

Tender No. 8/21

A Public Tender for Dredging and Sand Nourishment

General Contents of the Tender Documents (each and all the "Tender Documents")

(1) The Tender Procedures Time Schedule

(2) Document A – Tender Instructions (An Tender);

Appendices to Document A:

Appendix A1 - Bid Submission Letter

Appendix A2 - The Bidder

Appendix A3 – registration in contractor's registrar

Appendix A4 – Tender Guarantee

Appendix A5 - Dredging and Sand Nourishment

Appendix B – Commercial Proposal

(3) Document B – Agreement

Appendices to Document B:

Appendix B1 - Performance Guarantee

Appendix B2 - Confidentiality Form

Appendix B3 - Conflict of Interests

Appendix B4 - Insurance Appendices

Appendix B5 - Work Order Form

Appendix B6 – Acceptance Certificate

Appendix B7 - Dredging and Nourishment Permit (היתר הטלה).

(4) Document C Technical Specifications

Time Schedule

- 1) Bidder's Submission of Questions and Clarifications: **until 1st of November, 2021, no later than 17 P.M. (Israel time).**
- 2) **Submission Date: until 1th of December 2021, no later than 16 p.m. (Israel time).**
- 3) Validity of Bid: **seven months of Submission Date.**
- 4) **Site Visit and Bidders' Conference** shall be held at the 26th of October 2021 on 13:00 (Israel Time) all as described in the Section 15. Attendance is not mandatory

Clarification: The Company (MCCP) is entitled to change any and/or all of the above dates, including postponing the Submission Date.

The above is subject to the terms and condition specified in the Tender documents herein.

Document A

Tender Instructions

The Mediterranean Coastal Cliffs Preservation Government Company Ltd. (hereinafter: "**MCCP**") hereby invites companies worldwide, with the required experience and ability specified in the Tender ("**Bidders**"), to participate in an international tender for Dredging and Sand Nourishment (the "**Tender**") all in accordance with the provisions of Regulation 7(a)(1) of the **Mandatory Tender Regulations, 5753-1993** ("**Regulations**") and the tender documents, the agreement, and the technical specifications set out in Document "C" (herein: the "**Works**" and the "**Project**" accordingly).

1. Introduction

- 1.1. The MCCP established in late 2013, in accordance with Government Decision No. 5053 from August 9, 2012. The MCCP, fully owned by the Israeli government, is responsible for the planning and implementation of recommendations to protect the cliffs along the Mediterranean Sea, as well as ongoing maintenance and monitoring of cliffs that are retreating by dozens of centimeters each year and have begun to collapse in some areas.
- 1.2. The Works with respect to which the Bidders are invited to submit their Bids consist of two stages as detailed below:
 - 1.2.1. Subject to fulfillment of all the obligations of the Winning Bidder pursuant to the Agreement, MCCP undertakes to order from Winning Bidder the First Stage, as detailed below. It is clarified that notwithstanding the aforesaid, The Winning Bidder shall not be entitled to any compensation and it waives in advance any demand and/or claim for compensation of whatsoever nature (including if the Winning Bidder suffers damages and/or losses) if MCCP shall not order the First Stage.

Bidder represents that it took this possibility into account at the time of submitting its financial offer.

- 1.2.2. First Stage (Task 1) - 240,000 cubic meter of Sand in front of the of the beaches of Netanya all as detailed in the Work Order. Unless detailed otherwise in the Work Order, as defined in the Agreement Winning Bidder hereby warrants and undertakes to complete all Mobilization (as defined in Section 7 of the Technical Specifications) within 3 months from the of the Work Order and complete all Works related to the first stage within 6 months from the Work Order. It is expressed that MCCP shall have the right to change the timetable in the Work Order including shorten the time of completion and Contractor hereby waives any claim and/or demand in the event of such change.

It is estimated by the MCCP that the First Work Order shall be issued within 90 days from the date of signature of the Agreement by MCCP and the Works of TASK1 (following completion of Mobilization) shall start on April 2022. MCCP MAY CHANGE SUCH DATES UPON ITS DISCRETION.

- 1.2.3. Second Stage (optional) (Task 2) – Additional 240,000 cubic meter of Sand but not less than 200,000 cubic meters in front of the of the beaches of Netanya and/or any other shore in the Israeli coast line all as detailed in the Work Order. Unless detailed otherwise in the Work Order, as defined in the Agreement Winning Bidder hereby warrants and undertakes to complete all Mobilization (as defined in Section 7 of the Technical Specifications) within 3 months from the of the Work Order and complete all Works related to the first stage within 6 months from the Work Order. MCCP shall issue such order upon its own discretion and Winning Bidder waives any claim and/or demand. It is expressed that MCCP shall have the right to change the timetable in the Work Order including shorten the time of completion and Contractor hereby waives any claim and/or demand in the event of such change.

- 1.2.4. Third Stage (optional) (Task 3) - The MCCP shall have the rights, at its own discretion, to order an additional sand dredging nourishment in different locations in the Israeli coast line, and different locations of

borrow pit, each additional order will be not less than 60,000 cubic meters. MCCP shall issue such order upon its own discretion and Winning Bidder waives any claim and/or demand.

- 1.2.5. It is clarified that notwithstanding the aforesaid, The Winning Bidder shall not be entitled to any compensation and it waives in advance any demand and/or claim for compensation of whatsoever nature (including if the Winning Bidder suffers damages and/or losses) if MCCP shall not order the Second and/or Third Stage. Bidder represents that it took this possibility into account at the time of submitting its financial offer.

2. **Anticipated Schedule**

Without in any way limiting the right of the MCCP, to postpone any of the dates in accordance with the provisions of the Tender Documents, the anticipated schedule for the submission of the Bids and questions submission deadline shall be as the dates specified in the Tender Documents.

3. **Condition precedents**

- 3.1. Signing of the Agreement with the Winning Bidder and/or the execution of the Works throughout the performance period is conditional (fully or partially) upon: (i) approval of a dedicated budget by the Israeli Ministry of Finance for the Project; (ii) the approval of the sand specifications and the ecological requirements set by the Israel Ministry of Environmental Protection;
- 3.2. If the budget would not be approved as stated above and/or the sand will not be approved by the Israel Ministry of Environmental Protection, the MCCP may, at its sole discretion, cancel the Tender and/or the Project (partially or as a whole), occasionally postpone the date of signing the Agreement with the Winning Bidder or the execution of the Project and the Works or any part thereof. The Bidders including the Winning Bidder shall have no claim regarding any cancelation and/or the postponing the date, as stated above.
- 3.3. It is hereby clarified that the Bidder will not be eligible in any case, for any compensation, indemnification or payment of any kind with respect to the deferral of deadlines and will not be eligible in any case, for any compensation and/or indemnification and/or payment of any kind, due to the cancellation of the Tender.

