Volume 1 Tender Requirements

Part II – Threshold Requirements

Tender for the Design, Development, Manufacture, Procurement, Supply, Installation, Testing, Commissioning, Warranty and Maintenance of the Signaling and Train Control of the Red Line Project
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APPENDIX 1
1. GENERAL

The Bidders are required to meet and demonstrate full compliance with all Threshold Requirements set forth herein.

Unless otherwise expressly provided hereunder, all capitalized terms used in this Part II (Threshold Requirements), shall have the meaning ascribed to them in Volume 1, Part I (Invitation to Bid and BDS).

2. PROFESSIONAL THRESHOLD REQUIREMENTS

The Bidder shall comply with all of the following Professional Threshold Requirements:

2.1. Signaling System Experience

2.1.1. The Bidder has Supplied a Signaling System and was responsible for its design and installation in at least two (2) Rail Transit Projects, provided that at least one (1) Rail Transit Project:

2.1.1.1. has been in commercial operational service for at least two (2) years prior to the Submission Date;

and

2.1.1.2. is Compliant with EN Standards.

2.1.2. The Bidder has Supplied a Line of Sight Driving operational mode as part of a signaling system (not necessarily CBTC or ATO), and was responsible for its design and installation, in at least one (1) Rail Transit Project which has been in commercial operational service for at least two (2) years prior to the Submission Date.
2.2. Professional Threshold Requirements; General Provisions and Definitions

2.2.1. Related Entity

For the purpose of compliance with the Professional Threshold Requirements the Bidder may seek to rely on the professional experience of any of the following:

i a corporate entity which exercises Control over the Bidder.

ii A corporate entity which is Controlled by the same corporate entity Controlling the Bidder.

iii A corporate entity Controlled by the Bidder.

(each of the entities identified under Sub-Clauses 2.2.1.(i) to 2.2.1.iii) shall be referred to hereinafter as: "Related Entity"), provided that such Related Entity duly signs Bidding Form D (Related Entity Undertaking).

A Bidder may rely on the professional experience of a separate Related Entity for the purpose of compliance with each or any of the Professional Threshold Requirements, provided that each Related Entity complies with all requirements under the relevant Professional Threshold Requirement.

2.2.2. For the purpose of this Clause 2 (Professional Threshold Requirements), the experience demonstrated by the Related Entity shall be attributed to the Bidder. Related Entity demonstrating compliance with any of the Professional Threshold Requirements, shall be the entity responsible (jointly and severally with the Bidder) for the execution of the part of the Works (as applicable and respectively to the category of experience demonstrated) on behalf of the Bidder in the event of a Successful Bid.
2.2.3. Demonstration of Compliance by an Entity as part of a Joint Venture

For the purpose of compliance with the Professional Threshold Requirements, professional experience gained by the demonstrating entity as part of a joint venture, shall be attributed to the demonstrating entity, provided that as part of such joint venture, the demonstrating entity was the entity which actually performed all the activities required as part of the professional experience.

2.3. Definition of Terms

For the purpose of this Clause 2 (Professional Threshold Requirements):

"Completed" shall mean the delivery of the referenced project to its owner, or the commencement of its commercial operational service in accordance with its intended use.

"Compliant with EN Standards" shall mean, both:

a) The Signaling System is certified to comply with EN Standards by an Independent Safety Assesor (ISA); and

b) The design, software implementation and supply of the Signaling System within the Rail Transit Project is certified to comply with EN Standards by the entity responsible for such certification within the Rail Transit Project.

"EN Standards" shall mean the certification to CENELEC and/or IEC equivalent standards (including EN 50126, EN 50128, EN 50129).

"Independent Safety Assesor" shall mean an entity accredited as an Inspection Body according to ISO/IEC 17020 Type A (third-party) and/or as Certification Body according to ISO/IEC 17065, to certify the compliance with EN Standards.

"Line of Sight Driving" shall mean operation modes of interfaces to urban traffic light controllers of traffic light systems in Rail Transit Projects.

"Means of Control" and “Control” shall have the meaning ascribed to such terms in the Securities Law 5728-1968.
"Rail Transit Project" shall mean a Metro or LRT (including Monorail) line which includes at least seven (7) cumulative kilometres of Track, which line was Completed within the last ten (10) years prior to the Submission Date, and which operation includes at least 30 Vehicles.

