



# **Tender No. 18/19**

**For Delivery, Implementation & Support of  
Traffic Signals Planning Software**

**TENDER CONDITIONS AND INSTRUCTIONS**

**Volume A**

**February 2019**

**Tender No. 18/19**

**TENDER CONDITIONS AND INSTRUCTIONS**

1. **INTRODUCTION**

1.1. **General**

1.1.1. Ayalon Highways Co. Ltd (the "**Company**"), hereby requests proposals from any eligible Participant that complies with the requirements specified in this Tender for Delivery, Implementation & Support of Traffic Signals Planning Software, all as described in the Tender Documents.

1.1.2. The Company is a governmental company owned by the State of Israel, which engages, inter alia, in the management, planning and execution of transportation projects, and acting as the local traffic authority in charge of designing, constructing, operating and maintaining of the Ayalon Highway (Road No. 20), which serves as a metropolitan freeway for the Tel Aviv metropolitan area.

1.1.3. The Company was appointed by the Israeli Ministry of Transport and Road Safety (the "**Ministry of Transport**" or "**MOT**") as the agency responsible for "Urban Express" project ("מהיר לעיר") (the "**Project**"), which aims to improve and develop public transportation infrastructure for buses in the Tel Aviv metropolitan area.

1.2. **General introduction of the Project**

The purpose of the Project is to create a comprehensive metropolitan transport network, which is designed to maintain the continuity of public transportation priority between Tel Aviv metropolitan areas, while improving the level of service for passengers in terms of speed, frequency, reliability, convenience and accessibility.

The Project is performed by the Company in 17 local authorities throughout Tel Aviv metropolitan area, and implements a public transportation priority as a holistic approach that combines and integrates infrastructure, operation and planning components.

Accordingly, the public transportation priority in the Project will include, inter alia, junctions with transit priority to buses.

For the avoidance of doubt, it is hereby clarified that the Company shall be entitled to use the Traffic Signals Planning Software also for other projects under its responsibility.

1.3. The Company intends to procure a computerized traffic signals planning software system (the "**Traffic Signals Planning Software System**" or "**TSP**"), in accordance with the Tender Documents.

1.4. The TSP software used in Israel and required by the Company must meet the requirements set by the Ministry of Transport, which are detailed in the documents attached to the link below: [https://www.gov.il/he/Departments/Policies/guidelines\\_using\\_software\\_plan\\_traffic\\_lights](https://www.gov.il/he/Departments/Policies/guidelines_using_software_plan_traffic_lights), as will be updated from time to time, and constitute Volume G to Tender Documents (the "**MOT requirements**").

- 1.5. The participant whose proposal is selected as the Tender's Winning Proposal (the "**Winning Participant**") will be responsible for attaining the MOT's approval for the software. The Company hereby clarifies that the said official signed approval of the TSP software by MOT is a material requirement and pre-condition for the Company's acquisition and payment for any TSP software license, and the participants shall have no demand or claim in such situations. In this matter, please see Section 11.1.1 below.
- 1.6. The Agreement
  - 1.6.1. The Agreement, attached hereto as **Volume B** (the "**Agreement**"), shall govern the contractual relations between the Company and the Winning Participant.
  - 1.6.2. The Agreement, to be signed with the Winning Participant, is subject to various approvals, including, inter alia, compliance with the MOT requirements, the software approval by the MOT, any required budgetary approvals by the Company and the MOT (the receipt of which is not guaranteed), and successful completion of various internal procedures and requirements of the Company.
  - 1.6.3. It is hereby emphasized, that without the MOT approval of the TSP software and the MOT budget approval for any purchase of software license, the execution of the Agreement between the Company and the Winning Participant will not come into force, the Company will not acquire or pay for any software licenses supplied by the Winning Participant, and the Winning Participant will have no demand and/or claim in this regard.
  - 1.6.4. Each Participant shall consent to the terms and conditions of the Agreement by signing the Agreement, and undertakes to execute the Agreement in the event its Proposal under this Tender is elected as the Winning Proposal. The signed Agreement shall be enclosed with the Proposal.
  - 1.6.5. In order to avoid any doubts, it is hereby clarified that only the final approval of the MOT to the software shall give validity and force to the Agreement. Any other announcement or notification made by the Company or the MOT or on their behalf prior to the execution of the final Agreement, shall not be obligating the Company.
- 1.7. Engagement with number of Winning Participants
  - 1.7.1. The Company will be entitled to engage and sign the Agreement with up to 2 Winning Participants, which their Proposals achieved the highest Final Score according to the Tender provisions, and such Participants will be declared as Winning Participants. For the avoidance of doubt, it is hereby clarified that the Company shall have sole and absolute discretion to determine the number of Winning Participants as stated in this section.
  - 1.7.2. It is also clarified that if the Company exercises its right to engage with a number of such Winning Participants, it shall have sole and absolute discretion with respect to determining the scope of the engagement with each of the Winning Participants, which will be according to the needs of the Company only, and the Winning Participants shall have no vested right to any minimum scope of engagement.
  - 1.7.3. Each of the Winning Participants will not, and by submitting this proposal, they waive, irrevocably, and undertake not to raise any claim and / or demand against the Company in connection with engagement with a number of Winning Participants and in connection with the scope of engagement with each of the Winning Participants.

1.8. Participants that wish to participate in this Tender process, are kindly requested to submit a complete and clear Proposal, in accordance with the provisions, terms and conditions of this Tender and all other necessary Tender Documents, including ,inter alia, (1) a complete Technical Proposal, in accordance with this Tender and Volume C, and (2) a complete Commercial Proposal, in accordance with this Tender and Volume D. Each Participant shall complete all relevant sections of the Tender and provide all submissions requested.

1.9. Schedule

Without derogating from the rights of the Tender Committee under the Tender Documents, to postpone any of the dates listed below, the submission of the Proposal is to be in accordance with the following schedule:

1.9.1. The deadline for submission of requests for clarifications and interpretation on April 11<sup>th</sup>, 2019, at 12:00 (local Israeli Time).

1.9.2. Last date for submission of the Proposal on May 1<sup>st</sup> 2019, no later than 12:00 (local Israeli time) ("**Final Proposal Submittal Date**").

The Company may, at any time and in its sole discretion, change the schedule for the Tender process, with a notice given to the Participants.

1.10. Definitions

In this Volume A of the Tender Documents (defined below) the following words and expressions shall have the meaning hereby assigned to them, as follows:

**Definitions:**

<b>"Agreement"</b>	The agreement attached as Volume B of the Tender Documents.
<b>"Authorized State"</b>	A state which is a member of the OECD and has full diplomatic relations with the State of Israel.
<b>"Proposal"</b>	The proposal to be submitted by each Participant in accordance with the terms of the Tender Documents.
<b>"Participant"</b>	An entity that submitted a Proposal in accordance with the Tender Documents.
<b>"Control"</b>	(i) the holding of more than fifty percent (50%) in the controlled entity's share capital; or (ii) the possession of more than fifty percent (50%) in the controlled entity's voting power; or (iii) the power to appoint more than fifty percent (50%) of the directors in the controlled entity; or (iv) the ability to direct the operation of the controlled entity.
<b>"Final Proposal Submittal Date"</b>	As defined in Clause 1.9.2.

**Definitions:**

"MOT"	Israel Ministry of Transport and Road Safety of the State of Israel.
"Commercial Proposal"	Commercial Proposal according to VOLUME D.
"Technical Proposal"	Technical Proposal according to VOLUME C.
"Tender"	This Tender issued by the Company which invites local and international entities to submit proposals for Delivery, Implementation and Support of Traffic Signals Planning Software.
"Tender Committee"	The Tender Committee of the Company.
"Tender Documents"	The documents detailed in Clause 2 hereof and any clarification and/or addendum thereto made by the Tender Committee in writing.
"Winning Participant"/ "Supplier"	A Participant to be selected by the Tender Committee of the Company to deliver and implement the traffic signals planning software proposed by it, and provide support services in connection with such system, in accordance with the provisions of the Tender Documents.
"Winning Proposal"	The Proposal of the Winning Participant.

2. **THE TENDER DOCUMENTS**

2.1. The Tender Documents shall comprise of the following:

2.1.1. **VOLUME A** (this volume) – the Tender conditions and instructions, with the following appendixes:

2.1.1.1. Appendix 1 - Information about the Participant;

2.1.1.2. Appendix 2 - Proposal Form;

2.1.1.3. Appendix 3 - Participant's Representation;

2.1.1.4. Appendix 4 - Attorney's approval;

2.1.1.5. Appendix 5 - Affidavit according to the Public Entities Transactions Law, 1976 (in Hebrew);

2.1.1.6. Appendix 6 - Participant's statement;

2.1.1.7. Appendix 7 - Affidavit regarding the financial status of the Participant;

- 2.1.1.8. Appendix 8 - Affidavit to demonstrate compliance with the requirements of Clause 4.2;
- 2.1.2. **VOLUME B** – The Agreement with all its Appendices.
- 2.1.3. **VOLUME C** – Technical Proposal.
- 2.1.4. **VOLUME D** – Commercial Proposal (to be submitted in a separate sealed envelope).
- 2.1.5. **VOLUME E** – Functional & Technical Requirements.
- 2.1.6. **VOLUME F** – Scope of Work.
- 2.1.7. **VOLUME G** – The Ministry of Transport's Requirements for Traffic Light Planning Software and Unified Format for Defining Timing Plan for Signaled Junctions.
- 2.2. The Tender Documents are and remain the sole property of the Company and shall not be copied, reproduced, saved or used in any manner or for any purpose other than preparing and submitting the Proposal.
- 2.3. The Tender Documents may be obtained at the Company's offices, situated on 2<sup>nd</sup> Nim Blvd., Rishon LeZion, Israel [7<sup>th</sup> floor], on Sunday to Thursday, between 9:00 to 14:00. The Tender Documents can be viewed at the Company's website at: [www.ayalohw.co.il](http://www.ayalohw.co.il).