4. **For Israeli Bidder** - Approvals and affidavits pursuant to the Public Entities Transaction_Law applies only to legal entities incorporated in Israel and to Foreign Companies Registered in Israel. Such Bidder shall meet all the applicable requirements under the Public **Entities Transaction Law, 5736 – 1976**. ("**Public Entities Transactions Law**"), as follows:

The Bidder 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**.

The Bidder meets the requirements under Articles 2B and 2B1 to the Public Entities Transactions Law.

Israeli Bidders shall attach such authorizations to their proposals.

5. **Prerequisites for participation in the tender** - Each Bidder is required to demonstrate compliance with **all** of the following **Prerequisites** Requirements:

5.1. The Bidder dully signed **Appendix "A1"**

5.2. The Bidder is organized and registered under the laws of its domicile country.

To prove compliance with this prerequisite the Bidder will submit within its Bid Submission **Appendix "A2"**, dully signed.

5.3. (a) The Bidder is registered in Israel in the contractor's registrar allowing it to conduct works in the sea. In the event that that the Bidder is not an Israeli company, then Bidder has an equivalent resignation in its domicile country.

To prove compliance with 5.3 (a) prerequisite the Bidder will submit within its Bid Submission 1) the appropriate registration documentation certified as "true and accurate" of the original. If such document is not in Hebrew or English, the Bidder is required to submit a translation certified as an accurate translation by a notary. 2) **Appendix "A3(1)"**, dully signed.

Or

(b) A Major Sub Contractor, as defined below, of the Bidder is registered in Israel in the contractor's registrar allowing it to conduct works in the sea. In the event that that the Bidder is not an Israeli company, then Bidder has an equivalent resignation in its domicile country.

To prove compliance with 5.3 (b) prerequisite by a Major Sub Contractor, as defined below, of the Bidder the Bidder will submit within its Bid Submission 1) the

appropriate registration documentation certified as "true and accurate" of the original of the Major Sub Contractor of the Bidder. If such document is not in Hebrew or English, the Bidder is required to submit a translation certified as an accurate translation by a notary. 2) **Appendix "A3(2)"**, dully signed and the an authorization of final payment received by Bidder from each of the Major Sub Contractor 3) Appendix "A8" dully signed by the Major Sub Contractor, as defined below, 4) a signed agreement (or principle of Agreement) between the Bidder and the Major Sub Contractor , as defined below, containing all provisions of Section 16.2 of the Agreement and all of Major Sub Contractor Works, , as defined below, as detailed in Appendix A8 .

- 5.4. The Bidder must submit an irrevocable, autonomous and unconditional guarantee, in accordance with the requirements detailed in section 10 hereunder and in the form of appendix "A4" (hereinafter "**Tender Guarantee**").
- 5.5. (a) The Bidder has experience in performing Dredging and Sand Nourishment, at least 3 operations of "Pump a Shore" method of minimum of 120,000 m³ each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 7 years or (b) The Bidder has experience in performing Dredging and Sand Nourishment, at least 1 operation of "Pump a Shore" method of minimum of 360,000 m³ each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 5 years . To prove compliance with this prerequisite the Bidder will submit within its Bid Submission Appendix "A5(1)" accompanies with an authorization of final payment received by Bidder from each of the client in each of the projects detailed attached to is declaration.

Or

A Major Sub Contractor, as defined below, of the Bidder, as defined below, has a) experience in performing Dredging and Sand Nourishment, at least 3 operations of "Pump a Shore" method of minimum of 120,000 m³ each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 7 years or b) has experience in performing Dredging and Sand Nourishment, at least 1 operation of "Pump a Shore" method of minimum of 360,000 m³ each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 5 years. To prove compliance with this prerequisite the Bidder will

submit within its Bid Submission 1) Appendix "A5(2)" accompanies with an authorization of final payment received by Major Sub Contractor, as defined below, from each of the client in each of the projects detailed attached to is declaration 2) Appendix "A8" dully signed by the Major Sub Contractor, as defined below, 3) a signed agreement (or principle of Agreement) between the Bidder and the Major Sub Contractor , as defined below, containing all provisions of Section 16.2 of the Agreement and all of Major Sub Contractor Works, as detailed in Appendix A8 .

- 5.6. Israeli Bidders shall submit approvals in accordance with Section 4 above.
- 5.7. Major Sub Contractor – a subcontractor nominated by the Bidder to perform Major Sub Contractor Works, as detailed in Appendix A8 and complies with Section 5.3 and 5.5 and has submitted in the offer of the Bidder and signed all of the following 1) Appendix 5.3 (2) 2) Appendix 5.5 (2) 3) Appendix 8 and 4) a signed agreement (or principle of Agreement) between the Bidder and the Major Sub Contractor , as defined below, containing all provisions of Section 16.2 of the Agreement and all of Major Sub Contractor Works, as detailed in Appendix A8

5A. JOINT AND SEVERAL OFFER

- 5A1. Notwithstanding the above, Bidder may submit a proposal with one (1) additional entity that is Contractor's authorizes representative in Israel providing that both bidders, subject to section 5(A2) below shall undertake to jointly and severally comply with all terms of Tender, including but not limited to the Agreement (hereinafter: "Joint and Several Offer") and sign Appendix A6 by both Bidders. For the removal of any doubt, where signature is required under the terms and conditions of this TENDER, then in a Joint and Several Offer both Bidders shall be required to sign.
- 5A2. All requirements of the Tender shall apply to Joint and Several Offer, except as follows: (1) Bidders in such offer may demonstrate compliance with the Pre-requisite in Section 5 above through one Bidder in the Joint and Several Offer. (2) Bid Guarantee and all other guarantees detailed in the Agreement may be submitted by only (1) one Bidder, provided that such Bidder is the Bidder complying with the Pre-requisite in Section 5 above. (3) The Bidder complying with the Pre-requisite in Section 5 above, shall be the "Authorized Representative

of the Joint and Several Offer" as detailed in Appendix A7 - to be signed by both Bidders.