"Signaling System" shall mean a Communication Based Train Control (CBTC) signaling system that includes Automatic Train Operation (ATO).

"Supply" or "Supplied" shall mean supplied, integrated, tested and commissioned, collectively.

"Track" shall mean a bi-directional track of a LRT or metro.

"Vehicle" shall mean LRT or metro vehicles with a minimum length of twenty five (25) meters for a single vehicle.

3. FINANCIAL THRESHOLD REQUIREMENTS

3.1. Financial Threshold Requirements - General Provisions

Each Bidder is required to meet the financial threshold requirements as set forth in Sub-Clauses 3.2 (Average Annual Turnover), 3.3 (Average Annual Cash Flow from Operating Activities) and 3.4 (Minimum Equity Requirement) (hereinafter: “the Financial Threshold Requirements”).

3.2. Average Annual Turnover

3.2.1 Each Bidder is required to demonstrate an average annual turnover of at least three hundred million (300,000,000) ILS (or the equivalent thereof) calculated based on the values stated in the three (3) latest Financial Statements, which shall be not earlier than 2013.

The average annual turnover shall be calculated in the following manner:

\[
\text{Average Turnover} = \left(\frac{\text{TO}_t + \text{TO}_{t-1} + \text{TO}_{t-2}}{3}\right)
\]

Where:

\(\text{TO} –\) Turnover for the relevant fiscal year

\(t –\) Last Financial Statement, which shall be not earlier than 2015
Note in relation to the minimum threshold of average annual turnover: The Tender Committee, decided, in accordance with the provisions of Section 2A(c) to set the turnover requirement at a higher level than stipulated in Section 2 of the annex to the Mandatory Tender Law, 1992, for the following reasons:

1. The signaling system is one of the most critical components within the Project with a direct effect on both safety of operations and the successful performance of the Project. The Tender Committee wishes to ensure it engages a financially stable contractor with extensive activity, above that which would be demonstrated by strict application of the level stipulated in the annex to the Mandatory Tender Law, in addition to the minimum threshold experience demonstrated through the Professional Threshold Requirements.

2. It is highly important for NTA to engage with a financially stable contractor with proven financial strength that is not heavily dependant on the Project’s expected turnover and financial results and which financial strength and stability shall also reflect the long term relationship expected in this Project, including a long maintenance period during which the contractor shall be expected to continue and provide services to NTA.

3.3. **Average Annual Cash Flow from Operating Activities**

Each Bidder is required to demonstrate **either one** (1) of the following:

1) The Average Annual Cash Flow from operating activities during the three (3) latest fiscal years, as stated in the Financial Statements, which shall be not earlier than 2013, is positive or equal to zero.

For the purpose of this Threshold Requirement, the demonstrated Average Annual Cash Flow shall be calculated in the following manner:

\[
\text{Average Annual Cash Flow} = \frac{\text{CF}_t + \text{CF}_{(t-1)} + \text{CF}_{(t-2)}}{3}
\]

Where:

\[
\text{CF}_t = \text{the Operating Cash Flow of year } t
\]

**OR:**

2) The ratio between the absolute value of:

(a) the Average Annual Cash Flow from operating activities; or
(b) the demonstrated Annual Cash Flow from operating activities of the last fiscal year,

and
(b) the demonstrated equity on the last day of the fiscal year of the latest Financial Statement, is lower than twenty five percent (25%), so that:

$$\text{ABS} \left[ \frac{\text{CF}_t + \text{CF}_{(t-1)} + \text{CF}_{(t-2)}}{3} / E \right] < 25\%$$

Or that -

$$\text{ABS} \left[ \frac{\text{CF}_t}{E} \right] < 25\%$$

Where:

$$\text{ABS} [X] = \text{the absolute value of (a) or (b)}.$$  

$$\text{CF}_t = \text{the Operating Cash Flow of year } t$$  

$$E = \text{the equity on the last day of the fiscal year, based on the Financial Statements for the last fiscal year, which shall be not earlier than 2015.}$$
3.4. **Minimum Equity Requirement**

Each Bidder is required to demonstrate equity of at least one hundred million (100,000,000) ILS (or the equivalent thereof), on the last day of the year of the latest Financial Statements, which shall be not earlier than 2015.

