under the Companies Law 1999, shall provide all relevant approvals and statements as required in accordance with the provisions of the Public Entities Transactions Law 1976 by completing Pre-Qualification Form “8”, and an ascertainment of regular reports of revenues to the tax assessor and the director of V.A.T. in transactions that is taxable under the Value Added Tax Law 1975.

3.6. An Entity Charged with, or Convicted of, an Offence

- 3.6.1 In the event that a Participating Entity (or any Interested Party thereof) does not comply with the requirement of Section 3.5.6 above, it shall submit to the Tender Committee relevant information with respect to the applicable Offence(s).
- 3.6.2 Such information is to be submitted by no later than forty-five (45) days prior to the Pre-Qualification Submission Date, to facilitate the Tender Committee’s decision stipulated below.
- 3.6.3 The Tender Committee shall decide (at its sole discretion) whether a Participating Entity which does not comply with the provisions of Section 3.5.6 above may participate in the Pre-Qualification Process and/or the Tender Process and may impose conditions with respect to its participation.
- 3.6.4 Any decision reached by the Tender Committee may be published in an Addendum, without disclosing the identity of the relevant Participating Entity or the nature of the Offence (unless otherwise determined by the Tender Committee, at its sole discretion).
- 3.6.5 The Tender Committee may exercise its rights hereunder either prior to or following the Pre-Qualification Submission Date.

3.7. Authorized Representative

- 3.7.1 Each Participant shall appoint one of its Members, through one individual on its behalf, as an authorized representative for: (i) conducting correspondence with the Tender Committee; and (ii) receiving instructions from the Tender Committee for and on behalf of all Participating Entities (an “**Authorized Representative**”).
- 3.7.2 A Participant may replace its Authorized Representative by giving a prior written notice to the Tender Committee, signed by all Members of the Participant. The appointment of an Authorized Representative shall not be terminated other than by the appointment of a replacement and the receipt of notice thereof by the Tender Committee.

3.8. Participation in a Pre-Qualification Submission

3.8.1 Each Participant may participate only in one Pre-Qualification Submission.

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

3.8.3 Each Experience Provider may participate in only one Pre-Qualification Submission.

Interpretations. For the purposes of the provisions of this Section 3.8, the terms “**Participant**”, “**Member**” and “**Experience Provider**”, shall be deemed to include any Entity which exercises Control over such Participant\Member\Experience Provider, is under the common Control with such Participant\Member\ Experience Provider or is Controlled by such Participant\Member\Experience Provider.

For purpose of this limitation and restriction, the term Entity shall mean: any corporation, company partnership, recognized by law within its domicile, **including** individuals.

3.9. Successful Bidder in the NM Tender

The Entity appointed as the Network Manager and any of its members, subsidiaries, experience providers, sub-contractors, staff members or anyone on their behalf or engaged by them and affiliates of any of the foregoing: (i) may not and will not be nominated and/or appointed as a Line Manager of a Metro Line Project; and (ii) will not be declared as a Successful Bidder in the Tender Process and/or in any competitive proceedings or other proceedings conducted in connection with the management and design of the Metro Line Projects.

3.10. Participation of Government Companies

Any company budgeted by the Government of the State of Israel as defined under Section 21 of the State Budget Law, 1985 ["גוף מתוקצב"], any Municipal Company or a subsidiary thereof as defined under Section 21 of the State Budget Law, 1985, any company supported by the Government of the State of Israel as defined under Section 32 of the State Budget Law, 1985 ["גוף נתמך"], any Entity incorporated by Law (a statutory corporation), or any company subject to the provisions of the Government Companies Law, 1975, is not permitted to participate in the Pre-Qualification Process, directly or indirectly, including as a Participant.

3.11. Additional Requirements, including Security Considerations

3.11.1 Without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee reserves the right to impose additional or new conditions, limitations, prohibitions, or restrictions, *inter alia*, with respect to the participation of an Entity or person in the Pre-Qualification Process, the Tender Process, the Programme or any of the Metro Line Projects, which relates to security considerations (including national security); and\or competition.

3.11.2 Without derogating from the foregoing or from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee and NTA reserve the right to impose conditions, limitations, prohibitions, or restrictions with respect to the participation in the future selection processes connected to the Programme and/or the Metro Line Projects, of an Entity or person connected to the Successful Bidder(s) or any other person or Entity which otherwise participate in the Tender Process or in the Successful Bidder.

4. PROFESSIONAL PRE-QUALIFICATION REQUIREMENTS

Each Participant is required to demonstrate compliance with all of the following Professional Pre-Qualification Requirements;

4.1. Project Management Experience in the State of Israel

Each Participant is required to demonstrate that, ~~during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date,~~⁴⁶ its Local Manager was primarily responsible, ~~on behalf of a Public Sector Client,~~ for⁴⁷:

4.1.1 **Alternative 1:** during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, for⁴⁸ (both) Design Management and Construction Management of at least one (1) Transportation Project, with a Contract Value of not less than four hundred million New Israeli Shekels (NIS 400,000,000), which was Completed⁴⁹;

or

4.1.2 **Alternative 2:** during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, for⁵⁰ Design Management of at least one (1) Transportation Project with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) which was Completed Design⁵¹, and Construction Management of at least one (1) additional Transportation Project with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) which was Completed, ~~each with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000);~~⁵²

⁴⁶ Addendum No. 7

⁴⁷ Addendum No. 7

⁴⁸ Addendum No. 7

⁴⁹ Addendum No. 7

⁵⁰ Addendum No. 7

⁵¹ Addendum No. 7

⁵² Addendum No. 7

or⁵³

4.1.2A Alternative 3: during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, for⁵⁴ (both) Design Management and Construction Management of at least one (1) Infrastructure Project, with a Contract Value of not less than ~~seven~~six⁵⁵ hundred million New Israeli Shekels (NIS ~~76~~⁵⁶00,000,000)⁵⁷ which was Completed⁵⁸;

or⁵⁹

4.1.2B Alternative 4: during the period commencing on January 1, 2010 and ending on the Pre-Qualification Submission Date, for Design Management and/or Construction Management of Multidiscipline Infrastructure Projects with an accumulated Contract Value of one billion New Israeli Shekels (NIS 1,000,000,000), provided that: (i) the Contract Value of each referenced project shall be not less than one hundred million New Israeli Shekels (NIS 100,000,000); (ii) the Local Manager was primarily responsible for Design Management of at least one (1) referenced project; and (iii) the Local Manager was primarily responsible for Construction Management of at least one (1) referenced project with a Contract Value of not less than four hundred million New Israeli Shekels (NIS 400,000,000), which was Completed;

In referenced projects presented for purpose of demonstrating compliance with this Section 4.1.2B which were Design Completed (in case of Design Management) or Completed (in case of Construction Management), “Design Management” and/or “Construction Management” (as applicable) shall not include a requirement for management of the referenced project for a period of at least two (2) consecutive years (notwithstanding definition of the terms “Design Management” and “Construction Management” for other purposes and requirements);⁶⁰

and -

4.1.3 Alternative 1: during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, for⁶¹ (both) Design Management and Construction Management of at least one (1) Infrastructure Project, with a Contract Value of not less than four hundred million New Israeli Shekels (NIS 400,000,000) which was Completed⁶²;

⁵³ Addendum no. 4

⁵⁴ Addendum No. 7

⁵⁵ Addendum No. 7

⁵⁶ Addendum No. 7

⁵⁷ Addendum no. 4

⁵⁸ Addendum No. 7

⁵⁹ Addendum No. 7

⁶⁰ Addendum No. 7

⁶¹ Addendum No. 7

⁶² Addendum No. 7

or

4.1.4 **Alternative 2:** during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, for⁶³ Design Management of at least one (1) Infrastructure Project with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) which was Completed Design⁶⁴, and Construction Management of at least one (1) additional Infrastructure Project with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) which was Completed, each with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000).⁶⁵

~~Furthermore, with respect to each Alternative, each referenced project pursuant to Sections 4.1.1 – 4.1.4 above must comply with the following requirements:~~

- ~~(i) Each was Completed after January 1, 2005; and~~
- ~~(ii) A project presented to demonstrate compliance with the requirements of Sections 4.1.1 or 4.1.2 may not be presented to demonstrate compliance with the requirements of Sections 4.1.3 or 4.1.4.~~⁶⁶

A project presented to demonstrate compliance with the requirements of Sections 4.1.1, 4.1.2, 4.1.2A or 4.1.2B may not be presented to demonstrate compliance with the requirements of Sections 4.1.3 or 4.1.4.⁶⁷

Form of Submission. In order to demonstrate compliance with this Section 4.1 (Project Management Experience in the State of Israel), the Local Manager shall complete, execute and submit Pre-Qualification Form “3”.

4.2. Experience in Construction Management of Metro Projects

Each Participant is required to demonstrate that, during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, its ~~International Designer~~Metro Management Member⁶⁸ or a Metro Management Experience Provider on its behalf was primarily responsible for the Construction Management of at least one (1) Metro Project which was Completed ~~after January 1, 2005~~⁶⁹.