6. **Technical Specifications**

The offer submitted by the Bidder should comply with all the requirements and terms included in the technical specifications attached to the Agreement as **Document C** ("Technical Specifications").

7. **Agreement**

The supply of the sand, including the design and performance of all the works detailed in the Agreement including the Technical Specification, price, terms of payment, scope of liability, the responsibilities and all other general and legal terms for the engagement with the Contractor, shall be governed by the terms and condition of the framework agreement attached hereto as Document B (The "**Agreement**"). The Agreement and its appendices attached hereto constitute an inseparable part of this tender. Each Bidder agrees to be bound by the Agreement if it is chosen as the Winning Bidder. Once the Winning Bidder is chosen and the Agreement executed, the provisions of the Agreement shall take precedence over the provisions of this tender in the event of a contradiction between the Agreement and this Tender.

8. **Proposal Validity**

All submitted proposals must be valid for at least seven (7) months from the Final Submission Date as set forth above (the "Proposal Validity Period") and may not be revoked or changed by the Bidder during this period for any reason whatsoever. MCCP shall have the right to extend the Proposal Validity Period for another 6 months and Bidders hereby waive any demand and/or claim against such extension. In the event that MCCP shall not enter into a contractual relationship with the winning bidder, for any reason whatsoever, and/or the agreement with the winning Bidder will be cancelled, MCCP shall be entitled to elect, as a winning proposal, the proposal which achieved the next highest score. The terms set forth in this Section shall apply, mutatis mutandis, following the replacement of the Bidder's proposal as aforesaid.

9. **Verification**

MCCP shall have the right, at its sole and absolute discretion, to verify the documents provided by the Bidder, and to request from any of the Bidders additional details, approvals recommendations and/or certificates. In addition, MCCP may, at its sole and absolute discretion, upon prior coordination with the Bidder, to make samples and tests to the sand in accordance with tests defined by the Ministry of the Environmental Protection and/or any other regulatory body at Bidder's cost and expense.

Without derogating from the above, one month from A MCCP 's notice to Winning Bidder, MCCP 's Representatives may conduct any inquiry to confirm Winning Bidder ability to comply with its undertakings and validate its warranties in its proposal in the Tender and/or ask to receive any additional information (including data on the uptime) in order comply with its undertakings and validate its warranties in its proposal in the Tender. In the event MCCP shall have reasonable doubt as to the validity and accuracy of Winning Bidder declarations and/or its ability to comply with its undertakings and/or in the event that Winner Bidder , then MCCP shall have the right, at its sole discretion, to withdraw the status awarded to the Winner Bidder and to choose the Bidder which has the next higher scored proposal after the Winner Bidder as the Winner Bidder. Nothing detailed above shall derogate from MCCP 's right to perform inspections as detailed in the Agreement. MCCP shall have the right to extend the time periods in Section upon its sole discretion.

10. Tender Guarantee

- 10.1. MCCP shall be entitled, at its sole and absolute discretion, to exercise the Tender Guarantee or any part thereof, after the Bidder was given the opportunity to present its arguments, in case, inter alia, one of the following occurs: (1) during the Tender procedure, the Bidder acted in a misleading manner or with lack of good faith; (2) the Bidder provided misleading information (3) the Bidder retracted its proposal in the Tender after the Final Submission Date; (4) after being selected as the Winning Bidder in the Tender, the Bidder did not follow the instructions of the Tender, which are a condition for MCCP 's engagement of the Winning Bidder. The Tender Guarantee shall also serve as agreed compensation without proof of damage as defined in Section 15 of the Contracts (Remedies for Breach of Contract) Law, 1970.
- 10.2. Commencing from the Effective Date as defined in the Agreement, the Tender Guarantee furnished by the Winning Bidder for the purposes of the Tender shall

secure the performance of all the Winning Bidder's obligations under the Agreement, until replacement thereof by the Performance and Warranty Guarantee, as defined in the Agreement. Upon the receipt of the notification of being selected as the Winning Bidder, the Winning Bidder shall extend the validity of the Tender Guarantee submitted by it to ensure the continuing effect of the Tender Guarantee, until replacement thereof by the Performance and Warranty Guarantee, as defined in the Agreement.

- 10.3. The Tender Guarantee must be an irrevocable bank guarantee issued by a licensed Israeli bank or Israeli insurance company that has a license to deal in insurance pursuant to the Insurance Services Supervision Law– 1981 with a credit rating by one of the following local rating firms, of at least: (i) (AAA-) in the rating scale published by S&P Maalot; **or** (ii) (Aa3) in the rating scale published by Midroog. Guarantee shall be to the order of M CCP, in the amount of one hundred thousand Euro (100,000 Euro) currency only, valid at least up to and including 7 months from Final Submission Date. Bidder shall extend the Tender Guarantee if requested by M CCP upon M CCP request.
- 10.4. Tender Guarantee must be in exact same wording as Appendix A4. No changes in the form shall be accepted. Subject to Applicable law, M CCP shall disqualify any tender guarantee that deviates in any way from the exact wording of Appendix A4.
- 10.5. In the event of submission in accordance with Section 15.2.2 – the Tender Guarantee may be a Guarantee signed digitally in an electronic signature by the bank or insurance company in accordance with Applicable Law. Acceptance of such Tender Guarantee is conditioned upon M CCP ability to authenticate the issuance of the guarantee by the bank and/or insurance company as detailed above.
- Bidder may submit the offer under Section 15.2.2 and submit the Bank Guarantee in the tender box detailed under Section 15.2.1 provided that all such submission shall be done prior to Final Submission Date
- 10.6. At least 7 days prior to submitting the Tender Guarantee, Bidders shall be entitled to present to M CCP a draft of the Tender Guarantee, for early approval.