### 3. **ELIGIBILITY TO SUBMIT THE PROPOSAL**

- 3.1. A Participant may be either:
  - 3.1.1. An entity (company or registered partnership) duly organized and validly existing under the laws of the State of Israel, in compliance with all the pre-qualification requirements set forth in Clause 4 below.
  - 3.1.2. An entity (company or registered partnership) duly organized and validly existing under the laws of an Authorized State, in compliance with all the pre-qualification requirements set forth in Clause 4 below.

In the event that such Participant will be declared as the Winning Participant, the engagement of the Company with such Participant will be subject to registration of the Participant as a Foreign Company or as a Foreign Partnership (as applicable) as these terms are defined in the Companies Law, 5759-1999;

- 3.2. Each Participant shall provide, as part of its Proposal, copies of its charter documents (which shall include at least the Participant's incorporation certificate and articles of association) and any other documents evidencing its legal status, place of registration and principal place of business, in each case certified as true and accurate copies thereof by the Participant's legal counsel.
- 3.3. A Participant cannot submit or otherwise participate, directly or indirectly, in more than one Proposal. For the purpose of this Clause, the terms "Participant" shall include any entity which has Control over such Participant, or is Controlled by such Participant or Major Subcontractor or is Controlled by an entity which has Control over such Participant or Major Subcontractor.

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

Any Participant who desires to submit a Proposal must demonstrate its compliance with all the Pre-Qualification Requirements set forth in this Section below.

4.1. General Pre-Qualification Requirements

- 4.1.1. The Participant's latest audited financial statements do not include a going concern notice, and is not in administration, liquidation, receivership, bankruptcy or winding up process or the like and there are no pending applications or petitions with regard thereto and it is not insolvent.
- 4.1.2. The Participant has all the required approvals and affidavits under the Public Entities Transactions Law, 1976, valid to the Final Proposal Submittal Date [applies only to legal entities incorporated in Israel or registered Foreign Company As the term is defined in the Companies Law, 5759-1999].

4.2. Professional Pre-Qualification Requirements

The Participant is fully in compliance with all the requirements set forth below:

- 4.2.1. The Participant must have at least three (3) years of experience as a Software House (as defined in this Section) in developing the software examined at the time of submitting the Proposal, which will be calculated from the date of issuing the first commercial version of the software to the Final Proposal Submittal Date.
- 4.2.2. The software was used for planning traffic light programs for at least fifty (50) junctions, in which these programs were implemented on active traffic lights, among them at least ten (10) junctions with transit priority.
- 4.2.3. The software was used for planning traffic light programs for at least two (2) customers / authorities during the two (2) years prior to the Final Proposal Submittal Date.
- 4.2.4. The software (even if in previous versions/releases) complies with the M- mandatory requirements as mentioned in Volume E - Functional & Technical Requirements.

Definitions regarding the Pre-Qualification Requirements:

The words and expressions in Clauses 4 above shall have the meaning hereby assigned to them, as follows:

- Software House** – Participant shall be deemed a "**Software House**" if it engages in developing, marketing and maintenance of the software and it maintains all ownership rights of the software in order to execute and perform all its duties with respect to the Tender documents, inter alia, to sell, licence and make all changes and modifications.
- Development** – Software programmers using programming environment (set of processes and programming tools used to create the program or software product) in order to continually create and update the software versions.
- Software Version** – A particular form or variation of an earlier software product usually assigned a unique number.

5. **DOCUMENTS TO BE PROVIDED FOR DEMONSTRATING COMPLIANCE WITH THE PRE-QUALIFICATION REQUIREMENTS AND OTHER DOCUMENTS TO BE PROVIDED AS PART OF THE PROPOSAL**

5.1. In order to demonstrate compliance with the Pre-Qualification Requirements under Clause 4 above, and in order to examine and evaluate the quality of the Participants and the Proposals, each Participant shall provide as part of its Proposal the following documents:

5.1.1. To demonstrate compliance with the requirements of Clause 4.1.1 above, the Participant shall provide as part of its Proposal, a signed affidavit in the form attached hereto as Appendix 7.

5.1.2. To demonstrate compliance with the requirements of Clause 4.1.2 above, the Participant shall provide as part of its Proposal, all required approvals and documents according to the Public Entities Transactions Law, 1976, including a signed affidavit in the form attached in Appendix 5 [applies only to legal entities incorporated in Israel or registered Foreign Company As the term is defined in the Companies Law, 5759-1999].

5.1.3. To demonstrate compliance with the requirements of Clause 4.2 above, the Participant shall provide as part of its Proposal, a signed affidavit in the form attached hereto as Appendix 8, and may attach to such affidavit approvals and/or documents that demonstrate its compliance with the Pre-Qualification Requirements, and in order to examine and evaluate the quality of the Participants and the Proposals, including approvals from third parties for which the Participant has provided its services and that were included in its affidavit.

The Participant shall also attach to its Proposal the following documents:

5.1.4. Information about the Participant in the form attached hereto as Appendix 1;

5.1.5. A full and signed proposal form in the form attached hereto as Appendix 2;

5.1.6. A full and signed Commercial Proposal form in the form attached hereto as VOLUME D. **The Commercial Proposal form shall be submitted in a sealed, closed and separate envelope.**

5.1.7. A confirmation of understanding the Tender conditions and instructions in the form attached hereto as Appendix 3;

5.1.8. A signed approval by the Participant's attorneys, in the form attached hereto as Appendix 4, that details and/or approves the following information:

5.1.8.1. The Participant has the corporate power to sign the Proposal and the Agreement and to execute the Agreement and the services pursuant to the Agreement according to its charter documents.

5.1.8.2. The persons that signed the Proposal (including on the Tender Documents) on behalf of the Participant are fully authorized to do so by the Participant and that their signature binds the Participant.

5.1.9. Copies of the charter documents of the Participant as set forth on Clause 3.3 above.



- 5.1.10. Should a Participant so wishes, it may offer an alternative solution differing from the Company's stated requirements, wherever the Participant considers that this alternative solution may be advantageous to the Company. Such offer must be additional to, and completely separate from, the required proposal. In this event, the Participant shall clearly identify all differences, of whatever nature, from the Company's stated requirements. It is also clarified, that it will be within the Company's sole discretion whether to accept or decline the Participant's offer.

For the avoidance of doubt, it is hereby clarified that in any case the proposed solution must comply with the all the M- mandatory requirements as mentioned in Volume E - Functional & Technical Requirements.

**As a precondition to the Company's engagement with the Winning Participant, the Company shall have the right to review such alternative solution and may provide rejections and revisions to be made in respect thereof to the Winning Participant.**

- 5.2. Participants shall acknowledge the Tender requirements by initialing and applying their company stamp on each page of the Tender Documents, including all appendices, volumes and submissions.
- 5.3. The Tender Documents must be signed by a person or persons duly authorized to sign on behalf of the Participant. Documents / papers with a specific place for signature will be signed in full, and if necessary, according to the signing rights of the Participant, with the stamp and seal of the Participant. Where required as indicated thereon, an attorney shall confirm in writing that the signatories were duly authorized to sign.
- 5.4. A Participant must provide all the above mentioned documents as part of its Proposal.

## 6. COMMERCIAL PROPOSAL

- 6.1. Participants are requested to provide a Commercial Proposal according to the Form attached hereto as **VOLUME D**. As set forth in Clause 7 below, Participants are required to submit all documents that include the price proposal in a separate sealed envelope.
- 6.2. Participants shall fill out the Commercial Proposal Form for each component and quote a price for each item in the Commercial Proposal Form, all in accordance with instructions and the conditions set forth in **VOLUME D**.
- 6.3. To compare between the Proposals, and without any obligation from the Company in respect of the actual quantities that the Company will order from the Winning Participant, if any, the Company will calculate the total price proposal only for the purpose of comparing between the Commercial Proposals (the "**Total Price Proposal**").
- 6.4. The Participant shall not provide any negative values (less than zero). If the Participant submits any negative values, the Company shall consider it as a value of zero.
- 6.5. All prices quoted in the Commercial Proposal Form shall be in NIS, and shall not include Value Added Tax (VAT). Any price presented in any other currency shall be considered as if it is in NIS.
- 6.6. The Company reserves the right to correct arithmetical errors if a miscalculation has occurred.
- 6.7. The Total Price Proposal shall be evaluated in accordance with Clause 8.6 below.