3.5. **No Going Concern**

The Bidder is not under any voluntary or involuntary bankruptcy process (liquidation or reorganization), or receivership or commencement of a similar insolvency proceeding, and its last Financial Statement does not include any Going Concern notice.

In the event the Bidder relied upon a Related Entity and/or Parent Company for demonstrating compliance with any of the Threshold Requirements (as applicable) then in addition to the Bidder, the Related Entity and/or the Parent Company shall also comply with the requirements of this Clause 3.5 (No Going Concern).

The conditions of this Clause 3.5 shall remain true and valid throughout the term of the Tender, until the tender award pursuant to the ITB.

3.6. **Currencies Conversion**

All data (such as project value and financial data) included in the Bidding Forms shall be submitted in the original currency (as reported) relevant to the legal entity submitting such Bidding Form.

The data shall be converted by NTA to ILS, as applicable, in accordance with the provisions of Appendix 1 provided hereunder.

3.7. **Financial Threshold Requirements – Demonstration by Reliance on Parent Companies**

3.7.1. For the purpose of compliance with the Financial Threshold Requirements, the Bidder, may seek to rely on its Parent Company, provided that the Parent Company duly signs Bidding Form B1.

3.7.2. Reliance upon a Parent Company by the Bidder, as set forth in Sub-Clause above, shall require that the Bidder relies upon the aforesaid
3.8. **Definition of Terms**

"**Financial Statement**" shall mean an annual 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 under Clause 2.1, Part B (*Demonstrating Compliance With The Threshold Requirements*) of these Thresholds Requirements.

“**Parent Company**” shall mean a corporate entity which exercises Control over a Bidder seeking to rely on the financial results thereof for the purpose of demonstrating the Financial Threshold Requirements.

4. **DEMONSTRATION OF COMPLIANCE BY MERGED COMPANIES**

For the purpose of compliance with Threshold Requirements, professional experience or financial data of an Absorbed Company shall be attributed to the applicable Surviving Company, both as defined below. In case of such reliance on an Absorbed Company, the Bidder shall attach, as **Bidding Form E (Confirmation of Merging Company)** either a confirmation by a lawyer registered in the Israeli Bar Association or formal certificate of the applicable statutory authority under the applicable laws of its jurisdiction, testifying to the results of the merger between the Absorbed Company and the Surviving Company, and confirming that the Absorbed Company has been fully and completely merged into the Surviving Company, and has ceased to exist after the merger, and the date of such merger.
4.1. For the purpose of compliance with the **Financial** Threshold Requirements, a Bidder who wishes to rely on the financial information and status of an Absorbed Company is required to submit a specific request to the Tender Committee, in the framework of the requests for clarifications in accordance with the ITB, specifying the details of the relevant merged companies and the relevant financial information and status of the Absorbed Company. The Tender Committee will consider each request on a case by case basis and, may issue an Addendum, or specific instructions to such Bidder, as a result thereof or reject the request to allow any deviation from the instructions and provisions of the Invitation, all at its sole discretion.

4.2. For the purpose of this Clause 4 and the Threshold Requirements:

“The **Absorbed Company**” shall mean a company which has merged prior to the Submission Date with the Bidder or Related Entity, as applicable, demonstrating the Threshold Requirement (“the **Surviving Company**”), in such a manner as to bring about the transfer of all its assets and liabilities to the Surviving Company and the extinction of the absorbed company.
5. GENERAL THRESHOLD REQUIREMENTS

5.1. Approvals and affidavits pursuant to the Public Entities Transaction Law

[Applies only to legal entities incorporated in Israel and registered foreign companies as defined under the Corporations Law 5759-1999]

The Bidder meets all the applicable requirements under the Public Entities Transaction Law, 5736 - 1976 ("חוק עסקאות גופים ציבוריים, תשל"ו-1976") (hereinafter: the "Public Entities Transactions Law"), as follows:

4.1.1 Has all relevant approvals pursuant to the Public Entities Transactions Law, testifying to proper bookkeeping practices, in accordance with the Income Tax Ordinance and the Value Added Tax Law, 5736 - 1975.