Form of Submission. In order to demonstrate compliance with this Section 4.2 (Experience in Construction Management of Metro Projects), the ~~Local Manager~~

⁶³ Addendum No. 7

⁶⁴ Addendum No. 7

⁶⁵ Addendum No. 7

⁶⁶ Addendum No. 7

⁶⁷ Addendum No. 7

⁶⁸ Addendum No. 7

⁶⁹ Addendum No. 7

Metro Management Member or Metro Management Experience Provider (as applicable)⁷⁰ shall complete, execute and submit Pre-Qualification Form “4”.

4.3. Design Experience in LRT/Metro and Rail Projects

Each Participant is required to demonstrate that, during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, its International Designer:

4.3.1 was the Lead Designer of at least two (2) projects, provided that:

4.3.1.1 At least one (1) of which is a Metro Project (and if only one Metro Project is presented as a reference project, the second reference project presented is an LRT Project); and

4.3.1.2 **Alternative 1:** in a least one (1) of the reference projects the International Designer was responsible for the Design of at least one (1) Depot;

or

4.3.1.3 **Alternative 2:** if neither of the referenced projects include a Depot, an additional (third) project shall be presented which is a Depot Project;

and -

4.3.2 Was primarily responsible for the Design of a Rail Project, and in such capacity was responsible for the integration of the design prepared by teams specializing in at least five (5) of the following disciplines: (i) civil engineering; (ii) architecture; (iii) tunneling; (iv) power systems; (v) signaling and train control systems; (vi) communications systems; (vii) Tracks; (viii) rolling stock; and/or (ix) Depot maintenance equipment. Notwithstanding the foregoing and the definition of the term “Metro Project” and “LRT Project”, Metro Project(s) and LRT Project(s) presented for purpose of demonstrating compliance with this Section 4.3.2 shall not be required to include an underground section and/or underground Stations.

Furthermore, each of the referenced projects pursuant to Sections 4.3.1 and 4.3.2 above must comply with the following requirements:

- (i) The Delivery Phase (RP)⁷¹ of each commenced on or after January 1, 2005; and
- (ii) At least one of the referenced projects presented to demonstrate compliance with the requirements of Sections 4.3.1 and 4.3.2 above reached Commercial Operation; and
- (iii) At least one of the referenced projects presented to demonstrate compliance with the requirements of Sections 4.3.1 and 4.3.2 above included a signaling and train control system designed in accordance with Applicable EN Standards.

⁷⁰ Addendum No. 7

⁷¹ Addendum No. 7

- (iv) A project presented to demonstrate compliance with the requirements of Section 4.3.1 may also be presented to demonstrate compliance with the requirements of Section 4.3.2.

Form of Submission. In order to demonstrate compliance with this Section 4.24.3 (Design Experience in LRT/Metro and Rail Projects), the International Designer shall complete, execute and submit Pre-Qualification Form “5”.

4.4. Design Experience of Transportation Projects in the State of Israel

Each Participant is required to demonstrate that, during the period commencing on January 1, 2005 and ending on the Pre-Qualification Submission Date, its Local Design Member or a Local Design Experience Provider on its behalf:

4.4.1 **Alternative 1:** was the Lead Designer of at least one (1) Transportation Project, with a Contract Value of not less than four hundred million New Israeli Shekels (NIS 400,000,000);

or

4.4.2 **Alternative 2:** Was the Lead Designer in at least two (2) Transportation Projects, each with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000);

Furthermore, with respect to each Alternative, each referenced project pursuant to Sections 4.4.1 and 4.4.2 above must comply with the following requirements:

- (i) The Delivery Phase (RP)⁷² of each ~~was~~⁷³ commenced on or after January 1, 2005;
- (ii) Each was Completed Design⁷⁴.

Form of Submission. In order to demonstrate compliance with this Section 4.4 (Design Experience of Transportation Projects in the State of Israel), the Local Design Member or Local Design Experience Provider (as applicable) shall complete, execute and submit Pre-Qualification Form “6”.

5. FINANCIAL PRE-QUALIFICATION REQUIREMENTS

Each Participant is required to demonstrate compliance with all the following Financial Pre-Qualification Requirements:

5.1. The International Designer, Metro Management Member⁷⁵ and the Metro Management Experience Provider

⁷² Addendum No. 7

⁷³ Addendum No. 7

⁷⁴ Addendum No. 7

⁷⁵ Addendum No. 7

5.1.1 **Company's Weighted Average Turnover** – Each of ~~the~~⁷⁶ the International Designer, Metro Management Member⁷⁷ and the Metro Management Experience Provider (herein this Section 5.1: each,⁷⁸ the “**Company**”) is required to demonstrate a weighted average annual turnover (“**Company's Weighted Average Turnover**”) of at least ~~four~~⁷⁹ two hundred million New Israeli Shekels (NIS ~~400,000,000~~⁸⁰ 200,000,000) (or the equivalent thereof), calculated based on the values stated below, in its three (3) most recent consecutive, annual Financial Statements (provided that such are not earlier than for the year 2017). The Company's Weighted Average Turnover shall be calculated in the following manner:

$$ATO_t = \frac{3 * TO_t + 2 * TO_{t-1} + 1 * TO_{t-2}}{6}$$

Where:

TO_t = Company's annual turnover for year t.

t = most recent annual Financial Statement (provided such is not earlier than for the year 2019).

(“**Company's Weighted Average Turnover**”)

5.1.2 **Company's Weighted Average Operating Cash Flow** – The Company is required to demonstrate one of the following:

- (i) Its Weighted Average Operating Cash Flow for its three (3) most recent consecutive, annual Financial Statements (provided that such are not earlier than for year 2017), is not negative (i.e. either positive or equal to zero).

For the purpose of this Financial Pre-Qualification Requirement, the Company's Weighted Average Operating Cash Flow shall be calculated in the following manner:

$$\text{Weighted Average Operating Cash Flow} = \frac{3 * CF_{(t)} + 2 * CF_{(t-1)} + 1 * CF_{(t-2)}}{6}$$

Where:

⁷⁶ Addendum no. 4

⁷⁷ Addendum No. 7

⁷⁸ Addendum no. 4

⁷⁹ Addendum no. 4

⁸⁰ Addendum no. 4

CF_t = Company's Operating Cash Flow for year t

t= the most recent Financial Statement (provided such is not earlier than for the year 2019)

(“Company's Weighted Average Operating Cash Flow”)

or:

(ii) In the event that the Company's Weighted Average Operating Cash Flow is negative, then the Company is required to demonstrate that the ratio between the absolute value of (a) and (b) below is less than twenty-five (25%):

a) Shall be:

1. Said Company's Weighted Average Operating Cash Flow; or
2. Said Company's Operating Cash Flow, based on its most recent annual Financial Statement, which is not earlier than for the year 2019.

b) The equity of said Company on the last day of its most recent annual Financial Statements, which is not earlier than for the year 2019.

So that –

$$ABS [3*CF_t+2*CF_{(t-1)}+1*CF_{(t-2)}] / 6 / E < 25\%$$

Or that –

$$ABS [CF_t] / E < 25\%$$

Where:

ABS [X] = the absolute value of [X].

CF = Operating Cash Flow.

E = the equity of the Company, which is not a Financial Entity, on the last day of its most recent annual Financial Statement, which is not earlier than for the year 2019.

t = most recent annual Financial Statement, which is not earlier than for the year 2019.

5.2. The Local Manager, Local Design Member and Local Design Experience Provider

5.2.1 Local Company's Weighted Average Turnover - Each of the Local Manger, Local Design Member and the Local Design Experience Provider (herein this Section 5.2: a “**Local Company**”) is required to have a weighted average annual turnover (“**Local Company's Weighted Average**

Turnover”) of at least fifteen million New Israeli Shekels (NIS 15,000,000) (or the equivalent thereof), calculated based on the values stated below, in its three (3) most recent consecutive, annual Financial Statements (provided that such are not earlier than for the year 2017). The Local Company's Weighted Average Turnover shall be calculated in the following manner:

$$ATO_i = \frac{3 * TO_t + 2 * TO_{t-1} + 1 * TO_{t-2}}{6}$$

Where:

TO_t = Local Company's annual turnover for year t.

t = most recent annual Financial Statement (provided such is not earlier than for the year 2019).

(“Local Company's Weighted Average Turnover”)

5.2.2 Local Company's Weighted Average Operating Cash Flow – Each Local Company is required to demonstrate one of the following:

- (i) Its Weighted Average Operating Cash Flow for its three (3) most recent consecutive, annual Financial Statements (provided that such are not earlier than for year 2017), is not negative (i.e. either positive or equal to zero).

For the purpose of this Financial Pre-Qualification Requirement, the Local Company's Weighted Average Operating Cash Flow shall be calculated in the following manner:

$$\text{Weighted Average Operating Cash Flow} = \frac{3 * CF_{(t)} + 2 * CF_{(t-1)} + 1 * CF_{(t-2)}}{6}$$

Where:

CF_t = Local Company’s Operating Cash Flow for year t

t= the most recent Financial Statement (provided such is not earlier than for the year 2019)

(“Local Company's Weighted Average Operating Cash Flow”)

or:

- (ii) In the event that the Local Company's Weighted Average Operating Cash is negative, then the Local Company is required to demonstrate that the ratio between the absolute value of (a) and (b) below is less than twenty-five (25%):

a) Shall be:

1. Said Local Company’s Weighted Average Operating Cash Flow; or

2. Said Local Company's Operating Cash Flow, based on its most recent annual Financial Statement, which is not earlier than for the year 2019.
- b) The equity of said Local Company on the last day of its most recent annual Financial Statements, which is not earlier than for the year 2019.