11. **Clarifications**

- 11.1. Bidders are responsible for independent Research and Inquiries and Examination of the Site and examining the Tender Documents, including all appendices and Addenda thereto, with appropriate care, and for informing themselves of any and all conditions which may in any way affect their participation in the tender process, including in the preparation and submission of the Bids, signing the Agreement and the execution of the Works in accordance with the provisions of the Tender Documents. Bidders, in accordance with the provisions of this Section, may raise questions and request clarifications or interpretations, in writing, from the MCCP, by no later than the deadlines for the submission of questions, as set forth above.
- 11.2. Each Bidder having any question and/or request for clarification shall submit its query, in writing, to the MCCP's no later than 1st November 2021 until 17:00 (Israeli time) to the following Email address **Tamar@mccp.co.il**. Any such queries will be submitted in PDF and in Word files, which Word file shall be open to editing. The MCCP may respond to any such requests at its sole discretion.
- 11.3. The MCCP's response shall be published on MCCP's website, including a description of the query without identifying its source.
- 11.4. Only the MCCP's written responses shall constitute an integral part of the Tender Documents and shall bind all Bidders accordingly.
- 11.5. The MCCP may request a Bidder to clarify any item contained in its questions and request for clarifications or interpretations, including by way of meeting with the Bidders or each of them (in a joint meeting or in separate meetings).
- 11.6. Although the MCCP has no obligation to clarify or interpret the Tender Documents, the MCCP may provide a clarification for all reasonable requests and may issue an Addendum for the purposes of clarification or interpretation in response to such question or request, in accordance with the provisions of this Section Bidders shall acknowledge receipt of any Addendum in the manner set forth in Section this Section.
- 11.7. The MCCP shall not be bound by, and Bidders shall not rely on, any oral interpretation or clarification to the Tender Documents. The Bidder may only rely upon Addenda published by the MCCP.

- 11.8. It is hereby clarified, that when replying to a question or clarification, the MCCP will not necessarily use the exact wording of the submitted request for clarification. It is further clarified that any response or non-response by the MCCP to any submitted request for clarification by a Bidder shall not be construed as approval or agreement unless explicitly stated so by the MCCP.
- 11.9. Any questions or any requests for clarifications or interpretation of the Tender Documents raised by Bidders at a later date than the deadline stated above will be accepted or rejected, answered or not, at the sole discretion of the MCCP.

12. Changes to the Tender

- 12.1. Notwithstanding any of the provisions of the Tender Documents and without derogating from the discretion of MCCP under the provisions of this Section, the MCCP reserves the right to revise, modify, amend, clarify, add, eliminate or otherwise change the provisions of the Tender Documents or any part thereof, including any instruction, requirement, specification, description, evaluation criteria or date contained therein. Such revisions, if any, shall be announced by written Addenda to the Tender Documents ("**Addendum**" or "**Addenda**").
- 12.2. Should any Addenda result from any request for clarification or interpretation submitted by a Bidder, the identity of that Bidder shall not be disclosed.
- 12.3. The Addenda shall be published on MCCP's website. Addenda will not be furnished individually to each Bidder and the Bidders are required to review MCCP's website for any Addenda and updates, on a regular basis.
- 12.4. Receipt of requests submitted by Bidders in accordance with the provisions of Section 11, will not restrict the discretion of MCCP in any way, and it will be free to exercise its right under this Section whenever it is of the opinion that the Tender Documents or any part thereof require amendment or revision.
- 12.5. Without derogating from the generality of the provisions of Section 2 the Bids Submission Date may be postponed by such number of days as shall be necessary, in the opinion of MCCP, to enable the Bidders to revise their Bids and/or any part thereof, as a result of any Addendum issued. The announcement of such new date, if any, will be included in an Addendum.
- 12.6. Bidders are required to acknowledge receipt of all Addenda in writing, no later than two (2) days following receipt thereof by an Email sent to MCCP. In addition,

Bidders are required to acknowledge receipt of all Addenda to the Tender Documents in their Bid Submission, specifically detailing each Addendum's number and date of publication.

13. Each Bidder is expected to evaluate, at its own responsibility and cost, as an expert, all factors and data that may be deemed to affect the submission of the Bids, the signing of the Agreement and the execution of the Works in accordance with the provisions of the Tender Documents, including:

- 13.1.1. the status of the site and its surroundings, including physical and geological conditions of the site and its surroundings;
- 13.1.2. technical aspects and risks;
- 13.1.3. delivery, design and construction aspects and risks;
- 13.1.4. the requirements of the relevant authorities, including the applicable governmental and municipal authorities; and
- 13.1.5. any other risk involved therein, and such other conditions that may be expected to affect the submission of the Bids, signing of the Agreement and the execution of the Works in accordance with the provisions of the Tender Documents.

14. Conflict of Interest

14.1. Bidders acknowledge that in preparation for submission of their Bids and throughout the performance of the Works, they are strictly prohibited from having any conflict of interests between any of their other activities and/or their other obligations and/or any of their employees, consultants or subcontractors and the obligations and rights with respect to the Works and the Agreement to be awarded pursuant to this tender. In the event a certain engagement or employment may entail any conflict of interests or raise a doubt as to the existence of a potential conflict of interest, the Bidder shall request MCCP's prior written approval for such engagement or employment.

14.2. Without derogating from the aforementioned, Bidders acknowledge that in preparation of their Bids and throughout the performance of the Works, they are strictly prohibited from engaging, employing or be otherwise assisted by, directly or indirectly (including through subcontractors), any other Bidder and /or any consultant or expert who was (in the year preceding the date hereof) or still is

employed or engaged by the MCCC whose employment or engagement may be in conflict with the MCCC's interests, without MCCC's prior written approval, which shall not be unreasonably withheld, at the MCCC's sole discretion. The Bidders are requested to verify the above with their consultants and experts. The said approval must be requested prior to submission of the Bid.

- 14.3. At any time throughout the performance of the Works, MCCC shall be entitled to require the Winning Bidder, by written notice, to replace any consultant, expert, Contractor or subcontractor, for any justified reason, at MCCC's sole discretion, including in the event such engagement may be in conflict with the MCCC's interest, and the Winning Bidder shall replace such consultant, expert, Contractor or subcontractor with an appropriate person or entity with equivalent skills and abilities which shall not be in conflict with the MCCC's interest, as soon as possible, and no later than within thirty (30) days following the MCCC's demand. It is clarified, that the Winning Bidder must receive MCCC's prior approval for the substitute person or entity, which approval shall not be unreasonably withheld at the MCCC's sole discretion.