## 6.8. Payment of Taxes

- 6.8.1. Subject to the provisions of Clause 14.10 herein under, each Participant shall be responsible for the payment of all taxes in connection with its Proposal and performance of any services.
- 6.8.2. With respect to the Company's payment of 50,000 NIS for the Participant's expenses for the Company's software workshop, according to Clause 8.6 below, the VAT shall be paid as follows:
  - 6.8.2.1. If the Participant is an entity registered outside of Israel, VAT shall be paid to the Israel Tax Authority directly by the Company.
  - 6.8.2.2. If the Participant is an entity registered in Israel, VAT shall be paid to the Israel Tax Authority directly by the Participant.

## 7. **THE SUBMISSION OF THE PROPOSAL**

### 7.1. Structure & Contents of Proposals

The Proposals shall include four (4) parts as described in Section 7.2.

### 7.2. Submission of Proposal Envelops

The Proposals shall be submitted in **two (2) separate sealed envelopes**, as follows:

- 7.2.1. **COMMERCIAL PROPOSAL ENVELOPE**, containing the **Commercial Proposal**, in one original and two (2) additional hard copies and one soft copy [USB flash drive], signed by the Participant and its authorized representative as required.
- 7.2.2. **GENERAL PROPOSAL ENVELOPE**, containing **four (4) parts of the General Proposal (including the Technical Proposal)**, in one original and two (2) additional hard copies and one soft copy [USB flash drive], signed by the Participant and its authorized representative as required. The General Proposal contains the following parts and as detailed in Clause 5 above.
  - ◆ **Part 1:** General forms for submission, and other documents and obligations as described in Clause 5 above.
  - ◆ **Part 2: Technical Proposal** – Submission of the Technical Proposal in accordance with VOLUME C and E, Together with copies of VOLUME F, G, H and I.
  - ◆ **Part 3: The Tender** initialized and stamped by the Participant's company stamp on each page, including all Appendices and submissions.
  - ◆ **Part 4: Signed Agreement.**

7.3. All tables provided as part of this Tender shall be completed and submitted in their original structure, order and categories. No changes whatsoever shall be made to the original tables, except filling the necessary information.

7.4. The following information shall be clearly indicated on each of the Proposal volumes and Proposal envelopes:

- i. Submitted to: Ayalon Highways Co. Ltd - Procurement Department
- ii. Public Tender No. 18/19 For Delivery, Implementation & Support of Traffic Signals Planning Software System

iii. For Proposal volumes – Name of the relevant Part; For Proposal envelopes - Type of Proposal [Commercial/General]

7.5. Participants are specifically instructed that NO identification other than the details listed above shall appear on the outside of the envelopes containing the Participant's Proposals. Placing of company stamps and/or names and/or addresses and/or other identifying markings may lead to invalidating the Proposal.

7.6. Joint Venture

It hereby clarified that the Company will not accept joint proposals that were submitted as a joint venture by several participants, and will not allow participation in this Tender of corporations and/or partnerships that have been established specifically for the purpose of submitting a proposal in this Tender.

7.7. Participants shall submit their Proposals in English only, with original (clearly marked "ORIGINAL"), two (2) copies and a soft copy (PDF files on CD/USB flash drive), as well. In the event of any discrepancy between the original and the copies and/or the PDF format, the original hardcopy shall prevail.

7.8. No change of or addition to or omission from any of the Tender documents (including any attachments or the Agreement) shall be made, other than as explicitly required therein and other than changes announced by the Company in a prior and written notice to all the Participants in this Tender.

7.9. Where a Proposal and/or the documents attached thereto are stated as conditional, lacking or including any change, addition or omission, the Company shall be entitled, at its sole discretion, to determine any of the following with respect to such Proposal:

7.9.1. To disqualify such Proposal and terminate the participation of its Participant in the Tender.

7.9.2. To deem such Proposal, for all intents and purposes, as having been submitted without the said conditions, changes, additions or omissions.

7.9.3. To demand that such Participant, as a condition to its continued participation in the Tender, complete or amend the Proposal by a date determined by the Company.

7.10. Confidentiality

7.10.1. Subject to the provisions of this Section 7.10, confidential information contained in the Proposal and the Tender Documents, including patented and unpatented inventions, trade secrets, know-how, techniques, specifications, and drawings, shall be treated by the Company as strictly confidential and shall not be disclosed by the Company to any third party, provided that every page of the Proposal and/or document included therein or part thereof, containing such confidential information shall be clearly identified as confidential by the Participant, by labeling the said page or document with the words "CONFIDENTIAL" well visible at the top, bottom or across the page. Notwithstanding the foregoing, the mere labeling of the said pages and/or documents as aforesaid does not make such information contained thereon confidential. The determination that any documents and information contain confidential information shall be determined only at the Company's sole and absolute discretion.

7.10.2. Notwithstanding the above, the Company shall be entitled and/or obligated to disclose such confidential information:

7.10.2.1. To its employees, experts, professional advisers and consultants, for the purpose of and to the extent necessary for the evaluation of the Proposal;

7.10.2.2. To governmental authorities for the purposes of obtaining or maintaining any permits, authorizations, licenses or other approvals required for the Project;

7.10.2.3. If and to the extent required by an order of any court or by law. In this regard, the Participants are advised that according to Israeli law, every Participant is entitled to peruse the decision, including the reasons, of the Tender Committee on the award of the Tender as well as the Proposal of the Winning Participant, except any parts thereof that have been determined by the Company and/or the court as constituting trade or professional secrets.

7.11. Final Proposal Submittal Date

7.11.1. **The Proposals and the Tender Documents are to be delivered no later than the Final Proposal Submittal Date, by hand delivery only, to the Tender Box at the Company's offices at the following address:**

**2<sup>nd</sup> Nim Blvd., Rishon LeZion, Israel [7<sup>th</sup> floor]**

7.11.2. A Proposal that will not be in the Tender Box on the Final Proposal Submittal Date and/or submitted after the Final Proposal Submittal Date will be rejected.

7.11.3. The Company may, at its sole and absolute discretion, extend the time for the submission of the Proposals, should it determine to be appropriate. The Company shall notify the Participants thereof in writing.

7.12. Validity of the Proposal

7.12.1. The Proposals shall be valid for a period of twelve (12) months from the Final Proposal Submittal Date (the "**Validity Period**").

7.12.2. The Company may require the Participants to extend the Validity Period for an additional time period (the "**Extended Period**"). If Participant will refuse such demand, then such Participant shall be considered as a Participant that does not want to take part in the Tender, and its Proposal will be disqualified. The Company will be entitled to proceed with the Tender process and to announce another Participant that gave its consent to the extension as the Winning Participant even if the Proposal submitted by the Participant that refused the extension was superior.

7.12.3. Once the Company has notified the Winning Participant of its winning the Tender within the Validity Period or within the Extended Period, the Winning Participant's Proposal shall remain valid until the Agreement has been signed by the Winning Participant and the Company.

**8. EXAMINATION AND EVALUATION OF THE PROPOSALS**

8.1. The Evaluation of the Proposals shall be conducted in a two-stage process in accordance with the Software Selection Process description below:

- 8.1.1. First Stage (Pre-Qualification Stage): the Company shall examine and determine if the Participant and the Proposal are in compliance with the Pre-Qualification Requirements set forth in Clause 4 above. Only Participants and Proposals that comply with the Pre-Qualification Requirements will advance to the second stage.
- 8.1.2. Second Stage: the qualified Proposals of the first stage of evaluation will be evaluated with respect to their technical Proposal (as described in Section 8.5) and Commercial Proposal (as described in Section 8.6). At the end of this stage, the Company will select the Winning Proposal and the Winning Participant.
- 8.2. In addition to the Participant's Proposal (including the forms and the Technical Proposal), the Company, at its sole discretion, may ask any Participant to demonstrate that its proposed software meets and qualified for all pre-qualification requirements detailed in Section 4 above. Based on this demonstration proposed software may be moved onto the second stage (i.e., quality scoring).
- 8.3. After the second stage, the Company will select the Winning Proposal and the Winning Participant that scored the highest final score [FS] in the Tender as mentioned in Section 8.7 below, and the selected Participant will start the process to meet the MOT requirements and get the MOT software approval, as mentioned in Volume F (SOW), Section 2.1.
- 8.4. If the Winning Participant will not be able to obtain the approval of the MOT to the software, for reasons related to the Participant and/or for any reasons at all, according to the Company's sole discretion and decision, the Company may order the second best Participant (Runner-Up) to start the MOT's approval process for his software.
- 8.5. Evaluation of the Technical Proposal
  - 8.5.1. The technical specifications and requirements of the TSP software are detailed in the Functional & Technical Requirements document in Volume E. The selection of the Winning Proposal is subject to the maturity of the TSP software, and the extent to which the TSP software complies with the requirements specified in Functional & Technical Requirements - Volume E.
  - 8.5.2. The TSP software evaluation process includes the following milestones, stages, and requirements:
    - 8.5.2.1. The proposed software that passed the first stage shall be used by local Israeli signals planners (transportation engineers) to plan some chosen junctions in Israel that could include transit priority. During that stage, the planners will score each of the software products.
    - 8.5.2.2. The purpose of the TSP software evaluation process is to evaluate and score the quality of each proposed signals planning software.
    - 8.5.2.3. Software workshop
    - 8.5.2.4. The Participant will run a workshop with the representatives of the Company, in order to prepare them to work independently with the proposed software.
    - 8.5.2.5. The representatives of the Company (the workshops students) will be traffic engineers, signals planners, that will evaluate the software.
    - 8.5.2.6. The workshop resources and effort will be based on:

8.5.2.6.1. Workshop materials including presentations and course printed materials as needed.

8.5.2.6.2. Software licenses as needed.

8.5.2.6.3. Each Participant will allocate the professional resources needed to support the planning process.

8.5.2.7. Quality scoring

8.5.2.7.1. Traffic engineers (chosen by the Company) shall perform signal planning for up to 3 chosen junctions with the proposed software products.