So that –

$$\text{ABS} [3*CF_t+2*CF_{(t-1)}+1*CF_{(t-2)}] / 6 / E < 25\%$$

Or that –

$$\text{ABS} [CF_t] / E < 25\%$$

Where:

ABS [X] = the absolute value of [X].

CF = Operating Cash Flow.

E = the equity of the Local Company, which is not a Financial Entity, on the last day of its most recent annual Financial Statement, which is not earlier than for the year 2019.

t = most recent annual Financial Statement, which is not earlier than for the year 2019.

Form of Submission. In order to demonstrate compliance with this Section 5 (Financial Pre-Qualification Requirements), each Member and Experience Provider shall complete, execute and submit Pre-Qualification Form “7”.

6. GENERAL INSTRUCTIONS WITH RESPECT TO DEMONSTRATION OF COMPLIANCE WITH THE PRE-QUALIFICATION REQUIREMENTS

6.1. Relying on a Referenced Project which was Managed or Designed by an Entity Held by a Participating Entity

6.1.1 For the purpose of demonstrating the Professional Pre-Qualification Requirements in Sections 4.1 (Project Management Experience in the State of Israel), 4.2 (Experience in Construction Management of Metro Projects), 4.3 (Design Experience in LRT/Metro and Rail Projects) and 4.4 (Design Experience of Transportation Projects in the State of Israel) above, a Participating Entity is allowed to present and rely on a referenced project which was managed or Designed (as applicable) by another Entity (in this Section 6.1, a “**Relying Entity**”), if the referenced project was managed (as required pursuant to the provisions of each applicable Professional Pre-Qualification Requirement), by:

6.1.1.1 A Subsidiary of the Relying Entity; or

6.1.1.2 an Entity which is a second tier, third tier or fourth tier⁸¹ Subsidiary of the Relying Entity in which the Relying Entity Effectively holds ~~50~~30⁸²% or more of all Means of Control;

6.1.1.3 A Parent Company of the Relying Entity; or⁸³

6.1.1.4 A Sister Company of the Relying Entity.⁸⁴

6.1.2 In the event a Relying Entity requests to demonstrate compliance with the Professional Pre-Qualification Requirements in accordance with the provisions of this Section 6.1, such Relying Entity shall include, in the relevant Pre-Qualification Forms, details as requested therein with respect to the Entity which managed the referenced project and the connection between such Entity and the Relying Entity, including a chart describing the structure of holdings.

6.1.3 In the event a Relying Entity requests to demonstrate compliance with the Professional Pre-Qualification Requirements by relying on the experience of a Sister Company in accordance with the provisions of Section 6.1.1.4 above, the Relying Entity shall include in its Pre-Qualification Submission an undertaking by such Sister Company or by the Parent Company of both the Relying Entity and the Sister Company in the form of Attachment “A” to the relevant Pre-Qualification Form.⁸⁵

6.2. Exchange of Currency

6.2.1 The financial figures included in the Pre-Qualification Documents must be submitted in New Israeli Shekels (NIS) and, to the extent indicated in relevant Pre-Qualification Forms, in the applicable original currency.

6.2.2 Financial information (such as Contact Value or Weighted Average Turnover) and the figures included in the Financial Statements, presented in any currency other than NIS, will be converted to NIS in accordance with the average exchange rates for the relevant calendar fiscal year, as presented below:

Exchange Rates for Purpose of Demonstrating Weighted Average Turnover

Annual Average Exchange Rates for End of Fiscal Year **December 31st**:

Currency	2017	2018	2019	2020
EUR	4.0622	4.2442	3.9926	3.9252

⁸¹ Addendum No. 7

⁸² Addendum No. 7

⁸³ Addendum No. 7

⁸⁴ Addendum No. 7

⁸⁵ Addendum No. 7

Currency	2017	2018	2019	2020
USD	3.5997	3.5970	3.5643	3.4367
GBP	4.6324	4.7973	4.5508	4.4130
AUD	2.7591	2.6886	2.4792	2.3766
INR ⁸⁶	0.0553	0.0526	0.0506	0.0464

Annual Average Exchange Rates for End of Fiscal Year **March 31st**:

Currency	2017	2018	2019	2020
EUR	4.1652	4.1344	4.2160	3.9211
USD	3.7959	3.5299	3.6431	3.5280
GBP	4.9649	4.6825	4.7791	4.4832
AUD	2.8580	2.7318	2.6569	2.4057
INR ⁸⁷	0.0566	0.0548	0.0521	0.0498

Annual Average Exchange Rates for End of Fiscal Year **September 30th**:

Currency	2017	2018	2019	2020
EUR	4.0590	4.2206	4.0829	3.8972
USD	3.6794	3.5476	3.6178	3.4783
GBP	4.6565	4.7704	4.6171	4.4386
AUD	2.8021	2.6985	2.5473	2.3633
INR ⁸⁸	0.0560	0.0533	0.0512	0.0473

⁸⁶ Addendum No. 2

⁸⁷ Addendum No. 2

⁸⁸ Addendum No. 2

6.2.3 The Contract Value of a referenced project presented in the Pre-Qualification Submission shall be converted to NIS based on the annual exchange rates detailed below*:

Currency	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
EUR	5.5826	5.5916	5.6272	5.2671	5.4692	4.9502	4.9775	4.9527	4.7965	4.7466	4.3116	4.2496	4.0622	4.2442	3.9926	3.9252
USD	4.4859	4.4526	4.1100	3.5863	3.9228	3.7319	3.5791	3.8580	3.6094	3.5774	3.8839	3.8406	3.5997	3.5970	3.5643	3.4367
GBP	8.1613	8.2026	8.2244	6.6304	6.1423	5.7711	5.7371	6.1105	5.6500	5.8882	5.9394	5.2101	4.6324	4.7973	4.5508	4.4130
AUD	3.4185	3.3552	3.4450	3.0508	3.1083	3.4334	3.6936	3.9944	3.4948	3.2247	2.9243	2.8554	2.7591	2.6886	2.4792	2.3766
INR ⁸⁹	0.1020	0.0985	0.0998	0.0827	0.0812	0.0817	0.0768	0.0723	0.0617	0.0587	0.0606	0.0572	0.0553	0.0526	0.0506	0.0464

* With respect to a Completed or Completed Design⁹⁰ referenced project – in accordance with the applicable annual exchange rate on the year of Completion or Completion Design (as applicable)⁹¹; With respect to a referenced project which was not Completed or Completed Design⁹² - in accordance with the applicable annual exchange rate for the year 2020.

6.3. Conversion of Other Currencies

6.3.1 An Entity whose financial information (such as a Contract Value), or Financial Statements are presented in currencies other than the currencies the exchange rates of which are presented in Section 6.2 (Exchange of Currency), is required to submit a specific request to the Tender Committee for other currency conversion to US\$, 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.

The foregoing does not derogate from the requirements of Section 6.2.1 above.

6.3.2 An Entity whose fiscal year, according to its place of registration, is not one of the fiscal years specified in Section 6.2 (Exchange of Currency), is required to request the approval of the Tender Committee to use alternative exchange rates, at least thirty (30) days prior to the Pre-Qualification Submission Date. The request must specify all the relevant information and exchange rate tables, on which the Entity relies. The Tender Committee will consider each request on a case-by-case basis and may issue an Addendum as a result thereof.

⁸⁹ Addendum No. 2

⁹⁰ Addendum No. 7

⁹¹ Addendum No. 7

⁹² Addendum No. 7

6.4. Content and Submission Form

6.4.1 In order to demonstrate compliance with the Financial Pre-Qualification Requirements, each Entity required to submit its Financial Statements (for purpose of this Section, “**Demonstrating Entity**”), shall submit its relevant Financial Statements, duly prepared and presented in accordance with one of the following:

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

6.4.1.2 US GAAP (published by the FASB);

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

6.4.1.4 French GAAP;

6.4.1.5 Japanese GAAP;

6.4.1.6 Germany IFAD GAAP;

6.4.1.7 South Korea K-IFRS;

6.4.1.8 Australian GAAP;

6.4.1.9 UK GAAP;

6.4.1.10 Spanish GAAP;

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

6.4.2 Demonstrating Entities whose Financial Statements are presented based on different accounting principles than those listed in Section 6.4.1 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.

6.4.3 Without derogating from the foregoing, if a Demonstrating Entity submits its Financial Statements based on accounting principles other than the accounting principles listed in Section 6.4.1 above, such Demonstrating Entity will provide a letter, signed by an external auditor, confirming that the Entity’s Weighted Average Turnover, the Weighted Average Operating Cash Flow and the equity of the Entity as presented in its Financial Statements, substantially comply with US GAAP or IFRS methodology.