4.1.2 Meets the requirements under Article 2B and 2B1 to the Public Entities Transactions Law.

5.2. Payment of the Participation Fee

The Bidder has paid the Participation Fee in accordance with the requirement set forth in Clause 2.5 of Volume 1 (Participation Fee) Part I (ITB and BDS).

5.3. Tender Security

The Bidder has provided a Tender Security in accordance with the provisions of Clause 3.11 of Volume 1 (Tender Requirements) Part I (ITB and BDS) and the Tender Security Form provided in Part III (Bidding Forms and Price Proposal).
PART B - DEMONSTRATING COMPLIANCE WITH THE THRESHOLD REQUIREMENTS

Bidders are required to submit all documents and certificates necessary to prove their full compliance with all of the Threshold Requirements specified in Part A above, which shall include, inter alia, the following:

1. PROFESSIONAL THRESHOLD REQUIREMENTS

1.1 For the purpose of demonstrating compliance with the Professional Threshold Requirements set forth in Part A, Clause 2.1.1, the Bidder shall submit, with respect to each demonstrated Signaling System, the form attached as Bidding Form A1 in Volume 1, Part III. Additionally, the Bidder shall attach a document, duly completed and signed by an authorized representative of the respective owner, the supervisor or the engineer (or other entity responsible for the contract administration) in such demonstrated Rail Transit Project, testifying the execution by the demonstrating entity of such Signaling System and its delivery to the owner and/or the date of commencement of commercial operational service (if applicable).

In addition, the Bidder shall attach the documents testifying to the Compliance to the EN Standards:

a) an ISA certificate in respect of the Signaling System; and

b) a certificate in respect of the design, software implementation and supply of the Signaling System within the Rail Transit Project by the entity responsible for such certification within the Rail Transit Project.

1.2 For the purpose of demonstrating compliance with the Professional Threshold Requirements set forth in Part A, Clause 2.1.2, the Bidder shall submit, with respect to each Line of Sight Driving operations mode relied upon, the form attached as Bidding Form A2 in Volume 1, Part III. Additionally, the Bidder shall attach a document, duly completed and signed by an authorized representative of the respective owner, the supervisor or the engineer (or other
entity responsible for the contract administration) in such demonstrated Rail Transit Project, testifying the execution by the demonstrating entity of such Line of Sight Driving operation mode in a signalling system and its delivery to the owner and/or the date of commencement of commercial operational service (if applicable).

2. COMPLIANCE WITH THE FINANCIAL THRESHOLD REQUIREMENTS

2.1 In order to demonstrate compliance with the Financial Threshold Requirements provided under Part A, Clause 3 (Financial Threshold Requirements), above, the Bidder shall submit all the required Financial Statements of the Bidder or of the Parent Company (as applicable) to be submitted as Attachment 1 to Bidding Form B1 of Part III, duly prepared and presented in accordance with one of the following:

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

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

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

iv New People Republic of China GAAP (including, with respect to the cash flow statements, CAS (Chinese Accounting Standards) No.31);

and any of the above shall be duly executed by the Bidder and duly audited and signed by their external auditors.

a A Bidder whose Financial Statements are presented based on different accounting principles than those listed in sub-Sections (i)-(iv) above, is 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 Bids Submission Date; the Tender Committee shall consider each request on a case by case basis and may issue an Addendum as a result thereof.

b Without derogating from sub-Section (a) above, all the Financial Statements must include a balance sheet, a profit and loss account, a cash flow statement, and the auditor’s report and notes. A legal entity whose Financial Statements do not include
cash flow statements, should provide such statements in accordance with one of the GAAP versions set out in sub-Section (i)-(iii) above (as applicable), duly executed by its external auditors.