8.5.2.7.2. The traffic engineers will analyze and score the software products according to the defined measurements in Volume E: Technical Requirements.

8.5.2.7.3. The Company will pay 50,000 NIS for the Participant's expenses for the execution of the software workshop in accordance with the Tender documents.

8.5.2.8. Evaluation process schedule

<u>Milestone</u>	<u>Content</u>	<u>Goal</u>	<u>Time Frame to end of the stage</u>
Software workshop	The Participant will run a minimum 3 day, 20 hour workshop as defined above.	The traffic engineers participating the workshop are ready for independent work with the software	Stage starts + 1 month
Planning	Planning chosen junctions with the selected software products.	Get to be first hand knowledgeable of the software.	Stage starts + 1.5 months
Quality scoring	Scoring each software according to the defined measurements in <u>Volume E: Technical Requirements</u>	Selecting the highest scored software products	

8.5.3. The Company may, at any time and in its sole discretion, to change the evaluation process schedule, in a notice given to the Participants.

- 8.5.4. The Technical Proposal Scoring [“TPS”] will be measured between 0 and 100, which will constitute 70% of the final score. The measurement will be carried out in accordance with the weights given to every main sections mentioned in the "Requirements" chapter in Volume E.
- 8.5.5. It is hereby clarified that each and every one of the main sections mentioned in the "Requirements" chapter of Volume E will be evaluated with respect to the criteria mentioned in Volume E. the Company will appoint a professional committee that will conduct the evaluation process in accordance with internal testing specifications to be held by the Company’s sole discretion.
- 8.5.6. In addition to the criteria mentioned in Volume E, the Company may set internal guidelines and sub-tests regarding the manner in which the quality of the Technical Proposals will be evaluated.

8.6. Evaluation of the Commercial Proposals

After the completion of the evaluation of the Technical Proposals, the Commercial Proposals Scoring [“CPS”] will be evaluated as follows:

$$\text{CPS} = [\text{LCP}/\text{SCP}] \times 100$$

**Where:**

**CPS** – Participant’s Commercial Proposal Scoring.

**LCP** – Lowest Commercial Proposal.

**SCP** – The specific Commercial Proposal of the Participant.

8.7. Selection of the Winning Proposal

Following the evaluation of the Technical Proposals and the Commercial Proposals (that were not disqualified in the first stage as described above), the Company will select the Winning Proposals and the Winning Participants (subject to the provisions of Section 1.8 above), which is the Proposals with the highest Final Score [FS] following the said evaluations and according to the following formula:

$$\text{FS} = [70\%] \text{TPS} + [30\%] \text{CPS}$$

9. **EXAMINATION AND EVALUATION OF THE PROPOSALS – GENERAL**

- 9.1. The Proposals will be evaluated by the Company which will use external experts, professional advisers, and consultants for the evaluation of the Proposals.
- 9.2. Without in any way limiting the Company's rights under Law or under any provision of the Tender Documents, the Company may, in its sole and absolute discretion, reject any or all Proposals.
- 9.3. Without derogating from the Company’s rights to consider any other criteria deemed relevant, the Company reserves the right, at its sole and absolute discretion, to consider in the evaluation of the Proposals the ability and experience of the Participant, in executing similar projects, the financial and organizational structure and capabilities of the Participant, previous works executed for the Company and/or for any other public bodies.

- 9.4. Furthermore, and without derogating from the Company's rights, the Company reserves the right, at its sole and absolute discretion, to reject any Proposal, even if such Proposal has achieved the highest final score, due to any negative experience between the Company and/or any other public bodies and between the Participant and/or any one that controls the Participant or the member/s and/or any one acting on their behalf.
- 9.5. this Tender shall not limit any rights of the Company. the Company reserves all its rights including but not limited to its right to elect not to procure the services that are the subject of this Tender and its right to procure them from a supplier that has not responded to this Tender and the participants shall have no demand and/or claim in this regard.
- 9.6. Without derogating from the Company's rights, the Company reserves the right, at its sole and absolute discretion, to reject any Proposal that is not complete and/or clear and/or contains incorrect or misleading details and/or was not submitted in complete accordance with and pursuant to the Tender's instructions. The Tender Committee will be allowed, but not obligated, to disqualify Proposals based on the missing documents that the Participant failed to provide.
- 9.7. The Company distinguishes between the Participants' compliance, upon Final Proposal Submittal Date, with the respective Pre-Qualification Requirements set forth under Clause 4 above, and the documentation intended to demonstrate such compliance. Accordingly, the Company may determine at its sole discretion that a Participant has in fact met the Pre-Qualification Requirements also in the event that supporting documentation is furnished by the Participant after the Final Proposal Submittal Date, provided however that such documentation proves that the Participant had met the respective Pre-Qualification Requirement by the Final Proposal Submittal Date.
- 9.8. The Company may make, at its sole discretion, any decision in connection with the interpretation of the Pre-Qualification Requirements, including ascribing to any Pre-Qualification Requirement a broad interpretation or an interpretation that is not the most reasonable or probable linguistically, provided that such interpretation is consistent with the purpose of the Pre-Qualification Requirement in the overall context of the Tender Documents.
- 9.9. The Company reserves the right, at any time and at its sole and absolute discretion, to cancel or postpone the Tender.
- 9.10. Clarifications to the Company
  - 9.10.1. The Company shall have the right, during any stage of the Tender Process, to verify any or all parts of information represented in any of the Proposals, including, without limitation, financial and professional capabilities, and to request any clarifications to such information, from the Participant and/or from any other third party, and Participants and/or third parties may be requested to supply clarifications and/or additional information and/or documents to the Company. For that purpose, the Company may request clarifications and/or additional information and documents (including information or documents required for compliance with the Pre-Qualification Requirements) from any of the Participants and/or any third party and in addition, the Company may require any of the Participants to modify, amend, correct, withdraw and/or delete any part of their Proposal. The Company may exercise its rights under this Clause any number of times during any stage of the review and evaluation of the Proposals and with respect to any or all of the Proposals.
  - 9.10.2. Participants shall comply with the Company's requests under Clause 9.10.1 above within the time frames determined by the Company in its relevant request, and Company's request together with the Participants' reply will form an integral part of their Proposal.



- 9.11. The Company reserves the right, at its sole and absolute discretion, to condone the noncompliance with a demand or conditions of the Tender if such noncompliance is not material and does not impair the equality principle between Participants.
- 9.12. The Company reserves the right, at its sole and absolute discretion, to engage in negotiation with some or all of the Participants, with respect to their Proposals, all in accordance with applicable Law. The procedures for conducting such negotiations will be determined by the Company.
- 9.13. Without derogating from the rights of the Company under the Tender Documents and under the law, during the course of negotiations, the Company may, at its sole discretion, provide or request additional information and/or modify, alter or change any of the requirements of the Tender Documents.
- 9.14. At the end of the negotiation, if conducted, Participants may be requested to modify, change or improve their Proposals or any part thereof (including any technical, commercial or financial aspect).

## **10. NOTIFICATION OF THE RESULTS OF THE TENDER**

Once the Tender Committee of the Company has completed the evaluation of the Proposals and reached a decision, the Company shall notify the Winning Participant and the other Participants in writing regarding the results of the Tender.

## **11. PRECONDITIONS TO THE COMPANY'S ENGAGEMENT WITH THE WINNING PARTICIPANT**

The Company will engage with the Winning Participant and sign the Agreement subject to the compliance of the Winning Participant with all the following preconditions:

- 11.1. After receiving the Company's notification regarding the Winning Participant, the Winning Participant shall provide the Company, for its approval, the following documents:

### **11.1.1. MOT approval**

As mentioned under Section 1.6 above, a precondition to the Company's engagement with the Winning Participant is, inter alia, compliance with the MOT and the software approval by the MOT.

The Winning Participant shall submit the software and all the documents required for obtaining the MOT approval within 3 months following the notification of Winning Proposal, and shall obtain such approval within a period determined by the Company.

In the event that the Winning Participant fails to submit the aforementioned required documents and/or fails to obtain the software approval by the MOT within the aforesaid determined period, the Company shall be entitled, at its sole discretion, to cancel the award of Winning Proposal, or to give the Winning Participant an extension of time to obtain the software approval by the MOT.

### **11.1.2. Insurance Certificate**

Insurance Certificate, as defined in the Agreement, signed by the Winning Participant insurers. Any request in connection with the insurance requirements should be submitted as a request for clarifications and no later than the dates set forth in Clause 14.2 above.

11.1.3. The Agreement

4 originally signed copies of the Agreement.