6.4.4 Without derogating from the generality of Section 6.4.1 above, the Financial Statements must include a balance sheet statement, a profit and loss statement, a cash flow statement, and auditor's report and notes.

6.4.5 A Demonstrating Entity whose Financial Statements do not include cash flow statements should provide such statements in accordance with one of the accounting principles set out in Section 6.4.1 above, duly executed by the Entity's external auditors.

In the event a Demonstrating Entity submits its cash flow statements based on accounting principles other than Israeli GAAP, US GAAP or IFRS, such Demonstrating Entity will provide a letter, signed by an external auditor, confirming that the cash flow statements substantially comply with US GAAP or IFRS methodology.

Without derogating from the above, if an Entity wishes to present its cash flow statements based on different accounting principles than those listed in Section 6.4.1, the provisions of Section 6.4.2 above shall apply, *mutatis mutandis*.

6.4.6 The Financial Statements will be provided either in English or in Hebrew, but in no other language.

6.4.7 Without derogating from the aforementioned, in the event that the Financial Statements of a Demonstrating Entity contain comparative figures to the preceding years which meet the Financial Pre-Qualification Requirements listed in Sections 5.1.1, 5.1.2, 5.2.1 and 5.2.2 above, the Demonstrating Entity will not be required to submit the Financial Statements for the preceding years, and it can rely on the comparative figures presented in its most recent Financial Statements.

6.4.8 In the event of a discrepancy between the Financial Statements and the Pre-Qualification Forms, the provisions of the Financial Statements shall prevail.

7. PRE-QUALIFICATION SUBMISSION

7.1. Pre-Qualification Submission Letter

Each Participant shall attach to its Pre-Qualification Submission the Pre-Qualification Submission Letter provided in Pre-Qualification Form "1" duly completed and signed ("**Pre-Qualification Submission Letter**").

7.2. Description of the Participant, Members and Experience Providers

In order to demonstrate compliance with the provisions of Sections 3.1 (The Participant), 3.2 (Members of the Participant), 3.3 (Local Design Member or Local Design Experience Provider on behalf of the Participant) and 3.4 (Metro Management Member or Metro Management Experience Provider), each Participant shall submit all of the Pre-Qualification Forms duly completed and signed.

7.3. Identification of Sensitive or Classified Information and Disclosure of Documents

- 7.3.1 Without derogating from the generality of the provisions of Regulation 21(e) of the Regulations (and the discretion granted thereunder to the Tender Committee), Participants will detail, within Pre-Qualification Form “1”, in a clear, complete and legible manner, all information contained in their Pre-Qualification Submissions, which they consider to be of a commercially sensitive or confidential nature and which, in their opinion, should not be disclosed to other Participants (a request with respect to “Privileged Information”).
- 7.3.2 The Tender Committee shall evaluate, as it deems necessary, the requests with respect to Privileged Information submitted by each of the Participants. The decision of the Tender Committee with respect thereto will be issued to the Participants.
- 7.3.3 If a Participant did not identify parts of its Pre-Qualification Submission as being of a commercially sensitive or confidential nature, the Tender Committee will not be required to consider or determine the nature of such and shall be entitled to disclose such part.
- 7.3.4 If a Participant identified parts of its Pre-Qualification Submission as being of a commercially sensitive or confidential nature (“Privileged Information”), such Participant:
- 7.3.4.1 will not be entitled to claim that the other parts of its Pre-Qualification Submission (which have not been identified by it as Privileged Information) are of a commercially sensitive or confidential nature and cannot be reviewed by other Participants; and
 - 7.3.4.2 will not be entitled to review the Privileged Information or information which is of the same type or character as the Privileged Information in the Pre-Qualification Submissions of other Participants, unless otherwise determined by the Tender Committee.
- 7.3.5 The foregoing shall apply: (i) even if a Participant did not submit any request with respect to Privileged Information; and (ii) even if the request of a Participant with respect to Privileged Information was rejected by the Tender Committee; and (iii) even if the Tender Committee will decide to apply its decision with respect to information it considers to be of a commercially sensitive or confidential nature (in a consistent manner) with respect to all Pre-Qualification Submissions (even if not specifically requested to apply such measures by a particular Participant).
- 7.3.6 Only following the announcement of the Eligible Participants, and after the conclusion of the decision-making processes specified above by the Tender Committee, the Participants shall be entitled to review the relevant protocols of the Tender Committee in connection with the Pre-Qualification Process and the Pre-Qualification Submission submitted by the Eligible Participants, in accordance with Sub-regulations 21(e)-21(f) of the Tender Regulations.

7.3.7 The foregoing review by a Participant may be for a fee in the amount determined by the Tender Committee.

8. METHOD OF SUBMISSION

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

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

8.1.1 Participants shall prepare their Pre-Qualification Submissions in strict conformity with the requirements of this Invitation.

8.1.2 Participants shall complete all applicable parts of the Pre-Qualification Submission in an accurate and detailed manner, disclosing all the information requested, as well as any additional information or data required to clarify, substantiate and, in general, support the Pre-Qualification Submission.

8.1.3 Without derogating from the generality of the foregoing, Participants shall submit all Pre-Qualification Forms attached to this Invitation duly executed.

8.2. No Unauthorized Modification

8.2.1 Participants shall not modify or supplement the instructions of this Invitation (including the Pre-Qualification Submission Forms). Unauthorized conditions, amendments, limitations, modifications, supplements, reservations, disclaimers or provisions attached to a Pre-Qualification Submission may result in the disqualification of the Pre-Qualification Submission and of the Participant.

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

8.2.3 Whether a statement, condition, limitation, modification, supplement, reservation, disclaimer or provision attached to the Pre-Qualification Submission will be considered to be “unauthorized” as referred to above will be determined by the Tender Committee on the basis of substance rather than form. Thus, a statement expressed as an “assumption”, a “request for a change”, a “clarification” or “we suggest to discuss at a later stage” (or any comparable words or expressions), may be treated by the Tender Committee as “unauthorized modifications”.

8.3. Language of the Pre-Qualification Submission

- 8.3.1 All Pre-Qualification Submissions, including Pre-Qualification Forms, statements contained therein and responses to requests for clarifications, shall be in English.
- 8.3.2 Supporting documents and printed literature submitted by a Participant in any other language, other than English, should be accompanied by a translation to English (authenticated by a Public Notary), in which case, for purposes of interpretation, the translation to English shall prevail.
- 8.3.3 Notwithstanding the foregoing, official and authenticated certificates of Israeli corporations (and only such official and authenticated certificates) and Financial Statements of Israeli Entities which are originally prepared in Hebrew, may be submitted in Hebrew.

8.4. Signing of the Pre-Qualification Submission

- 8.4.1 Each Pre-Qualification Form (and, if indicated, any attachment thereto) shall be duly signed by the relevant Entity(ies) and/or person(s) (as applicable) as indicated in the applicable Pre-Qualification Form or (if applicable) any attachment thereto.
- 8.4.2 **Authorization of Signatures by an Attorney.** Where indicated in the Pre-Qualification Forms (and, if applicable, their attachments), the signature of an Entity or person shall be accompanied by a confirmation by an attorney or a public notary.
- 8.4.3 In addition, each page of the Pre-Qualification Submission (including the Pre-Qualification Forms and any additional document submitted as part of the Pre-Qualification Submission) shall be duly signed by the Participant (at the margins of each page) by using: (a) the Participant's stamp and initials of its authorized signatory(ies) (if the Participant is an incorporated SPV); or (b) the stamp and initials of the authorized signatory(ies) of each of the Members of the Participant (if the Participant is not an incorporated SPV).
- 8.4.4 Participants may submit certain documents and Pre-Qualification Forms in respect of which the applicable signatures are scanned and the signature pages are submitted in counterparts as follows:
 - 8.4.4.1 All documents required to be submitted as part of the "original copy" of the Pre-Qualification Submission may include (to the extent required) non-original (scanned/photocopied) signatures of all applicable Participating Entities.
 - 8.4.4.2 In addition, the applicable Participating Entities (including the Member) may submit the relevant signature pages of the Pre-Qualification Forms in counterparts.

In this respect, the Tender Committee reserves the right to require any of the Participants to submit the original signed Pre-Qualification Forms and documents, at any stage during the Pre-Qualification Process and thereafter, at its sole discretion and according to instructions it may provide

8.5. Table of Contents

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

8.6. Number of Pre-Qualification Submission Copies

8.6.1 Pre-Qualification Submissions must be submitted, and clearly marked as an original and four (4) identical copies (five (5) altogether). Notwithstanding the foregoing, Financial Statements shall be submitted in only one (1) copy attached to the original Pre-Qualification Submission.

8.6.2 the Pre-Qualification Submission shall include five (5) USB storage devices each containing a copy of the Pre-Qualification Submission (including the Financial Statements) in PDF format.

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

8.7. Sealing and Marking of Pre-Qualification Submissions

8.7.1 Participants shall seal each of the copies of the Pre-Qualification Submission, in separate duly marked envelopes.

8.7.2 Participants shall sign each of the envelopes, each binder and each box within which the Pre-Qualification Submission is submitted.