15. Submission of Bids

- 15.1. All proposals must be submitted no later than 1th of December 2021 by 16:00 (Israeli time) ("Final Submission Date").
- 15.2. Proposals may be submitted in one of the following alternatives:
- 15.2.1. one main envelope, which shall read "Tender No: 8-21" (the "Main Envelope") to be submitted in 3 copies into Tender Box located at the following address: 4A Hatzoran St., Netanya 8392
- 15.2.2. An e-mail to the following secure mailing address: Michraz-8-21@mccp.co.il. In such submission the Tender Guarantee as defined in Section 11 shall be a Guarantee signed digitally in an electronic signature by the bank or insurance company in accordance with Applicable Law. Acceptance of such Tender Guarantee is conditioned upon MCCC ability to authenticate the issuance of the guarantee by the bank and/or insurance company (e.g. code of entry to verify validity of the Guarantee) as detailed in Section 11.
- 15.3. The copy submitted shall an original copy.

- 15.4. The Bidder is requested to read carefully all of the documents attached herein and submit the following documents signed, where applicable, by the authorized signatory bodies.
- 15.5. Only the actual placement of the envelope in the tender box or proposal received in the above e-mail until Final Submission Date in accordance with the terms of this Tender will be considered as a submission of the Bid.
- 15.6. The Bids and the statements contained therein and all other documents constituting the Bid are to be submitted in English, in typed form.
- 15.7. Supporting documents and printed materials furnished by a Bidder may be in English or in Hebrew.
- 15.8. Supporting documents and printed materials furnished by a Bidder in any other language than English or Hebrew, should be accompanied by a translation to Hebrew or English, authenticated by a public notary, in which case, for purposes of interpretation, the translation to Hebrew or English (as the case may be), shall prevail. MCCP shall be entitled (but not obligated) to authenticate the translation and in the event that the translation shall be found to be in a contradiction to the original document, the MCCP shall be entitled (but not obligated) to require clarifications or disqualify the relevant Bid.
- 15.9. Adjacent to every legal entity's signature (excluding signatures in initials only) within the Bid (including of the Bidder), there shall be a confirmation by an attorney at law that the signatory is authorized to commit such legal entity (including the Bidder) in relation to the document on which such signature appears.

16. Site Visit and Bidders' Conference –

- 16.1. **Site Visit and Bidders' Conference for potential Bidders** shall be held at the shall be held at the 26th of October 2021 on 13:00 (Israel Time). Attendance is not mandatory and attendance shall be the prerogative of the Bidders who chooses not to attend such voluntary site visit or a voluntary Bidders' conference. MCCP may present and explain the Bidding Documents and/or all clarifications, interpretations and amendments to the Tender Documents.
- 16.2. Meeting shall be held concurrently in the field (Netanya between Sironit and Argman beaches) and on zoom. Meeting point: parking lot on Argaman beach) and on zoom.

- 16.3. Bidders are kindly requested to notify MCCP of their intention to participate in the above meeting (including the number of persons and whether they wish to be present at field or on zoom) at least ten (10) days before the date of the meeting, to the mail specified in Section 12.2.
- 16.4. MCCP may publish, at its sole discretion, minutes of the site visit or the Bidders' conference, including an outline of the questions raised by any of the Bidders without identifying the source, and the responses given thereto. Bidders shall not rely on any oral representation during the site visit, and/or the Bidders' conference.

17. Bids Opening and Evaluation

- 17.1. The evaluation of the proposals submitted by Bidders shall be conducted by MCCP in accordance with the following process:
- Stage A– Prerequisites: Bidders will be evaluated in accordance with Section 5 above.
- Stage B - Commercial Evaluation: MCCP shall open commercial proposals of bidders who satisfy Stage A above.
- Stage C– Best and Final, the MCCP may, in its sole discretion, ask two best Bidders to submit a final commercial proposal. For the removal of any doubt, MCCP shall not be under any obligation to conduct Stage C and Bidders cannot rely on MCCP conducting such stage. In Stage C, MCCP may ask Bidders inter alia to submit a commercial offer without reference to Section 2.3 of Appendix B.
- Stage D – Nomination of Winning Bidder:
- 17.2. The Winning Bidder shall be the Bidder that receives from MCCP a Winning Bidder's Notice, as detailed below.
- 17.3. When reviewing the proposals submitted, MCCP reserves the right, in its sole discretion, to take into consideration any negative past experience of MCCP and/or any other entity with any particular Bidder and MCCP and may reject any particular proposal based solely on such past experience.
- 17.4. When reviewing the proposals submitted, MCCP reserves the right, in its sole discretion, to take into consideration information receives from any regulatory authority operating under law including with regards to Bidder's security rating and may reject any particular proposal based solely on such information

17.5. Commercial Evaluation calculated as detailed in Appendix B.

18. Reservation of Rights

18.1. Without in any way limiting its rights under Law or under Sections 19.2 and 19.3, the MCCP reserves the right to cancel the Tender Process or any part thereof; to reject any Bid; not to accept the Bid most advantageous to the MCCP; not to accept the Bid containing the lowest price proposal; not to accept any of the Bids; to terminate or cancel this tender or any other proceedings which are conducted with respect thereto, or with respect to the Works, at any time (including following the submission of Bids or the determination of the Winning Bidder); and/or to run the Tender Process in any manner MCCP deems fit; and/or to initiate any other proceedings for the execution of the Works.

18.2. Without derogating from the provisions of Section 22, the MCCP shall not be responsible in any respect to any loss or damage whatsoever suffered by any Bidder and/or any other legal entity, their employees, officers, agents, or any other persons for whom any entity or Bidder may be contractually or legally responsible or accountable, and shall not be required to compensate the Bidder and/or any other legal entity, their employees, officers, agents, or any other persons for whom the Bidder and/or any other legal entity may be contractually or legally responsible or accountable.

19. General Provisions Relating to Examination and Evaluation of the Bids

19.1. Opening of the Bids

19.1.1. MCCP will leave unopened any Bids received after the Final Submission Date. All unopened Bids will be promptly returned to the Bidders.

19.1.2. The opening of the Bids shall be documented by a protocol.

19.2. Rejection of the Bids

Without derogating from the MCCP's rights under the Tender Documents and under the Laws:

19.2.1. The MCCP reserves the right to reject any or all Bids.

- 19.2.2. The MCCP reserves the right to reject any Bid in the event that the MCCP is of the opinion that such Bid or any part thereof does not conform to the requirements of the Tender Documents.
- 19.2.3. Without derogating from the MCCP's rights under the Tender Documents and under Law, the MCCP reserves the right to waive minor or other irregularities or errors in any Bid, including if it appears to the MCCP that such irregularities or errors were made inadvertently.