- 11.2. The Company will examine whether all the required approvals, documents, and details as mentioned above have been provided by the Winning Participant, the compliance thereof with the Tender requirements and whether the Company may approve them. In the event that the Company determines, in its sole discretion, that finalizations and/or modifications are required to approve the said documents, then in such event, the Company shall notify the Winning Participant of its said decision and as to the required finalizations and/or modifications. The Winning Participant shall execute the required finalizations and/or modifications within a period determined by the Company and will provide for the approval of the Company all necessary documents or details after it made all required finalizations and/or modifications.
- 11.3. If the Company will determine, in its sole discretion, that additional finalizations and/or modifications are needed, then the Company shall be entitled to give to the Winning Participant another opportunity to execute the required finalizations and/or modifications or, in its sole discretion, to decide to proceed pursuant to Clause 12 hereunder.
- 11.4. Prior to the actual signing of the Agreement by the Company, there will be no valid agreement between the Company and the Winning Participant.

**12. CANCELLING THE WINNING AND/OR THE AGREEMENT WITH THE WINNING PARTICIPANT AND ENGAGING WITH ANOTHER PARTICIPANT**

- 12.1. In the event that the Winning Participant fails to fulfill all of its obligations according to the Tender Documents and/or its Proposal, including without limitation, the fulfillment of the preconditions set forth in Clause 11 above, the Company shall be entitled, in its sole discretion, to cancel the award of Winning Proposal or to give the Winning Participant an extension of time for the purpose of fulfilling all of its obligations.
- 12.2. The Winning Participant whose Proposal has been canceled as aforesaid, shall not have any argument, demand and/or claim of any kind against the Company and/or anyone on its behalf in connection with the cancellation of the award of the Winning Proposal.
- 12.3. Without derogating from the above, in the event that the Company has decided to cancel the award of the Winning Proposal, the Company shall be entitled, at its sole discretion, to grant the award of the Winning Proposal in the Tender and the Agreement to the Proposal submitted by the Participant that arrived in the second place, subject to achieving the software approval by the MOT as mentioned in Clause 11 above. The Company's right according to this Clause is not mandatory and the Company shall be entitled, at its sole discretion, not to so grant the award the Winning Proposal in the Tender and the Agreement to the Proposal submitted by the Participant that arrived in the second place. In such event, the Participant that arrived in the second place will not have any argument, demand and/or claim of any kind against the Company and/or anyone on its behalf in connection with the aforesaid or in connection with the cancellation of the Tender instead of awarding the Winning Proposal in the Tender to it or otherwise.

- 12.4. Without derogating from any of the Company's rights, and in addition to any of the Company's rights according to any Law and/or to the Tender Documents, in the event that the Company will terminate the Agreement with the Winning Participant, for any reason, the Company shall be entitled, but not obligated, to notify the Participant that arrived in the second place in the Tender and offer to such Participant to engage with the Company and sign the Agreement (subject to achieving the software approval by the MOT as mentioned in Clause 11 above) to provide the services instead of publishing a new tender. Such Participant shall give its response to the Company's proposal within seven (7) days. If the said Participant will refuse, then the Company will be entitled, but not obligated, to so notify the Participant that arrived in the third place in the Tender, and so on. It is hereby clarified that the Company's said right hereunder is not mandatory and the Company shall be entitled, at its sole discretion, not to engage with the Participants that arrived in places after the Winning Participant, and the Participants will not have any argument, demand and/or claim of any kind against the Company and/or anyone on its behalf in connection with the above.

### 13. CONFLICT OF INTERESTS

The Company hereby brings the following provisions to the attention of all Participants:

- 13.1. Any entity or person, which has provided, or will provide, significant services to the Tender Committee, will not be permitted to participate in the Tender as part of any Participant or by providing service to any Participant, without the prior written approval of the Tender Committee.
- 13.2. A Participant or anyone acting on its behalf, who may have a conflict of interest with the Project and/or may have a conflict of interest between itself and the Company and/or the MOT – may not participate in this Tender, unless the Company has approved such participation in writing and subject to any conditions the Company may impose on the Participant, at its sole discretion.
- 13.3. The Participant, on its behalf and on behalf of all of its third parties who are related to the execution of the Agreement, and on behalf of its and their employees, hereby undertakes to avoid, during the entire Agreement period, any conflict of interests in connection with the Project and/or the Company and/or the MOT.

### 14. GENERAL CONDITIONS

- 14.1. By submitting the Proposal to the Company, Participants shall be deemed to have accepted all of the terms and conditions contained in the Tender Documents (including any addendum thereto).
- 14.2. Requests for Clarifications of the Tender Documents
- 14.2.1. Participants may ask questions and request for clarifications or interpretations to Tender Documents. All questions and requests for clarifications or interpretations regarding the Tender must be submitted in writing by Email, to **Mr. Yoad Shahr**, **Email address: [yoads@ayalonhw.co.il](mailto:yoads@ayalonhw.co.il), no later than April 11<sup>th</sup>, 2019, at 12:00 pm (Israel time).**
- 14.2.2. The clarification questions should be submitted in an open WORD file according to the table below:

#	Part in the Tender Documents	Clause	Question
---	------------------------------	--------	----------


- 14.2.3. A Participant that submitted a question or a request for clarification or interpretations shall confirm that its submission has been received.
- 14.2.4. No responses shall be given to questions that are not submitted in writing.
- 14.2.5. Although the Company has no obligation to clarify or interpret the Tender Documents, the Company may issue to all Participants an addendum for purposes of clarification or interpretation in response to such questions or requests. The identity of the Participant that submitted the question shall not be disclosed
- 14.2.6. The Company shall not be bound by, and Participants shall not rely on, any oral interpretation or clarification to the Tender Documents.
- 14.2.7. In the event that the Company did not answer a question, the Company will be deemed to have rejected the Participant's request.

14.3. Clarifications and Modifications

- 14.3.1. Without derogating from Clause 14.2 above, the Company reserves the right to revise, clarify, amend, modify, or change the Tender Documents in any way or any part thereof, including but not limited to any instruction, requirement, specification, services, consideration, evaluation criteria or dates contained therein, until the Final Proposal Submittal Date.
- 14.3.2. Such revisions, if any, shall be announced by written addenda to the Tender Documents. Any addenda issued by the Tender Committee will form an integral part of the Tender Documents. The addenda and the information contained in such addenda shall constitute an inseparable part of the Tender Documents and replace or take precedence over any corresponding contradictory information included in the original Tender Documents.
- 14.3.3. The Participants will be notified about any addenda, updates, changes or modifications by the Company website at: [www.ayalonhw.com](http://www.ayalonhw.com). The Participants are required to check the Company's website on a regular basis for any Addenda, updates, changes or modifications during the Tender process and especially before the Final Proposal Submittal Date. The Company shall have no responsibility to inform an individual Participants of any such publication.
- 14.3.4. The dates set for the submission of Proposals may be postponed by such number of days as shall be necessary in the opinion of the Company, to enable the Participants to revise their Proposals as a result of any addendum issued. The announcement of such new date, if any, will be either included in the addendum or provided to Participants by a separate notice.
- 14.3.5. Participants shall acknowledge the receipt of all addenda to the Tender Documents no later than (2) two days as of the receipt of such addenda and shall attach all signed addenda to their Proposals.

#### 14.4. Alterations

- 14.4.1. The Participant is not permitted to alter the Tender Documents or any part thereof, other than the completion of those parts that are designated to be completed by the Participant.
- 14.4.2. In the event that a Participant wishes to deviate from the Company requirements specified in the Tender documents, the Participant should address the Company in this matter according to the clarifications procedure in Section 14.2 above.
- 14.4.3. In the event of any alterations of the Tender Documents by any means, including additions or erasing or omissions or by any other means, made by a Participant, irrespective of whether such alterations are inserted into the Tender Documents, contained in a separate document, or conveyed in any other manner whatsoever, the Company may at its sole and absolute discretion: require the Participant to abandon such alterations or even reject such Proposal; or to ignore all or part of such alterations and notwithstanding anything stated to the contrary in the Proposal, evaluate such Proposal without taking into account such alterations; or to view all or part of such alterations as technical errors. The Company may decide, at its sole and absolute discretion, whether to act or refrain from acting in accordance with any one or more of the alternatives listed above. The Company shall have the sole discretion to apply the abovementioned alternatives in whole or in part, or in stages, and to treat different alterations in the same Proposal or in different Proposals differently. A Participant shall not have the right to claim that there is any binding preferential order which applies to the alternatives, or which restricts the Company from exercising its full discretion. If the Company chooses to proceed with any of the alternatives above, and the Participant refrains from implementing the Company's decision, the Company may, without derogating from any of its other rights, disqualify the Proposal.
- 14.4.4. In the event that the Company has opted to require the abandonment of the Participant's alterations and the Participant refuses to comply with the Company's demand, the Company may disqualify the Proposal of such Participant.

#### 14.5. Budget Approval

The execution of the Agreement is subject to a budget approval required to be provided to the Company by the State of Israel. In the event that such approval is not granted to the Company or will be cancelled, or in the event that the Total Price Proposal proposed by the Winning Participant will exceed the approved budget, it is possible that the Company will cancel the Tender or postpone the execution of the Agreement. By submitting a Proposal, the Participant hereby agrees to the above condition and declares and undertakes that it will not have any argument, demand and/or claim of any kind against the Company and/or the State of Israel and/or anyone on their behalf.