8.7.3 All envelopes shall then be sealed in an outer envelope or a box.

8.7.4 Each envelope or box submitted as part of the Pre-Qualification Submission shall be clearly marked with the name of this Invitation: 'Pre-Qualification Submission for the Management of the Metro Line Projects submitted by [*the name (or proposed name) of the Participant*]'. No other details shall be indicated on the outer envelope or box.

8.8. Pre-Qualification Submission Date

8.8.1 Without derogating from the Provisions of Section 2.10 (Addenda), Pre-Qualification Submissions should be submitted on the date designated for such submission, as set forth in Section 1.7 (Anticipated Schedule), no later than 14:00 (2p.m.) local time, (the "**Pre-Qualification Submission Date**").

8.8.2 The Pre-Qualification Submissions shall be submitted to the Tender Committee, at the allocated tender box to be placed in NTA – Metropolitan Mass Transit System offices, Building A, at number 26 Harokmim St. Holon, Israel.

8.8.3 Pre-Qualification Submissions submitted after the Pre-Qualification Submission Date may be opened by the Tender Committee solely for the

purpose of identifying the relevant Participant. Such Pre-Qualification Submissions shall be rejected and promptly returned to the Participant who shall consequently be disqualified from participating in the Tender Process, and such Pre-Qualification Submissions will be returned to the applicable Participant, subject to the applicable Laws.

8.9. Opening of Pre-Qualification Submissions

All Pre-Qualification Submissions shall be kept in the tender box until the opening thereof. The opening of the tender box shall be documented in a protocol.

9. REVIEW AND EVALUATION OF PRE-QUALIFICATION SUBMISSIONS

9.1. Review and Evaluation by the Tender Committee

9.1.1 The Tender Committee, with the assistance of any of its advisors and experts, shall review and evaluate the Pre-Qualification Submissions in order to determine whether each of the Participants meets the Pre-Qualification Requirements in this Invitation, including all professional and financial requirements and all other applicable provisions and requirements of this Invitation.

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

9.1.3 Without derogating from the foregoing, the attention of all Participants is referred to the provisions of **Annex 2** (Expected Requirements).

9.2. General Provisions Relating to the Review and Evaluation by the Tender Committee

Without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, in evaluating the Pre-Qualification Submissions:

9.2.1 The Tender Committee will decide, at its sole discretion, if and to what extent the information provided by a Participant is sufficient.

9.2.2 Decisions will be reached by the Tender Committee on the basis of substance rather than form. Thus, the Tender Committee may:

9.2.2.1 determine that a Participant has in fact met the evaluation criteria (including the Professional Pre-Qualification Requirements), also in the event that: (i) supporting information to this effect is not included in the designated Pre-Qualification Form but rather in any of the other Pre-Qualification Forms submitted by the Participant in its Pre-Qualification Submission; and/or (ii) supporting documentation is prepared or furnished by the Participant after the Pre-Qualification Submission Date

(provided however that such documentation proves that the Participant had met the respective evaluation criteria by the Pre-Qualification Submission Date);

9.2.2.2 in requests for clarification issued by it, request the demonstration of the applicable requirements by a form of submission other than that which is specified in this Invitation, including by providing documents which have been prepared or furnished following the Pre-Qualifications Submission Date;

9.2.2.3 demonstrate compliance with the Pre-Qualifications Requirements by Members or Experience Providers on behalf of a Participant other than those originally presented;

9.2.2.4 demonstrate compliance with the requirements of the Pre-Qualification Documents or raise questions and requests for clarifications, based on information available to it (including information provided by any third-party and any publicly available information);

9.2.2.5 accredit the qualifications of one Entity to another, *inter alia*, in the following circumstances:

9.2.2.5.1 following a Merger as such term is defined under the Companies Law 1999 (or, with respect to Entities established outside the State of Israel, a similar amalgamation, which, in accordance with the applicable law under the applicable jurisdiction, has substantially the same outcome), which was completed prior to the Pre-Qualifications Submission Date; and/or

9.2.2.5.2 following an acquisition of 100% of all Means of Control of another Entity prior to the Pre-Qualifications Submission Date.

9.2.3 The Tender Committee may, at its sole discretion, make any decision in connection with the interpretation of the submission requirements, including, *inter alia*, by ascribing to any submission requirement a broad interpretation or an interpretation that is not the most probable linguistically, provided that such interpretation is consistent with the purpose of the evaluation criteria in the overall context of the Pre-Qualification Documents. Accordingly, the Tender Committee may, at its sole discretion, replace one requirement with another if such replacement requirement fulfills the purpose of the original requirement.

9.3. Requests for Clarifications

9.3.1 Without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee may conduct an independent evaluation of and in connection with any Pre-Qualification Submission. In its independent evaluation, the Tender Committee may rely on any information available to it, including information provided by any third-party, *inter alia*, with respect to any referenced project.

9.3.2 The Tender Committee may request additional information and clarifications from a Participant or any other Entity or person, including through meetings in accordance with the provisions of Section 9.3.3.

9.3.3 The Tender Committee may request a Participant or any other Entity or person to clarify any item included in any Pre-Qualification Submission and to submit any additional information, clarification, document, reference etc. which is necessary in the opinion of the Tender Committee for the evaluation of the Pre-Qualification Submission or any part thereof.

In doing so, the Tender Committee may hold meetings with the Participants or any of them, address any of the clients mentioned in any of the Pre-Qualification Forms, and visit any site managed by any Participating Entity.

9.3.4 Participants will comply with the requests of the Tender Committee and will submit all requested clarifications and additional information by email and in hardcopy in the same number and manner as the submission of its Pre-Qualification Submission, within the time period which shall be stipulated by the Tender Committee.

9.3.5 The requests for clarifications from Participants will be in writing and delivered to the Participants by mail, messenger or facsimile. The receipt thereof shall be confirmed by the Participant by return mail, to the address noted in Section 2.9.1 above, within three (3) days of receipt.

9.3.6 The responses of Participants to the requests for clarifications issued by the Tender Committee will form an integral part of their Pre-Qualification Submissions. In the event of a discrepancy between the Pre-Qualification Submission and the response of the Participant to the requests for clarifications, the response of the Participant to the requests for clarifications shall prevail.

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

9.4. Tender Committee's Prerogatives with respect to Deviation

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

9.4.1.1 disqualify the Participant and the Pre-Qualification Submission;

9.4.1.2 Ignore all or part of a Deviation and, notwithstanding anything stated to the contrary in the Pre-Qualification Submission, evaluate such Pre-Qualification Submission without taking into account such Deviation;

9.4.1.3 Deem all or part of a Deviation as a technical error which does not conflict with the principle of equality;

9.4.1.4 Request the Participant to amend all or part of the Deviations by resubmitting its Pre-Qualification Submission or any part thereof, by providing a notice of absolution to the Tender Committee, or by any other means deemed necessary in the opinion of the Tender Committee;

9.4.1.5 Amend the Pre-Qualification, in which case the amendment will apply equally to all of the Participants and they will all be given the opportunity to resubmit their Pre-Qualification Submissions or any part thereof, all in accordance with the written instructions of the Tender Committee.

The Tender Committee shall be entitled, at its sole discretion, to determine whether or not to act in accordance with any of the alternatives specified in Sections 9.4.1.1 - 9.4.1.5 above.

9.4.2 The Tender Committee shall have the sole discretion to apply the abovementioned alternatives in whole or in part, or in stages, and to treat differently different Deviations within the same Pre-Qualification Submission or within different Pre-Qualification Submissions. There is no binding preferential order which applies to the alternatives, or which restricts the Tender Committee from exercising its full discretion with respect thereto.

9.4.3 The approval of the Tender Committee to correct a certain type of Deviation shall not be deemed as approval to correct any other type of Deviation.

9.4.4 In the event that a Participant refuses to comply with a request of the Tender Committee, without derogating from any of its rights and prerogatives pursuant to this Invitation or Law, the Tender Committee may disqualify the Participant's Pre-Qualification Submissions.

9.4.5 The provisions of this Section 9.4 (Tender Committee's Prerogatives with respect to Deviation) shall not derogate from any other right granted to the Tender Committee pursuant to the Pre-Qualification Documents or pursuant to any applicable Law.

9.5. Announcement of Eligible Participants

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

9.5.2 Upon the completion of the Pre-Qualification Process and the selection of Eligible Participants, the Tender Committee may publish the identity of the Eligible Participants (including the Members and Experience Providers thereof) to all Participants and in a press release.