19.3. Disqualification of the Bids

Without derogating from MCCP's rights under this Tender , the Tender Documents and under Law, MCCP will be entitled, in any of the following events, to disqualify any Bidder, or impose any condition or instruction on its participation in the Tender Process:

- 19.3.1. The commencement of proceedings, in any court of competent jurisdiction, of bankruptcy, receivership, liquidation or reorganization proceedings against a Bidder and/or an entity comprising the Bidder (as applicable) (in this Section the "**Participant**"), or any similar situation, as determined by the MCCP, or if the Participant has become insolvent, or if a permanent or an interim receiver or liquidator has appointed over a Participant, unless such proceedings are discharged within a reasonable period of time, as determined by the MCCP in its sole discretion;
- 19.3.2. The commencement of any voluntary action for the liquidation of any Participant, except for the purposes of merger or reconstruction on terms approved by the MCCP in writing;
- 19.3.3. In the event that any Participant (including interested parties therein, directors or managers thereof) is a resident or national of a country which does not have diplomatic relations with the state of Israel and/or of a country which does not have proper and reliable trade relations with the state of Israel;
- 19.3.4. In the event of unusual events which materially and adversely affect, to the MCCP judgment, the Participant's and/or the Bidder's financial ability to execute the Works; and/or
- 19.3.5. The submission of any false or misleading information to MCCP.

The Bidder shall be required to notify M CCP of the existence, during the Tender Process, of any of the events described in this Section, within a reasonable period of time, dependent upon circumstances. M CCP may base its decision under this Section on the information provided by the Bidder as well as on any other information available to it and may request any Bidder to provide the M CCP with additional information, as the M CCP deems necessary.

19.4. Negotiations

- 19.4.1. M CCP reserves the right, at its sole discretion, to conduct negotiations with any of the Bidders in this TENDER that it finds suitable, with respect to their commercial and/or technical proposal, or not to conduct negotiations at all. During such negotiations M CCP may require further information from the Bidder including on its ability to perform the Works detailed in the Agreement. M CCP is not required to carry out such negotiations equally with all Bidders and such negotiations may pertain to any matter in the discretion of M CCP. As part of such negotiations, M CCP may request that Bidders improve or change their offers.
- 19.4.2. Following the negotiation, M CCP may disqualify a Bidder in the event that under M CCP's discretion, the Bidder has provided misleading and/or inaccurate and/or incomplete information and/or that M CCP believes shall be unable to fully perform the Works detailed in the Agreement.
- 19.4.3. Without derogating from the above, M CCP shall have the right to instruct all Bidders whose Commercial Proposals were evaluated, to submit an additional improved Commercial Proposal in the event that all proposals received are less favorable to M CCP than the M CCP estimation and/or to cancel the Tender. Bidders hereby forfeit any claim in the event that M CCP shall decide to act in such manner.

19.5. The Winning Bidder

- 19.5.1. Upon the completion of the Evaluation Process and prior to the expiration of the period of the Bid's validity, the M CCP may select the Bidder with the most advantageous Bid , as the **Winning Bidder** ("**Winning Bidder**").

- 19.5.2. The Bidders hereby acknowledge that according to the Regulations, should it be elected as the Winning Bidder, the MCCP may be required to disclose its Bid or any part thereof, to any of the other Bidders and third parties. Therefore, each Bidder may (but is not required to) submit, an additional sensitive information copy of relevant elements of its Bid, with masked Sections considered by said Bidder as commercially secret, confidential information, trade secrets or other proprietary information which should be protected from disclosure. General confidentiality statements will be disregarded. Nevertheless, any such indication will not bind MCCP, and it is hereby emphasized that MCCP, at its sole discretion, may disclose any document of the Winning Bid that, in MCCP's professional opinion, does not constitute a commercial secret and which is required to be disclosed in order to meet said requirements of the Law.
- 19.5.3. MCCP, at its sole discretion, may decide not to select any of the Bids or may decide to cancel the entire Tender, at any time. Furthermore, MCCP shall not be bound to accept the lowest priced Bid or any Bid whatsoever.
- 19.5.4. Second Eligible Bidder
- 19.5.4.1. MCCP reserves its right to declare the second ranking Bidder as "**Second Eligible**" Bidder.
- 19.5.4.2. In case of any failure by the Winning Bidder to sign the Agreement, MCCP may invite and sign the Agreement with the "Second Eligible" Bidder. In such event, MCCP will send a replacing notification of winning Bid to the "Second Eligible" Bidder, who will substitute the Bidder originally selected in this Tender.
- 19.5.4.3. Concurrently with the notice to the Winning Bidder, MCCP may notify in writing the "Second Eligible" Bidder, and shall require the "Second Eligible" Bidder to extend the validity period of its Tender Guarantee for an additional period that shall be determined by a notice from MCCP. MCCP may return the Tender Guarantee to the "Second Eligible" Bidder following the due execution of the Agreement with the

Winning Bidder. Once the "Second Eligible" Bidder extends its Tender Guarantee, the validity of its Bid shall automatically be extended for the additional period.

19.5.4.4. Failure of the "Second Eligible" Bidder to provide the extended Tender Guarantee within fourteen (14) days following the receipt of MCCP's request may disqualify such Bidder, and MCCP may refer to the next ranking Bidder. Under which circumstances the provisions of this Section shall apply upon the third eligible Bidder, as applicable.

19.5.4.5. Notwithstanding the aforementioned, MCCP reserves its right, upon failure of the Winning Bidder, not to sign the Agreement with the "Second Eligible" Bidder or any other Bidder, and to procure the Works from any other contractor and/or Contractor(s), or to conduct a new bidding procedure.

19.6. For Foreign Bidders - Mandatory Industrial Cooperation

In the event that the Winning Bidder is a Foreign Supplier as defined in the Mandatory Tenders Regulations (Mandatory Industrial Cooperation), 5767 – 2007 such Bidder is required to fulfill the requirements of the Israeli Ministry of Economy represented by the Industrial Cooperation Authority ("ICA") with regard to industrial cooperation, as is or as shall be in force from time to time. The signature by MCCP of the Contract with a Foreign Winner Bidder shall be subject to the approval of ICA that the fulfillment program meets the terms and conditions stipulated in the Industrial Cooperation Regulations.

19.7. Award of the Agreement

Without derogating from any of MCCP's rights according to this Invitation, MCCP intent to execute and deliver to the Winning Bidder the Agreement not later than thirty (30) days following announcing on the Winning Bidder, provided, however, that the Agreement shall be executed and delivered subject to the fulfillment of the preliminary conditions as set forth in the Agreement.