- 14.6. Without derogating from the above, the Company shall have the right to instruct all Participants whose Commercial Proposal was evaluated, to submit an additional improved Commercial Proposal in the event that all Proposals received are less favorable to the Company than the Company's estimation and/or to cancel the Tender. Participants hereby forfeit any demand and/or claim of any kind in the event that the Company shall decide to act in such manner.

- 14.7. For the avoidance of doubt, it is hereby clarified that the Company reserves the right, at its sole and absolute discretion, to publish tender(s) in connection with the execution of works or services that could have been performed in the scope of this tender, or to engage with any other party whatsoever for this purpose, all in accordance with applicable law. By submitting a Proposal, the Participant hereby agrees to the above condition and declares and undertakes that it will not have any argument, demand and/or claim of any kind against the Company and/or the MOT and/or the State of Israel and/or anyone on their behalf.
- 14.8. The submittal of all specified details under this Tender (including all of the Tender Documents) is mandatory, and any Proposal not complying with this requirement (e.g., submittal with “To Be Advised Later”, “To Be Submitted on Award”, etc.) may be rejected by the Company, at its sole discretion.
- 14.9. Participants shall be responsible for examining, with appropriate care, the complete Tender Documents, including all addenda, and shall be responsible for informing themselves with respect to all conditions, which might affect, in any way, the cost or the performance of the required software system and any services. Failure to do so shall be at the sole risk of the Participant and without any compensation.
- 14.10. Cost of Proposal Preparation and Submission

Any and all costs and expenses of any nature whatsoever incurred by each Participant arising from or in connection with participation in the Tender Process (including, without limitation, preparation and submission of their Proposals, changes and requests for further clarifications exploration, investigation, testing, translation of documents, issue of licenses and permits required in terms of the Tender Documents) are under the sole responsibility of the Participant and shall be borne entirely and exclusively to by the Participant. The Company will not be responsible or liable for any of these costs or expenses, regardless of the conduct or outcome of the Tender process, in whole or in part, including in the event that the Tender process is delayed or cancelled at any point for any reason whatsoever. Participants acknowledge that they will not be reimbursed by the Company or any third party on its behalf for any costs or expenses so incurred by the Participants (except for the compensation which the Participant may be entitled to for execution of the Software workshop in accordance with the Tender documents).

The Participants shall not be entitled to demand, nor shall the Company be liable for, any payment, compensation and/or reimbursement of any costs and expenses as aforesaid, including loss of profit, under any circumstances whatsoever, including in the event of a cancellation of the Tender and/or if the Company decided not to sign the Agreement with any of the Participants.

It is clarified, that this Section shall not apply to the payment that the Company will pay for the Participant's expenses with respect to the Company's software workshop, according to the software evaluation process description in Clause 8.6 above.

14.11. Confidentiality and Proprietary Rights

- 14.11.1. By participating in this Tender, each Participant is deemed to have agreed to keep in strict confidence, not to disclose and not to make use of any information or data, in any form or media, partial or complete, provided to it by the Company or on its behalf or made known to it otherwise as a result of or in connection with this Tender. Each Participant may use such information or data solely to prepare its Proposal. It is hereby clarified that this shall not apply to documents and/or information published by the Company on its internet website.

14.11.2. By submitting a Proposal, each Participant shall be deemed to represent and warrant to the Company that:

[i] It is not bound by any contractual and/or statutory obligation that may preclude the Participant from providing the data and information contained in the Proposal or any portion thereof;

[ii] It has the right to make all disclosures that are made in the Proposal; and

[iii] The data and information contained in its Proposal do not include confidential information, trade secrets and/or other proprietary information of the Participant and/or to any third party that the Company is prevented from using, except as and to the extent that the Participant may otherwise clearly indicate in writing.

#### 14.12. Information supplied in the Tender documents

the Company has prepared these Tender Documents in good faith, providing the most up-to-date information available. Notwithstanding this, the Company does not represent or warrant that the information contained in these Tender Documents is either complete or accurate. Such information is for indicative purposes only. the Company, and anyone acting on its behalf, shall bear no responsibility whatsoever for any loss, damage, or injury suffered by Participants, their employees, officers, agents, or any other persons for whom Participants may be contractually or legally responsible by reason of any use of information contained in the Tender Documents, or for any action or forbearance in reliance thereon.

#### 14.13. Language of the Tender Process

14.13.1. The language of the Tender shall be English, including any statements, information and correspondence between the Participants and the Company. Notwithstanding the foregoing, the Company shall have the right to attach, issue and/or submit, or to permit the attachment, issuance or submission of any statements, information, correspondence and/or any other documents in Hebrew and in such a case the Hebrew version of the document will be the obligating one and any translation made by a Participant to such document will be on the sole responsibility of such Participant.

14.13.2. Any documents of any nature whatsoever submitted by the Participants that are not in English (or Hebrew, if permitted by the Company), shall be accompanied by an English translation thereof, the completeness and accuracy of which shall be certified by a public notary.

14.13.3. In the event of contradictions, inconsistencies or discrepancies between a document and its English translation, the latter shall prevail except documents in Hebrew, as mentioned in Clause 14.13.1 above.

14.14. For the avoidance of doubt, it is hereby clarified that the Company reserves the right, at its sole and absolute discretion, to publish tender(s) in connection with the execution of works and/or services that could have been performed in the scope of this Tender, or to engage with any other party whatsoever for this purpose, all in accordance with applicable law. By submitting a Proposal, the Participant hereby agrees to the above condition and declares and undertakes that it will not have any argument, demand and/or claim of any kind against the Company and/or the State of Israel and/or anyone on their behalf.

#### 14.15. Governing Law, Jurisdiction

This Tender and the Tender Process shall be governed and construed in accordance with the provisions of the Law including the Mandatory Tenders Law 5752-1992 and the Mandatory Tenders Regulations, 5753-1993.

The competent courts in Tel Aviv shall have the sole and exclusive jurisdiction over all issues and disputes arising in connection with the Tender, the Tender Documents and/or the Tender Process to the exclusion of any other courts wherever situated in Israel or abroad.

14.16. Conformity with All Applicable Laws

Each Participant is assumed to have obtained legal advice. The Participants and Proposals submitted by them shall abide by all applicable laws. Participants shall be subject to any changes in any of the said laws in the event and to the extent that any such changes are made during the Tender Process.

Itamar Ben Meir,

C.E.O



**Appendix 1**

**Information about the Participant**

Participant's name: \_\_\_\_\_

Entity registration no.: \_\_\_\_\_

Place & date of incorporation: \_\_\_\_\_

Participant's address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Internet website: \_\_\_\_\_

Name of Participant's contact person: \_\_\_\_\_

Position: \_\_\_\_\_

Mobile Phone no. \_\_\_\_\_

**Names of the Participant's owners:**

Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____

(If the owner is an entity, the names of the owners of this owner should be provided)

**Names of the Participant's authorized signatories:**

Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____
Name: _____	ID no.: _____

Participant's signature: \_\_\_\_\_

In addition, the Participant is required to provide the following documents:

- a) Certificate of Incorporation of the company;
- b) Company's full information report from the Registrar of Companies;
- c) Company's organizational structure chart; and
- d) Description of the company, its background and principal fields of activity and/or main products [up to 3 pages].

## Appendix 2

To  
Ayalon Highways Co. Ltd.

Dear Sir/Madam,

### Proposal Form

1. We, the undersigned, having carefully read, studied and understood the instructions of Ayalon Highways Co. Ltd. (the "**Company**") for submission of a proposal, all as described in the Tender Documents (the "**Work**"), including all the conditions and requirements detailed in all the Tender Documents including their appendices (collectively the "**Tender**"), propose hereby to execute the Work for the Company, all as detailed in the Tender Documents.
2. We state that our proposal has been prepared in accordance with the Tender, and that we have received and/or been given access to all the documents related to the Tender, and that we have received explanations for everything related to the Tender and to the execution of the Work.
3. If our proposal is accepted, we undertake to sign the attached Agreement for performance of the Work, and not to transfer any of our rights under the said Agreement to any other entity and not to add or enjoin any partner or to establish any other entity for the purpose of enjoying such rights.
4. This Proposal, including the Commercial Proposal as stated in Volume D of the Tender Documents, is irrevocable and cannot be cancelled or modified by us, and will be valid for a period of twelve (12) months from the last date for submitting proposals. We agree that you will be entitled, but not obliged, to regard this proposal and its acceptance by you as a binding Agreement between you and us. We acknowledge and agree that you will be entitled to conduct any process involving the submission of amended proposals. We are also aware that you will be entitled to cancel the Tender without any obligation.
5. We declare and undertake that in the event that our proposal is accepted, we will fulfill all of the preconditions to the Company's execution of the Agreement as set forth in the Tender, including but not limited to, comply with the MOT requirements as mentioned in Appendices H and I of the Tender Documents and to obtain the software approval by the MOT. We understand fully that we will have to obtain the MOT approval for the software and that without it the agreement will not come into force and will not be executed. In this regard, we confirm that we read the MOT requirements mentioned in appendix H and I and understood it fully.
6. We declare and undertake that if our proposal is accepted, we will execute all the Work in accordance with all the terms and conditions of the Tender, to your full satisfaction, at the prices detailed in our proposal.
7. Our Commercial Proposal is attached hereby in VOLUME D hereto.