9.6. Rejection of the Pre-Qualification Submissions

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

- 9.6.1 The Tender Committee reserves the right to reject any or all Pre-Qualification Submissions.
- 9.6.2 The Tender Committee reserves the right to reject a Pre-Qualification Submission if the Tender Committee is of the opinion that, based on the financial and professional information provided in its Pre-Qualification Submission or based on the prior experience of NTA therewith, the Participant is prima facie unable to execute the Metro Line Projects.
- 9.6.3 Without derogating from the rights and prerogatives pursuant to this Invitation or Law, the Tender Committee reserves the right to waive or amend any clerical error, arithmetic error or accidental omission in the Pre-Qualification Submission.
- 9.6.4 The Tender Committee reserves the right to reject Pre-Qualification Submissions which do not comply with the Pre-Qualification Requirements, or any other applicable provision of this Invitation, or which are partial, reserved, lacking, conditional, or are false or based on false or misleading information.
- 9.6.5 The Tender Committee may disqualify any Participant, or impose condition, limitations or restrictions, or issue any instruction with respect to its participation in the Pre-Qualification Process and/or the Tender Process in any of the following events:
- 9.6.5.1 Any changes to a Participating Entity; and/or (ii) changes to the organizational structure presented by the Participant, ~~including a Member's Anticipated Holdings in the Participant~~⁹³; in each case, without the prior approval of the Tender Committee (for the purpose of this Section 9.6.5, the Participant and any Member or Experience Providers thereof, shall be referred to as a **"Relevant Entity"**);
- Notwithstanding the foregoing, changes to a Relevant Entity which is a publicly listed stock company shall not be subject to the prior written approval of the Tender Committee, provided that such changes do not result in the creation of a new "principal shareholder" ("בעל עניין") (as such term is defined in the Securities Law, 1968);
- 9.6.5.2 The commencement of insolvency, bankruptcy, receivership, liquidation or reorganization proceedings against a Relevant Entity or against any Entity which a Relevant Entity relied upon or presented, or any similar proceeding which may have the same effect, as determined by the Tender Committee, unless such proceedings are discharged within a reasonable period of time, as determined by the Tender Committee;
- 9.6.5.3 The appointment of a temporary or a permanent receiver or liquidator over a Relevant Entity;

⁹³ Addendum No. 7

- 9.6.5.4 A change in circumstances following which a Relevant Entity has a “going concern notice” or a notice of similar effect, in its most recent Financial Statements;
- 9.6.5.5 Any engagement of an Advisor other than in accordance with the provisions of Section 2.14 (Advisors to the Tender Committee).
- 9.6.5.6 In the event that any Relevant Entity, an Interested Party thereof or a director or officer holder thereof (including individuals) has been indicted or convicted of, or has criminal proceedings conducted against it in connection with: (i) an Offence; or (ii) any offence which might result in an any material or adverse change in its business; or (iii) any offence concerning grave professional misconduct; or (iv) any offence concerning fraud and breach of faith; or (v) any other offence which, in the opinion of the Tender Committee, effects its integrity and/or credibility;
- 9.6.5.7 In the event that any Relevant Entity is or becomes a resident of or domiciled in a country which does not have diplomatic relations with the State of Israel;
- 9.6.5.8 Any material breach of the provisions of the Invitation or failure to comply with an instruction of the Tender Committee, including but not limited to the submission of any false, incomplete or misleading information to the Tender Committee;
- 9.6.5.9 Any material change in, or exceptional circumstances with respect to, a Relevant Entity, which, in the Tender Committee’s opinion, may hinder its participation in the Pre-Qualification Process and/or the Tender Process, or its involvement in the Metro Line Project;
- 9.6.5.10 Any other reason for which the Tender Committee deems that a Relevant Entity will not be capable of executing the Metro Line Projects (or its applicable role, as applicable), should the Participant be invited to participate in the Tender Process, or any other event or exceptional circumstances which the Tender Committee may consider (at its sole discretion), as justifying disqualification, or conditioning or limiting the further participation, of a Relevant Entity.
- 9.6.6 The Participant shall be required to notify the Tender Committee of the existence of any of the events described in Section 9.6.5 within a period of time reasonable under the circumstances.
- 9.6.7 Notwithstanding the foregoing, the Tender Committee may initiate and request the submission of applicable information with respect to any of the above.
- 9.6.8 The Tender Committee may base its decision under this Section 9.6 (Rejection of the Pre-Qualification Submissions) on the information provided by the Participant, as well as on any other information available to it, and may request the Participant to provide it with additional information and act according to its rights pursuant to Section 9.2 (General Provisions Relating to

the Review and Evaluation by the Tender Committee), as the Tender Committee deems necessary.

9.7. Intended Decision

In the event that the Tender Committee intends to disqualify a Pre-Qualification Submission submitted by a Participant or otherwise imposes conditions or restrictions with respect to its participation (either in the Pre-Qualification Process or the Tender Process) pursuant to the provisions of Section 9.6 (Rejection of the Pre-Qualification Submissions), the Tender Committee will allow such a Participant to present its case with respect to such intended decision.

9.8. Reservation of Rights

9.8.1 All Participants acknowledge that the description of the Programme and the Metro Line Projects (and in particular the description of the management and Design scope of services with respect to each of the Metro Line Projects and the expected requirements), as specified in this Invitation (including in **Annex 2** (Expected Requirements) hereof), is general and indicative only. All Participating Entities further acknowledge that at the date of issuance of this Invitation, the Programme and the Metro Line Projects have not been completely formulated and the Tender Documents have not been completed and/or approved. The issuance of this Invitation is not intended to give rise to or create any representation, undertaking or warranty on behalf of the NTA or Tender Committee or anyone on their behalf with respect to the Programme, the Metro Line Projects (including the management and Design thereof) and/or the Tender Process.

9.8.2 Participation in this Pre-Qualification Process shall not confer upon a Participating Entity any right with respect to the management and/or Design and/or any other role in any of the Metro Line Projects, the scope or content thereof, or any future proceedings which will be conducted with respect thereto, including the Tender Process. The Tender Committee reserves all rights and prerogatives to determine the exact scope, the content, and the terms and conditions of the Tender Documents and for the management and/or Design of each of the Metro Line Projects.

9.8.3 The issuance of this Invitation is not intended to guarantee the initiation, execution or the implementation of the Programme, the Metro Line Projects, or any part thereof.

9.8.4 It is expressly understood that any reliance by any Entity, a Participant or an Eligible Participant, and the making of any deductions, interpretations or conclusions with respect to the Programme and any of the management and Design of any of the Metro Line Projects or of the expected requirements which is expressed hereby (including in **Annex 2** (Expected Requirements)), or inferred from, any information provided hereby by NTA and the Tender Committee, or by virtue of participation in this Pre-Qualification Process, is at the Entity's, Participant's or Eligible Participant's sole responsibility. NTA and the Tender Committee and anyone on their behalf, shall not be responsible in any respect to any loss or damage whatsoever suffered by any

Entity, Participant or Eligible 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 assumption, inference, conclusion or reliance on the information contained in this Invitation, in connection therewith, or any action or forbearance in reliance thereon.

9.8.5 Without derogating from the generality of the forgoing, NTA and the Tender Committee reserve the right not to proceed with this Pre-Qualification Process, or with the Tender Process for the Metro Line Projects 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 Metro Line Projects or any part thereof, at any time, as it shall deem appropriate.

9.8.6 Under the circumstance described herein, NTA, the Tender Committee or anyone on their behalf shall not be responsible in any respect to any loss or damage whatsoever suffered by any Entity, Participant or Eligible 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, the Participant or the Eligible Participant, their employees, officers, agents, or any other persons for whom the Entity, Participant or Eligible Participant may be contractually or legally responsible or accountable.

9.8.7 NTA, the Tender Committee or anyone on their behalf reserves the right to amend any of the terms, conditions which are described herein (including, inter alia, in **Annex 2** (Expected Requirements) as expected requirements; to publish a new invitation to pre-qualify or other proceedings (including a tender) with respect to the management and design of any or all of the Metro Line Projects or any part thereof, which may include the same, similar or other pre-qualification requirements and may, or not, invite any Entity, Participant or Eligible Participant to take part in such process, or participate in the management and Design of the Metro Line Projects or any part thereof, in any other way as shall be deemed appropriate by NTA or the Tender Committee.

9.8.8 Without derogating from the forgoing, NTA and the Tender Committee reserve the right to prequalify, at any stage (including during the Tender Process), an Entity which can demonstrate experience in the operation of LRT or Metro and/or networks or applicable key personnel.

9.9. Prerogatives of NTA and the Tender Committee

9.9.1 Without derogating from any other provision herein, due to the complexity of the Project and the preliminary stage of certain aspects thereof, NTA and the Tender Committee reserve the right to act upon any of the following prerogatives, whether at the Pre-Qualification Process or at the Tender Process, and neither NTA nor the Tender Committee or anyone on their behalf shall be responsible in any respect to any loss or damage whatsoever suffered by any Entity, Participant or Eligible Participant as a consequence of exercising such prerogatives.

9.9.2 NTA and the Tender Committee, reserve the right to add, require, determine or amend the requirements of this Invitation, the Pre-Qualification Process and the Tender Process at any stage.

Without derogating from the forgoing, NTA and the Tender Committee reserve the right to add, require or determine additional Pre-Qualification Requirements, determine minimum requirements, determine new professional requirements and/or financial requirements or any other requirements which will be deemed necessary under the circumstances, or require a change in the composition of the Participant (including waiving a requirement for the participation of an Experience Provider or request the addition of an Experience Provider), at any stage (including during the Tender Process).

9.9.3 NTA and the Tender Committee reserve the right to evaluate, at any stage, the compliance of any Pre-Qualification Submission with the requirements herein, including the compliance of any Pre-Qualification Submission reviewed by the Tender Committee (or any part thereof), to request additional information, to request the correction of any Deviation, to modify or nullify any decision of the Tender Committee, all for any reason as the Tender Committee may deem fit.