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

d In the event of reliance of the Bidder on a Related Entity, Parent Company, the Financial Statements of such Related Entity and/or Parent Company shall be included (in addition to those of the Bidder), and shall be subject to the provisions set forth above.

e Without derogating from the foregoing, a legal entity whose most recent available Financial Statements contain comparative figures for the two previous fiscal years, is not required to submit their Financial Statements for the two previous fiscal years for the purpose of demonstrating compliance with the Threshold Requirements set forth in Part A, Clause 3 (Financial Threshold Requirements) above, and may present such comparative figures in the most recent available Financial Statements.

f In order to demonstrate compliance with the Financial Threshold Requirements:

i Bidding Form B1 shall be duly completed and signed by the CEO or CFO of the Bidder and Parent Company (as applicable), in accordance with one of the GAAP principles set out in sub-Section (a) above (as applicable); and

ii Bidding Form B2 shall be duly completed and signed by the CEO or CFO of the Bidder, the Related Entity and/or the Parent Company (as applicable), confirming no going concern notice; and

iii In addition, Bidding Form B3 shall be duly completed by the external auditor of the Bidder and Parent Company (as applicable).

g Without derogating from the rights of the Tender Committee under the Invitation and under the law, in the event of a contradiction between the Financial Statements and any other document submitted within the Bid, the Financial Statements will prevail.
3. **BIDDER'S GENERAL INFORMATION**

For the purpose of demonstrating compliance with Part A, Clause 3.7 (*General Threshold Requirements*), above, the Bidder shall submit the following documents:

3.1 Approvals and Affidavits Pursuant to the Public Entities Transaction Law as follows:

3.1.1 The approvals set forth under Part A Clause 4.1.1, valid as of the Bid Submission Date (under cover of **Bidding Form B4**).

3.1.2 An affidavit testifying the Bidder's compliance with the requirements of Article 2B to the Public Entities Transaction Law, in the form attached hereto as **Bidding Form B5**.

3.2 Tender Security in accordance with the instructions of the ITB.

3.3 Authenticated copies of the Bidder's certificate of incorporation and minutes of incorporation.

3.4 A receipt or other approval of NTA, testifying the payment of the Participation Fee.
APPENDIX 1

Currencies Conversion

* Any capitalized terms used and not defined herein shall have the meaning given such terms in Volume I, Part II Threshold Requirements.

The data included in Volume 1, Part III Bidding Forms and Price Proposal Bidding Form B1 (Financial Robustness) will be converted by NTA to ILS, based on the following:

1. **Turnover** – the official relevant annual (calendar year) average exchange rate with respect to the calendar year of the Financial Statements shall apply.

2. **Cash Flow** – the official relevant annual (calendar year) average exchange rate with respect to the calendar year of the Financial Statements shall apply.

3. **Equity** – the official exchange rate on the 31st of December of the year of the latest Financial Statement.

4. The relevant average exchange rate or exchange rate shall be in accordance with the exchange rates published by the Central Bank of Israel.

5. Please find hereunder the average exchange rates based on the exchange rates published by the Bank of Israel with respect to USD, GBP and EURO. Please note that the Bank of Israel publish exchange rates with respect to additional currencies.

<table>
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<th>2014 (ILS)</th>
<th>2015 (ILS)</th>
<th>2016 (ILS)</th>
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<td>3.8869</td>
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<tr>
<td>GBP</td>
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<td>4.3144</td>
<td>4.2495</td>
</tr>
</tbody>
</table>

6. Please find hereunder the exchange rates at the last day of the fiscal year which will be used to convert equity into ILS, as are published by the Bank of Israel with respect to USD, GBP and EURO
7. **Conversion of Other Currencies.** Legal Entities whose financial data is presented in currencies other than NIS/USD/GBP/EURO (the exchange rates for which are specified above), are required to submit a specific request to the Tender Committee for other currency conversions to ILS, at least thirty (30) days prior to the Bids 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.

8. **Conversion rates for fiscal years which are not January to December.** Legal Entities whose financial data in the Financial Statements is provided for fiscal years which are not parallel to the above specified calendar years, are required to submit a specific request to the Tender Committee for applicable conversions rates to ILS, at least thirty (30) days prior to the Bids 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.

9. Information regarding exchange rates published by the Bank of Israel is available at the following websites:

   a. Bank of Israel yearly exchange rate:
      
      [http://www.boi.org.il/he/Markets/ForeignCurrencyMarket/Pages/average.aspx](http://www.boi.org.il/he/Markets/ForeignCurrencyMarket/Pages/average.aspx)

   b. Bank of Israel daily exchange rate:
      
      [http://www.boi.org.il/he/Markets/ExchangeRates/Pages/Default.aspx](http://www.boi.org.il/he/Markets/ExchangeRates/Pages/Default.aspx)