The Participant's name (complete): \_\_\_\_\_

Names and positions of the Participant's authorized signatories: \_\_\_\_\_

Signatures of the authorized signatories: \_\_\_\_\_

The Participant's stamp/seal: \_\_\_\_\_ Date: \_\_\_\_\_

### **Appendix 3**

#### **Participant's Representation**

We, the undersigned, having carefully read, studied and understood the instructions of the Tender Documents, whether such documents were attached or not attached to the Tender, hereby represent and declare as follows:

1. We hereby represent that we have understood all that is stated in the Tender Documents and have submitted our proposal accordingly. We have carefully studied and examined all that is stated in the Tender Documents, and reviewed all the requirements, conditions and circumstances, both physical and legal, that may affect our proposal or execution of the Agreement attached thereto. We consent to all that is stated in the Tender Documents and confirm and undertake that we will not make any claims or demands based on lack of knowledge and/or lack of understanding, and we hereby irrevocably and unconditionally waive in advance any such claims. Without derogating from the generality of the above, we are aware and agree that by submitting our proposal we explicitly waive as aforesaid any claim of any kind or nature with regard to incompatibility and/or deviation of any kind whatsoever from the terms and conditions of the Tender and/or any of its terms and conditions and/or from the terms of any law.
2. We hereby represent that we meet all the conditions required by the Tender, and that our proposal meets all the requirements set out in the Tender Documents, and we undertake to execute the obligations and undertakings strictly in accordance with the terms and conditions of the Tender Documents, including the Agreement attached thereto.
3. We represent that we are aware that the execution of the Agreement pursuant to the Tender Documents requires maintaining confidentiality in all matters relating to information that is disclosed to us, and adhering to the highest level of trust and reliability, and we undertake to fulfill the provisions of the Tender Documents and to fulfill all our undertakings hereunder faithfully and loyally, while meticulously adhering to the provisions of any law. We acknowledge that we are not entitled to transfer any information that comes to our knowledge or into our possession as a result of our participation in this Tender to any third party, or make any use of it whatsoever other than solely for the purpose of this Tender.
4. We hereby represent that this proposal is submitted without any connection to and/or coordination with other Participants, and that we have not disclosed the details of our proposal to any other participants in the Tender.
5. We represent that our proposal is included among the objectives and authorizations set forth in the corporate documents of the submitting entity, and that we are entitled to sign this proposal on behalf

of such submitting entity, and that there is no impediment under any law or agreement to our signing this proposal.

6. We declare and undertake that if our proposal is accepted, we shall execute all of the works and services as described in the Tender Documents in strict accordance with all the terms and conditions of the Tender, and to your full satisfaction, at the prices detailed in our proposal.

---

date

---

Participant's Signature

**Appendix 4**

To: Ayalon Highways Co. Ltd.

Re: **Tender No. 18/19 For Delivery, Implementation & Support of Traffic Signals Planning Software**

I the undersigned, \_\_\_\_\_ (name of the attorney to be inserted), as the attorney of \_\_\_\_\_ (name of the Participant to be inserted) ("**Participant**") hereby confirm that:

- The signing of the Agreement and the execution of the works and services as described in the Tender Documents is included in the corporate power and authority of the Participant pursuant to its charter documents.
- The names of the directors, C.E.O and C.F.O are as follow:

Name	Role (Director / C.E.O / C.F.O)

- The person/s who signed the Proposal (including in the Tender Documents) on behalf of the Participant are fully authorized to do so by the Participant in accordance with its charter documents and applicable law and that their signature binds the Participant.

\_\_\_\_\_

Name of the attorney

\_\_\_\_\_

Date

\_\_\_\_\_

Stamp & signature

The attorney statement above may be provided in the form of a separate letter, on the attorney's / auditor's letterhead, provided that the text will remain the same.

**Appendix 5**

**[Applies only to legal entities incorporated in Israel or registered Foreign Company As the term is defined in the Companies Law, 5759-1999]**

**תצהיר**

**בדבר העסקת עובדים זרים כדין ותשלום שכר מינימום לפי חוק עסקאות גופים ציבוריים, תשל"ו-1976**

אני הח"מ, מר/גב' \_\_\_\_\_, נושא/ת ת.ז. \_\_\_\_\_, שמספרה \_\_\_\_\_, לאחר שהוזהרתי כי עלי להצהיר את האמת וכי אהיה צפוי/ה לעונשים הקבועים בחוק אם לא אעשה כן, מצהיר/ה בזאת בכתב כדלקמן:

1. אני הוסמכתי כדין על ידי \_\_\_\_\_ (להלן: "המציע") לחתום על תצהיר זה בתמיכה להצעה למכרז מס' 18/19 לאספקה, הטמעה ותמיכה של תוכנה לתכנון רמזורים (להלן: "המכרז").
  2. הנני מצהיר כי מתקיים במציע אחד מאלה:
    - (א) המציע ובעל זיקה אליו לא הורשעו בפסק דין חלוט בעבירה לפי חוק עובדים זרים.
    - (ב) עד למועד האחרון להגשת הצעות במכרז לא הורשעו המציע ובעל זיקה אליו בפסק דין חלוט ביותר משתי עבירות לפי חוק עובדים זרים.
    - (ג) אם המציע או בעל זיקה אליו הורשעו בפסק דין חלוט בשתי עבירות או יותר לפי חוק עובדים זרים - כי חלפה לפחות שנה אחת מן ההרשעה האחרונה ועד המועד האחרון להגשת הצעות.
  3. הנני מצהיר כי מתקיים במציע אחד מאלה:
    - (א) המציע ובעל זיקה אליו לא הורשעו בעבירה לפי חוק שכר מינימום.
    - (ב) עד למועד האחרון להגשת הצעות במכרז לא הורשעו המציע ובעל זיקה אליו בפסק דין חלוט ביותר משתי עבירות לפי חוק שכר מינימום.
    - (ג) אם המציע או בעל זיקה אליו הורשעו בפסק דין חלוט בשתי עבירות או יותר לפי חוק שכר מינימום - כי חלפה לפחות שנה אחת מן ההרשעה האחרונה ועד המועד האחרון להגשת הצעות.
- לעניין סעיפים 2 ו-3 לעיל:
- "אמצעי שליטה", "החזקה" ו"שליטה" - כמשמעותם בחוק הבנקאות (רישוי), התשמ"א-1981;
- "בעל זיקה" - כל אחד מאלה:
- (1) חבר בני אדם שנשלט על ידי הספק;
  - (2) אם הספק הוא חבר בני אדם, אחד מאלה: (א) בעל השליטה בו; (ב) חבר בני אדם שהרכב בעלי מניותיו או שותפיו, לפי העניין, דומה במהותו להרכב כאמור של הספק, ותחומי פעילותו של חבר בני האדם דומים במהותם לתחומי פעילותו של הספק; (ג) מי שאחראי מטעם הספק על תשלום שכר העבודה;
  - (3) אם הספק הוא חבר בני אדם שנשלט שליטה מהותית - חבר בני אדם אחר, שנשלט שליטה מהותית בידי מי ששולט בספק
- "הורשע", בעבירה - הורשע בפסק דין חלוט בעבירה שנעברה אחרי יום כ"ה בחשון התשס"ג (31 באוקטובר 2002);
- "חוק עובדים זרים" - חוק עובדים זרים (איסור העסקה שלא כדין והבטחת תנאים הוגנים), התשנ"א-1991.
- "חוק שכר מינימום" - חוק שכר מינימום, התשמ"ז-1987;
- "שליטה מהותית" - החזקה של שלושה רבעים או יותר בסוג מסוים של אמצעי שליטה בחבר בני האדם;
4. זה שמי, זו חתימתי, ותוכן תצהירי דלעיל אמת.

\_\_\_\_\_  
חתימת המצהיר/ה

**אישור**

אני הח"מ \_\_\_\_\_, עורך דין, מרחוב \_\_\_\_\_, מאשר/ת בזאת כי ביום \_\_\_\_\_ הופיעה/ה במשרדי מר/גב' \_\_\_\_\_, המוסמך לחתום מטעם המציע, ושזיהה עצמו באמצעות ת.ז. \_\_\_\_\_, שמספרה \_\_\_\_\_, ואחרי שהוזהרתי/ה כי עליו/ה להצהיר את האמת וכי יהיה צפוי לעונשים הקבועים בחוק אם לא יעשה כן, אישר את נכונות הצהרתו דלעיל וחתם עליה בפני.