9.9.4 NTA and the Tender Committee may exercise any of the prerogatives pursuant to this Invitation, including this Section 9.9 (Prerogatives of NTA and the Tender Committee) at any time (including following the issuance of the Tender Documents), any number of times as it deems required.

9.9.5 For the avoidance of doubt NTA and the Tender Committee shall not be obligated to exercise any of the prerogatives pursuant to this Section 9.9 (Prerogatives of NTA and the Tender Committee).

(***)

Annex 1 (General Description of the Programme)

1. Overview

The Network is comprised of three (3) metro lines:

- M1 – running north to south, from Kfar Saba and Ra'anana, through Tel Aviv, to Rishon LeZion, Lod, Ramla and Rehovot;
- M2 – running east to west, from the southern part of Petach Tikva, via Ramat Gan, Bnei Brak and Givataim, to the eastern side of Tel Aviv; and
- M3 – a half-ring connecting the other two sections to a metro network, running from Bat-Yam, Holon, Azor, Ben Gurion Airport, Or-Yehuda, Kiryat-Ono, Petach-Tikva, north of Tel-Aviv and Herzliya.

each, a “**Metro Line Project**”.

M1 south and M3 are expected to receive statutory approval by the end of the year 2021, and the overall Programme is expected to receive statutory approval by the end of the year 2022.

The statutory programmes are available for public review via the following website of the Planning Administration: <https://mavat.iplan.gov.il>.

In addition, for reference purposes only, the feasibility study conducted by NTA (with the assistance of Systra) may be downloaded via the following link:

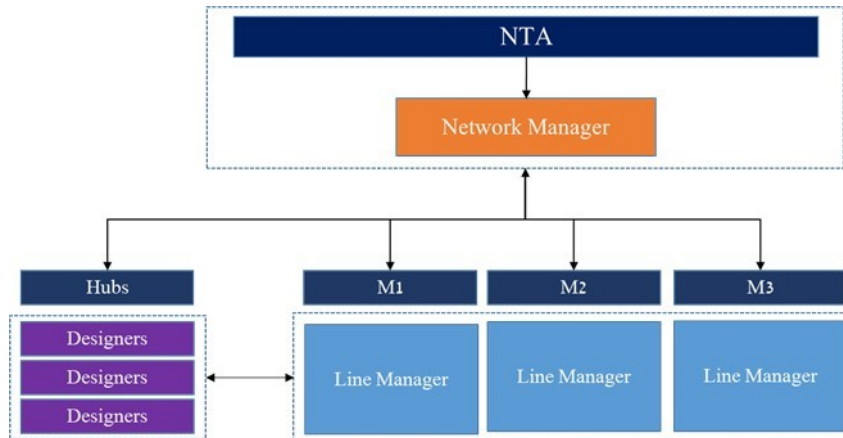
<https://ftp.nta.co.il/?ShareToken=857A93A94653C8738090D20A59E83888692B37C4>

2. The Programme Management Structure

The Programme management structure shall be comprised of one (1) Network Manager, three (3) Line Managers and three (3) transportation hubs architectural designers.

In addition, NTA is expected to enter into agreements with various consultants for procurement of the Programme, including, but not limited to, for provision of monitoring services.

The following is a general graphical depiction of the Programme management structure:



As a first step for procurement of the envisioned Programme management structure, on March 30, 2021, NTA published a tender for the management of the Metro Network Programme and selection of the Network Manager (Tender No. 105/2021) (the "**Network Manager Tender**"). The Network Manager Tender is currently in advanced stages.

In addition, three (3) design firms have been nominated and appointed by NTA to carry out the design process of the transportation hubs.

3. The Line Manager's Scope of Work

In general terms (and without derogating from the provisions of the Invitation, including, *inter alia*, the provisions of Section 9.8 (Reservation of Rights) and Section 9.9 (Prerogatives of NTA and the Tender Committee), thereof), the Network Manager shall be responsible for the development, formulization and establishment of the entire Programme, by developing a series of deliverables, strategies, plans, requirements, procedures, tools and systems and by managing, coordinating, administering, integrating, supervising and implementing them or assisting NTA to do so (as applicable).

In general terms (and without derogating from the provisions of the Invitation, including, *inter alia*, the provisions of Section 9.8 (Reservation of Rights) and Section 9.9 (Prerogatives of NTA and the Tender Committee), thereof), it is expected that the Line Manager (the LM) shall be responsible for:

- All design and contract management activities in relation to the applicable Metro Line Project during the Development Phase and the Delivery Phase thereof, including all assurance, integration, monitoring and testing and commissioning services;
- The further development of the design for the applicable Metro Line Project (and including interfaces with other parts of the Network and transportation hubs) that meets the Owners Requirements (as shall be prepared by the Network Manager and approved by NTA);

- Preparation of all technical design, performance requirements, scope, tender documentation and supporting information for the procurement of the future Design and Build contracts (Infra 1 and Infra 2 Packages), advanced works, utilities works, pre-infra 1 works (shafts, portals, depot etc.), transportation hub works, Super High voltage works, Building above project assets, Oversight Development interface works as directed by the Owner from time to time;
- Preparation of the applicable Metro Line Project estimate, risk assessment and design, execution and delivery schedule;
- Provision of all necessary technical assurance and acceptance of contractor’s proposals and design as part of the bidding process and as well as during the execution thereafter;
- Provision of all technical assurance, verification, validation and acceptance activities of the “as constructed” works/products, to ensure compliance with the Owners Requirements including, activities during testing and commissioning of all assets, trial running and trial operations prior to handover to the future operator and maintainer;
- Acting as the applicable Metro Line integrator of the designs and works packages during Programme Execution Stage 1 (excluding the Operation Phase).

In general terms (and without derogating from the provisions of the Invitation, including, *inter alia*, the provisions of Section 9.8 (Reservation of Rights) and Section 9.9 (Prerogatives of NTA and the Tender Committee), thereof), it is expected that the development and execution of the Programme will be phased as follows (“**Programme Phases**”):

Programme Execution Stage 1	
Pre-Development Phase	<p>Initial phase to formulate and define the Overall Programme Strategy, including the formulation of the overall execution methodology, framework and governance regime, including the preparation of various deliverables (as further defined herein).</p> <p>The Pre-Development Phase shall commence upon the nomination of the Network Manager.</p> <p>The Pre-Development Phase shall be completed upon the completion of all Activities and approval by NTA of all deliverables which, pursuant to the Agreement between NTA and the Network Manager, are due to be completed during the Pre-Development Phase. It is expected duration of the Pre-Development Phase is eighteen (18) calendar months following the nomination of the Network Manager.</p>

<p>Development Phase</p>	<p>The Development Phase of each Metro Line Project will commence upon the nomination of the Line Manager(s) and will end upon the appointment of the last contractor for the delivery (execution) of the applicable Metro Line Project.</p> <p>It is expected that the Development Phase will be completed by no later than forty-eight (48) calendar months following the nomination of the Line Manager(s). It is also expected that the Development Phase will include the execution of “early works”, “advanced works” and/or “enabling works”.</p>
<p>Delivery Phase</p>	<p>The Delivery Phase of each Metro Line Project is expected to commence upon the award of all <u>the first</u>⁹⁴ “work packages⁹⁵” of each Metro Line Project and end upon completion thereof. The scope and content of the “work packages” are yet to be determined. However, it is expected that the execution and implementation of each Metro Line Project will be divided into at least two (2) sub-stages (Programme Execution Stage 1 and Programme Execution Stage 2) and that the “work packages” will be further divided as follows:</p> <p>Infra #1 Works Package; Infra #2 Works Package; and Transportation Hub Packages.</p> <p>The scope and content of the Packages, including the exact split, the number of contractors engaged and the type of the engagement (conventional procurement, DB, PPP or other) shall be defined and finalized during the Pre-Development Phase.</p>
<p>Operation Phase</p>	<p>The Operation Phase will commence with the commencement of the commercial operation of each Metro Line Project (or the applicable section thereof). Consequently, it is envisaged that the commencement of the Operation Phase of the Network will be implemented gradually, in several stages.</p>
<p>It is expected that Programme Execution Stage 1 (as described above) will include the implementation, in whole or in part, of all three (3) Metro Line Projects and will include approximately between 40%-60% of the Network scope.</p>	
<p>Programme Execution Stage 2</p>	
<p>Development Phase</p>	

⁹⁴ Addendum No. 7

⁹⁵ Addendum No. 7

Delivery Phase and Operation Phase	It is expected that (other than the Pre-Development Phase), the same Phases will be implemented during the Programme Execution Stage 2.
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Annex 2 (Expected Requirements)

Without derogating from the provisions of Section 9.8 (Reservation of Rights) of the Invitation, it is expected that the following shall be included and required pursuant to the Tender Documents:

1. **Scoring the Experience of the Members and Experience Providers beyond the Professional Pre-Qualification Requirement(s)**

It is expected that Each Participant (Bidder) will be evaluated and appropriately scored if each of its Members and/or Experience Providers will demonstrate experience which exceeds the Professional Pre-Qualification Requirements.