For the avoidance of doubt, it is hereby clarified that the Agreement will not enter into force until it is duly signed by MCCP.

20. Confidentiality and Intellectual Property

- 20.1. By participating in the Tender process, each purchaser of the Tender Documents and each Bidder are deemed to have agreed to keep in strict confidence, and not to disclose and/or to make any use of any information or data, or any form or media, partial or complete, provided to them by MCCP on its behalf or made known to them otherwise as a result of or in connection with the Tender; except that each Bidder may use such information or data solely for the purpose of preparing its bid. It is hereby clarified that this section shall not apply to documents and/or information published by MCCP on its website.
- 20.2. By submitting a bid, each Bidder (including its members) shall be deemed to represent and warrant to MCCP that (i) it is not bound by any contractual or statutory obligations which would preclude the Bidder from providing the data and information contained in the bid or any portion thereof; (ii) it has the right to make all disclosures that are made in the bid; (iii) the data and information contained in the bid do not include any confidential information, trade secret or other proprietary information of the bidder and/or any third party (except as and to the extent that the bidder may otherwise clearly indicate in writing) which MCCP is prevented from using.
- 20.3. All rights and title in and to any and all drawings, sketches, and other technical documents and information provided by MCCP or on its behalf to the Bidder as well as to all of the TENDER Documents and the contents thereof, shall be deemed to be the sole and exclusive proprietary of MCCP.

21. General conditions

- 21.1. The Tender Process shall be governed and construed in accordance with the provisions of all Applicable Laws, including the Mandatory Tenders Law 5752-1992, and the Mandatory Tender Regulations 5753-1993 ("**Regulations**").
- 21.2. The Tender Process and the Tender Documents, including the Agreement will be governed by the laws of the state of Israel.
- 21.3. The applicable court of Tel Aviv District or Central District of the State of Israel shall have the sole and exclusive jurisdiction over all matters and all disputes arising in connection with the Tender, Tender Documents and the Agreement.
- 21.4. Each Bidder is assumed to have obtained legal advice. The Bidders and the Bids submitted by them, shall abide by all Israeli Applicable Law. Bidders shall be subject

to any changes in the Israeli Applicable Law, should such changes be introduced during the Tender process.

21.5. The invalidity or unenforceability of any part, provision or section of the Tender Documents shall not affect the validity or enforceability of any other parts, provisions or sections. Any invalid or unenforceable part, provision or section shall be deemed severed from the Tender Documents, and the Tender Documents shall be construed and enforced as if the Tender Documents did not contain such invalid or unenforceable part, provision or section.

21.6. Bidders shall not modify or supplement the instructions of the Tender Documents. Unauthorized conditions, limitations, modifications, supplements, reservations, disclaimers or provisions attached to a Bid may be subject to disqualification, at the MCCP's sole discretion. In the event that such Bid has not been disqualified, for any reason whatsoever, the MCCP will ignore such unauthorized conditions, limitations, modifications, supplements, reservations, disclaimers or provisions.

21.7. Without derogating from MCCP's discretion, any reservations, modifications, supplements or conditions attached to a Bid, which were not submitted by the Bidder to the MCCP in accordance with the provisions of Section 11 and approved by the MCCP in the form of an Addendum to the Tender Documents, may be deemed unauthorized, and shall not bound the MCCP.

21.8. One Submission for Each Bidder

21.8.1. Each Bidder may participate in the Tender and submit only one Bid, if invited to do so by MCCP.

21.8.2. Each entity comprising of the Bidder (if applicable), may participate in only one Bid For the purpose of the provisions of this Section the terms "Bidder" and "entity comprising of the Bidder", shall be deemed to include any entity which exercises Control over such Bidder, or entity comprising of the Bidder, any entity under the common Control of such Bidder or entity comprising of the Bidder, and any entity Controlled by such Bidder or entity comprising of the Bidder.

22. Cost of Participation in the Tender Process

Other than as explicitly provided for in the Tender Documents, any and all costs and expenses incurred by Bidders, legal entities comprising of the Bidders, and anyone on their

behalf with respect to and/or in connection with their participation in the Tender Process (including, without limitation, preparation and submission of the Bid, and including changes and requests for further clarifications), will be borne by such Bidders, or legal entities comprising of the Bidders, regardless of the conduct or outcome of the Tender Process. Bidders, legal entities comprising of the Bidders, and anyone on their behalf will not be reimbursed, compensated etc. by MCCP or anyone on its behalf for any costs or expenses so incurred thereby for any reason or circumstances.

Appendix A1- Bid Submission Letter

Attn:

The Mediterranean Coastal Cliffs Preservation Government Company Ltd. ("MCCP")_

Dear Sir,

Re: Tender No: 8-21 for Dredging and Sand Nourishment

(The "Tender")

In response to the Tender issued on (*day / month... ..*), 2021, extending an invitation to submit a Bid Submission;

1. We, the undersigned, _____ (*name of Bidder to be completed*), and all its entities (as applicable) thereof, _____; _____; _____; (*name of entities to be completed*) have thoroughly and carefully read the Tender Documents and are pleased to submit our Bid Submission.
2. We agree to all of the provisions in the Tender Documents and we submit our Bid in accordance with the terms and provisions contained therein.
3. We hereby acknowledges and declares that we have reviewed the Tender Documents and we agree and accept all of the conditions set forth therein, and we have studied and evaluated, as an expert, and satisfied ourselves as to all relevant matters and details which can affect the execution of the Project and/or the Works by us in accordance with the provisions of the Agreement, all risks related therein (financial and technical), and the conditions of the Work Site, and, fully understand the substance of the Project and Works, including required equipment, services and risks.
4. Pursuant to our evaluation, we agree that the performance of our obligations in accordance with the provisions of our Bid and the Tender Documents is feasible and practicable.
5. We hereby warrant and represent that we possess the requisite financial strength, experience, expertise, means, manpower, equipment, resources, knowledge and know-how, required to perform all of our obligations in accordance with our Bid and the Tender Documents, should we be chosen as the Winning Bidder.