\_\_\_\_\_  
חתימה וחתימת עו"ד



## תצהיר

### בדבר ייצוג הולם לאנשים עם מוגבלות

#### לפי חוק עסקאות גופים ציבוריים, תשל"ו-1976

אני הח"מ, מר/גב' \_\_\_\_\_, נושא/ת ת.ז. \_\_\_\_\_, שמספרה \_\_\_\_\_, לאחר שהוזהרתי כי עלי להצהיר את האמת וכי אהיה צפוי/ה לעונשים הקבועים בחוק אם לא אעשה כן, מצהיר/ה בזאת בכתב כדלקמן:

1. אני הוסמכתי כדין על ידי \_\_\_\_\_ (להלן: "המציע") לחתום על תצהיר זה בתמיכה להצעה למכרז מס' 18/19 לאספקה, הטמעה ותמיכה של תוכנה לתכנון רמזורים (להלן: "המכרז").
2. הנני מצהיר ומאשר כי הוסברה לי וכי אני מבין את משמעותו של סעיף 9 לחוק שוויון זכויות לאנשים עם מוגבלות, התשנ"ח-1998 (להלן: "חוק שוויון זכויות").
3. הנני מתחייב להעביר העתק מתצהיר זה למנהל הכללי של משרד העבודה והרווחה והשירותים החברתיים בתוך 30 ימים ממועד התקשרותי עם נתיבי איילון בע"מ.
4. יש לסמן X במשבצת המתאימה:  
 הוראות סעיף 9 לחוק שוויון זכויות אינן חלות על המציע.  
 הוראות סעיף 9 לחוק שוויון זכויות חלות על המציע והוא מקיים אותן.  
 במידה והמציע מעסיק 100 עובדים לפחות עליו להתחייב כדלקמן:  
המציע מתחייב לפנות למנהל הכללי של משרד העבודה והשירותים החברתיים לשם בחינת יישום חובותיו לפי סעיף 9 לחוק שוויון זכויות, ובמידת הצורך – לשם קבלת הנחיות בקשר ליישומן.  
 במידה והמציע מעסיק 100 עובדים לפחות והמציע התחייב בעבר לפנות למנהל הכללי של משרד העבודה והרווחה והשירותים החברתיים לשם בחינת יישום חובותיו לפי סעיף 9 לחוק שוויון זכויות, המציע מצהיר כי פנה כנדרש ממנו ופעל ליישומן של הנחיות, במידה וניתנו לו.
5. זה שמי, זו חתימתי, ותוכן תצהירי דלעיל אמת.

\_\_\_\_\_  
חתימת המצהיר/ה

#### אישור

אני הח"מ \_\_\_\_\_, עורך דין, מרחוב \_\_\_\_\_, מאשר/ת בזאת כי ביום \_\_\_\_\_ הופיעה במשרדי מר/גב' \_\_\_\_\_, המוסמך לחתום מטעם המציע, ושזיהה עצמו באמצעות ת.ז. \_\_\_\_\_ שמספרה \_\_\_\_\_, ואחרי שהוזהרתי/ה כי עליו/ה להצהיר את האמת וכי יהיה צפוי לעונשים הקבועים בחוק אם לא יעשה כן, אישר את נכונות הצהרתו דלעיל וחתם עליה בפני.

\_\_\_\_\_  
חתימה וחותמת עו"ד

**Appendix 6**

**Participant's Statement**

In addition to all obligations and restrictions applicable by law, including the Penalty Law - 1977, the Participant and each of its representatives undertake and declare hereby as follows:

1. Not to offer and / or to provide and / or to receive, directly or indirectly, any benefit and / or money and / or anything of value to influence, directly and / or indirectly, the decision and / or act and / or omission of Ayalon Highway Co. Ltd ("Ayalon Highway" ) and / or any officer and / or employee of Ayalon Highway and / or Ayalon Highway representatives and / or any other party in connection with the Tender process and / or any Agreement / order arising therefrom.
2. Not to solicit and / or collaborate, directly and / or indirectly, with any officer and / or employee of Ayalon Highway and / or its representatives and / or anyone on its behalf and / or any other party to accept confidential information associated with the Tender process and / or any Agreement / order then arising from it.
3. Not to solicit and / or collaborate, directly and / or indirectly, any employee of Ayalon Highway and / or its representatives and / or anyone on its behalf and / or any other party to set prices artificially and / or non-competitively.
4. That they did not act contrary to paragraphs 1-3 above in this Tender.

In the event that a reasonable suspicion shall arise that the Participant, or any of its representatives acted contrary to paragraph 1 above, Ayalon Highway reserves the right, at its sole discretion, not to include the Participant in the Tender process and / or in any other proceeding and / or not to accept its proposal and / or cancel at any time its award in the Tender and / or cancel at any time the Agreement / order.

It is the sole responsibility of the Participant to inform its shareholders, directors, officers, employees, subcontractors, representatives, agents and any other third party acting on its behalf about the contents of this document.

\_\_\_\_\_

Name of the signatory                      Name of the Participant                      Date

**Confirmation by an attorney**

I, the undersigned, \_\_\_\_\_, (name of the attorney to be inserted), as the attorney of \_\_\_\_\_ (name of the Participant to be inserted) ("**Participant**") here by attests and confirms that Mr./Mrs. \_\_\_\_\_ who signed this affidavit is authorized under the charter documents of the Participant and applicable law to do so on behalf of the Participant.

\_\_\_\_\_

Name of the attorney                      Date                      Stamp & signature

**Appendix 7**

To: Ayalon Highways Co. Ltd.

Re: Tender No. 18/19 For Delivery, Implementation & Support of Traffic Signals Planning Software

I the undersigned, \_\_\_\_\_ (full name to be inserted), as the CEO/CFO of \_\_\_\_\_ (name of the Participant to be inserted) (the "**Participant**"), declare and confirm as follows:

The Participant's latest audited financial statements do not include a going concern notice, and is not in administration, liquidation, receivership, bankruptcy or winding up process or the like and there are no pending applications or petitions with regard thereto and it is not insolvent.

_____	_____	_____
Name of the signatory	Name of the Participant	Date

**Confirmation by an attorney**

I, the undersigned, \_\_\_\_\_, (name of the attorney to be inserted), as the attorney of \_\_\_\_\_ (name of the Participant to be inserted) ("**Participant**") here by attests and confirms that Mr./Mrs. \_\_\_\_\_ who signed this affidavit is authorized under the charter documents of the Participant and applicable law to do so on behalf of the Participant.

_____	_____	_____
Name of the attorney	Date	Stamp & signature

**Appendix 8**

**Affidavit**

**Demonstration of the Participant's compliance with the Pre-Qualification Requirements of Clause 4.2 of the Tender**

**[The Participant is not permitted to alter any part of this affidavit, other than the completion of those parts that are designated to be completed by the Participant. Any request for alteration must be pre-approved in writing by the Company pursuant to Clause 14.2 of the Tender]**

I, the undersigned, \_\_\_\_\_, ID / Passport No. \_\_\_\_\_, hereby declare, attest and confirm as follows:

1. I serve as the \_\_\_\_\_ (insert position) of \_\_\_\_\_ (name of the Participant to be inserted) (the "**Participant**") and I am legally authorized to give this affidavit on its behalf as part of the Participant's Proposal for Tender No. 18/19 For Delivery, Implementation & Support of Traffic Signals Planning Software.
2. The Participant is fully in compliance with all of the requirements set forth below:
  - 2.1 The Participant must have at least three (3) years of experience as a software house (as defined in below) in developing the software examined at the time of submitting the Proposal, which will be calculated from the date of issuing the first commercial version of the software to the Final Proposal Submittal Date.
  - 2.2 The software was used for planning traffic light programs for at least fifty (50) junctions, in which these programs were implemented on active traffic lights, among them at least ten (10) junctions with transit priority.
  - 2.3 The software was used for planning traffic light programs for at least two (2) customers / authorities during the two (2) years prior to the Final Proposal Submittal Date.
  - 2.4 The software (even if in previous versions/releases) complies with the M- mandatory requirements as mentioned in Appendix E - Functional & Technical Requirements.

**Definitions:**

The words and expressions in Clauses 4 above shall have the meaning hereby assigned to them, as follows:

**Software House** – Participant shall be deemed a "**Software House**" if it engages in developing, marketing and maintenance of the software and it maintains all ownership rights of the software in order to execute and perform all its duties with respect to the Tender documents, inter alia, to sell, licence and make all changes and modifications.



5. Issuing the first commercial version of the software

Version number	Date of issue	Years of development	clients using the version

6. Junctions Design

Participant's past performance: junctions design in accordance with Section 4.2.2 to the Tender:

Client Name	Planning Type and Description	Number of Active junctions	Number of junctions with Transit Priority	Client Reference and Contact Details

7. Participant's client base during the last two (2) years (the Participant will attach recommendations, if possible)

Client Name	Number of Licenses	Typical Use	Client Reference and Contact Details

Client Name	Number of Licenses	Typical Use	Client Reference and Contact Details

8. I declare that this is my name, this is my signature and that the content of my affidavit is true.

\_\_\_\_\_  
Signature of declarant

\_\_\_\_\_  
Date

**Confirmation by an attorney**

I, the undersigned, \_\_\_\_\_, (name of the attorney to be inserted), as the attorney of \_\_\_\_\_ (name of the Participant to be inserted) ("**Participant**") hereby attest and confirm that Mr./Mrs. \_\_\_\_\_ who signed this affidavit is authorized under the charter documents of the Participant and applicable law to do so on behalf of the Participant.

\_\_\_\_\_  
Name of the attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Stamp & signature