As such, in general terms (and without derogating from the provisions of the invitation including, *inter alia*, the provisions of Section 9.8 (Reservation of Rights) and Section 9.9 (Prerogatives of NTA and the Tender Committee), thereof), it is expected that:

- the **Local Manager** will be evaluated and scored, *inter alia*, if it can present Transportation Projects which include underground sections, if the Transportation Project presented is a Rail Project and if the Infrastructure Project includes an underground element;
- the **International Designer** will be evaluated and scored, *inter alia*, with reference to projects presented and taking into account the client of the project (private sector/Public Sector Client), number of stations in the project, the overall length of the project, project operated in GOA4, the number of interfaces of the project with other lines and the number of connecting stations, the number of excavation methods utilized in the project presented, dewatering methods utilized in the project presented and commercial activities; and
- the **Local Design Member or the Local Design Experience Provider** will be evaluated and scored, *inter alia*, if it can present Transportation Projects which include underground sections, if the Transportation Project presented is a Rail Project and if the Infrastructure Project includes an underground element.
- The **experience in Construction Management of Metro Projects** (as demonstrated by the International Designer or the Metro Management Experience Provider) will be evaluated and scored, *inter alia*, with reference to projects presented and taking into account the client of the project (private sector/Public Sector Client), number of stations in the project, the overall length of the project, the number of excavation methods utilized in the project presented and dewatering methods utilized in the project presented.

2. **Requiring the Presentation of Key Personnel and the Experience thereof**

It is expected that each Participant will be required to demonstrate the experience of the key personnel on its behalf. It is expected that the following key personnel will be required to be presented:

- **A Leading Project Manager (Local)**, demonstrating, *inter alia*, at least fifteen (15) years' experience in either: (i) planning; or (ii) Design; or (iii) construction; or (iv) design management; or (v) construction management; in each case, of

Transportation Projects; and demonstrating that he or she managed (for a consecutive period of at least two (2) years), the Delivery Phase (RP)⁹⁶ of at least one (1) Transportation Project the Contract Value of which is not less than four hundred million New Israeli Shekels (NIS 400,000,000); which was Completed after January 1, 2005.

- **An International Project Manager**, demonstrating, *inter alia*, at least fifteen (15) years of experience in design management and/or construction management of mass transit projects; and demonstrating that he or she managed (for a consecutive period of at least two (2) years):
 - (both) the Development Phase (RP)⁹⁷ and Delivery Phase (RP)⁹⁸ of at least one (1) Metro Project which was Completed.
 - or
 - The Development Phase (RP)⁹⁹ of at least one (1) Metro Project which was Design Completed¹⁰⁰, and the Delivery Phase (RP)¹⁰¹ of at least one (1) additional Metro Project which was Completed.
- **A Local Design Manager**, demonstrating, *inter alia*, at least fifteen (15) years' experience in the Design of mass transit projects; and demonstrating that he or she managed (for a consecutive period of at least two (2) years) at least:
 - One (1) Transportation Project with a Contract Values of not less than four hundred million New Israeli Shekels (NIS 400,000,000) the Delivery Phase (RP)¹⁰² of which commenced prior to the Pre-Qualification Submission Date;
 - or
 - Two (2) Transportation Projects, each with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) the Delivery Phase (RP)¹⁰³ of each commenced prior to the Pre-Qualification Submission Date;and -
 - One (1) Infrastructure Project with a Contract Values of not less than four hundred million New Israeli Shekels (NIS 400,000,000) the Delivery Phase (RP)¹⁰⁴ of which commenced prior to the Pre-Qualification Submission Date;or

⁹⁶ Addendum No. 7

⁹⁷ Addendum No. 7

⁹⁸ Addendum No. 7

⁹⁹ Addendum No. 7

¹⁰⁰ Addendum No. 7

¹⁰¹ Addendum No. 7

¹⁰² Addendum No. 7

¹⁰³ Addendum No. 7

¹⁰⁴ Addendum No. 7

- Two (2) Infrastructure Projects, each with a Contract Value of not less than two hundred and fifty million New Israeli Shekels (NIS 250,000,000) the Delivery Phase (RP)¹⁰⁵ of each commenced prior to the Pre-Qualification Submission Date.
- **An International Design Manager**, demonstrating, *inter alia*, least twenty (20) years' experience in the Design of mass transit projects; and demonstrating that he or she acted as a Lead Designer (for a consecutive period of at least two (2) years) of at least: one (1) Metro Project and one (1) Railway Project which includes a Depot, and in each of the projects, the Delivery Phase (RP)¹⁰⁶ has commenced.
- **An International**¹⁰⁷ **Head of Systems Design**, demonstrating, *inter alia*, at least fifteen (15) years' experience as Systems' design manager in mass transit projects; and demonstrating that he or she acted (for a consecutive period of at least two (2) years) as a systems design manager in at least one (1) Metro Project the Delivery Phase (RP)¹⁰⁸ of which commenced.

It is expected that the Head of Systems Design will be required to demonstrate that he or she acted as a systems design manager with respect to at least three (3) of the following components: (a) Tracks; (b) signaling and train control; (c) communications; (d) power systems; (e) operation control center; (f) rolling stock; and/or (g) Depot maintenance equipment.

- **An International**¹⁰⁹ **Stations' Architect**, demonstrating, *inter alia*, at least fifteen (15) years' experience; and demonstrating that the Stations' Architect was responsible for the architectural Design (for a consecutive period of at least two (2) years) in at least one (1) LRT Project or Metro Project the Delivery Phase (RP)¹¹⁰ of which commenced.

It is further expected that the key personnel presented will be evaluated and appropriately scored if each the key personnel will demonstrate experience which exceeds the requirements dictated by NTA.

3. Formation of an SPV and Holdings in the Bidder

- 3.1 In order to participate in the Tender Process and submit a bid thereunder, it is expected that each Eligible Participant will be required to form either a partnership or a joint venture under the Law, the sole purpose of which shall be the participation in the Tender Process, the submission of a bid therein and assuming the role of a Line Manager of the applicable Metro Line (if eventually selected to do so) (“SPV”).
- 3.2 The interests in the SPV will be wholly held by the Members who participated, through the Participant, in the Pre-Qualification Submissions and were approved

¹⁰⁵ Addendum No. 7

¹⁰⁶ Addendum No. 7

¹⁰⁷ Addendum No. 7

¹⁰⁸ Addendum No. 7

¹⁰⁹ Addendum No. 7

¹¹⁰ Addendum No. 7

by the Tender Committee pursuant to the Pre-Qualification Process. The holdings of interests by each such Member in the SPV, compliant with the provisions of Section 3.3 below, shall be as provided in Pre-Qualification Form “2”, all as shall be further detailed in the Tender Documents.

- 3.3 It is expected that pursuant to the Tender Documents (i) each Member shall be obliged to hold at least twenty percent (20%) of all Means of Control of the bidder; and (ii) the Local Manager shall be obliged to hold the largest percentage share of all Means of Control of the bidder; and (iii) the Local Manager shall liaise with and act as the “point of contact” for purposes of administering the Agreement with NTA.

4. Update Statement

- 4.1 **General.** 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 all Participating Entities, which will have occurred since the Pre-Qualification Submission Date. It is expected that even in the absence of any changes, a statement to that effect will be required (“**Update Statement**”). Without derogating from the forgoing, the Tender Committee may request all or any Eligible Participants to submit an Update Statement at any time.

The Tender Committee will review the information provided in the Update Statement and, without derogating from its rights and prerogatives pursuant to this Invitation, the Tender Documents or Law, shall be entitled to disqualify any Eligible Participant in the event that such Eligible Participant no longer meets the requirements of this Invitation (including the Pre-Qualification Requirements) or impose any condition or instruction with respect to its participation in the Tender Process, including in the event that concerns regarding the capability of the Eligible Participant to assume the role of the Line Manager arise following the review of the Updated Statements, at such time as shall be suitable by the Tender Committee.

- 4.2 **Updated Financial Statements.** Pursuant to the Tender Documents it is expected that each Eligible Participant shall be required to submit the most recent available audited Financial Statements of the Members and the Experience Providers, as applicable.
- 4.3 The Tender Committee will review the information provided to it and, without derogating from its rights and prerogatives pursuant to this Invitation, the Tender Documents or Law, shall be entitled to disqualify any Eligible Participant in the event that such Eligible Participant no longer meets the requirements of this Invitation (including the Pre-Qualification Requirements) or impose any condition or instruction with respect to its participation in the Tender Process, including in the event that concerns regarding the capability of the Eligible Participant to assume the role of a Line Manager of the applicable Metro Line arise following the review of the updated Financial Statements of any of the Members or Experience Providers.

Annex 3 (Advisors to the Tender Committee)

Pursuant to the provisions of Section **Error! Reference source not found.**2.14 (Advisors to the Tender Committee) of the Invitation, and without derogating from the mechanisms detailed therein, the following is the list of the Advisors:

No.	Name of Advisor
1.	BARAK KIRSCHNER CONSULTING LTD. (BLK)
2.	TADMOR LEVY & CO.
3.	SAGI IGAL – LAW OFFICE
4.	CROSSRAIL INTERNATIONAL LIMITED

Annex 4 (Requests for Clarification)