6. We have no claims arising from or related to any damage or expense which may be incurred as a result of the Tender Process.
7. To the extent that we had any claims with respect to the Tender Process and/or the Tender Documents, we submitted such claims prior to the Final Submission Date. Where we have not made claims (or claims that we have submitted were rejected) prior to the Final Submission Date we shall be deemed to have waived any such claims.
8. We further undertake that in any event we shall not undertake any legal action intended to delay, postpone or halt the Tender Process or the execution of the Project and/or the Works, and we hereby waive any right to seek an injunction or interim order or any other temporary remedy or relief from the courts with respect to the Tender Process or the Project and/or the Works.
9. We warrant that: (i) Our Bid is accurate, complete and up-to-date at the time of the Final Submission Date, in accordance with the requirements of the Tender Documents; (ii) Our Bid is fully compliant with all terms and provisions of the Tender Documents including, without limitation, terms and provisions regarding the standard and manner of execution; and (iii) Our Bid is a complete and integrated whole including within it **all** works, methods, equipment, goods and services required by the Tender Documents or by the nature of the Works as contemplated therein, at the level of performance or service contemplated therein.
10. We acknowledge and agree that you shall be entitled, but not required, to view our Bid, while valid, as an irrevocable offer as defined in section 3 of the Contracts Law (General Part), 5733 -1973.
11. We acknowledge and agree that: (i) MCCP shall be entitled to collect on the Tender Guarantee as detailed in the Tender document and under Applicable Law.
12. Without derogating from the generality of the provisions of Section 17 (Reservation of Rights) of the Tender , we understand that the submission of our Bid shall not be deemed in any way to create an obligation on the part of the MCCP to award the Bidder (or any other Bidder) with the Agreement; that the MCCP has the right to reject, at its sole discretion, the Bid submitted by the Bidder; and that the MCCP has the right, at its sole discretion, to cancel, terminate or annul the Tender Process and to reject any or all Bids at any time; to request additional information from the Bidder or other parties; to cancel or

modify the Tender Documents at any time and to negotiate with any or all Bidders or and to otherwise act or exercise its rights in accordance with the provision of the Tender Documents.

13. We acknowledge and agree that all costs arising from or related to the submission of this Bid, including, without limitation, our review of all of the Tender Documents and the obtaining of the Tender Guarantee, the submission of requests for clarifications, and the participation in various stages of the Bid Process including negotiations, shall be borne solely and entirely by the Bidder and that we shall have no claim, suit or cause of action with regard to any such costs.
14. The Bidder has the full corporate power to: (i) enter into, perform and deliver, and has taken all necessary action to authorize the entry into, performance and delivery of the Bid and the Agreements and the transactions contemplated thereby; and (ii) to own its assets and carry on its business.

Neither the execution, delivery nor the performance of the Bidder's respective obligations pursuant to the Bid and the Agreement (should he be chosen as the Winning Bidder): (i) contravenes or violates any provisions of any law by which the Bidder is bound; (ii) conflicts with or violates in any material respect any provisions of the Bidder's Articles of M CCP; or (iii) conflicts, violates or will result in a breach, in any material respect, of any of the terms, covenants, conditions or provisions of any agreement or instrument to which the Bidder is party, or by which it or any of its properties or assets are bound or to which they are subject, or constitutes a default under such agreement or instrument.

15. The Bidder have not, directly or indirectly, induced or solicited any other third party, including the Bidder or its entities or any related entities of a Bidder to put in a false or sham Bid, and has not by itself, directly or indirectly, colluded, arranged or agreed with any Bidder or its entities or any related entities of a Bidder to secure any advantage against any other Bidder, or to secure any advantage against the M CCP or anyone interested in the Project and/or the Works.
16. The Bid is genuine and has not been prepared in collusion with any other Bidder participating in the Tender Process, or with any affiliate thereof, and is not collusive or sham in any manner otherwise.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, corporation, company, voluntary MCCP, partnership, trust, or unincorporated MCCP.

17. For the avoidance of doubt, we confirm that the Authorized Representative is entitled to bind and to receive instructions for and on behalf of the Bidder and any and all its entities (as applicable) during the Tender Process.

GENERAL UNDERTAKINGS

18. We accept and agree that our obligations, as set forth in the Tender Documents, include all terms and provisions expressly set forth therein as well as any obligations, works, or other requirements which are not expressly set forth and which are directly or indirectly related to the full performance of our obligations in full compliance with all provisions of the Tender Documents.
19. We are legally entitled to use and transfer, or license/sublicense (as applicable), all information, know-how, trade secrets, patents and/or other intellectual property contained in the Bid.
20. We hereby agree to indemnify the MCCP and/or any other government owned entities, for all damages incurred by it as a result of a breach of any of the declarations, warranties and undertakings contained herein.
21. The laws of the State of Israel shall apply to this Bid Submission Letter, its interpretation and the rights and undertakings of the Bidder and/or any other parties undersigned hereunder and any matter relating thereto and/or deriving therefore. The applicable court of Tel Aviv shall have the sole jurisdiction over all matters and all disputes arising in connection with the Tender Process.
22. Incorporated hereto, and made an integral part of the Bid Submission, are all forms, attachments, appendixes and annexes thereto.
23. Detailed herein is information which the Bidder considers to be of a commercially sensitive or secret nature concerning the Bid Submission *[to be completed in accordance with of the Tender]*:
-
-



Date

Stamp and Signature

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law



Appendix A2- The Bidder

** Any capitalized terms used and not defined herein shall have the meaning given such terms in the invitation.*

1. Name:

Business Address: _____

Phone: _____

Facsimile: _____

E-mail: _____

2. No of Registration

3. Place of Registration

4. Type Legal Entity _____

5. Israeli Contractor's

Representative (to serve as

a point of contact for

MCCP and process agent

in Israel for filling of

notifications and court

papers):

Name:

Address:

*Please submit a true copy of the registration certificate of the Bidder

Date

Stamp and Signature

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.



Attorney-at-Law

Appendix A3 (1)- Registration in Contractor's Registrar

** Any capitalized terms used and not defined herein shall have the meaning given such terms in the invitation.*

Bidder is registered in the following Contractor's registrar for perming works at sea:

Name of Registrar: _____

Type of Registration: _____

Type of Registration allows Bidder to perform the following works at sea:

_____.

*Please submit a true copy of the registration certificate of the Bidder

Date

Stamp and Signature

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law

Appendix A3 (2)- Registration in Contractor's Registrar

** Any capitalized terms used and not defined herein shall have the meaning given such terms in the invitation.*

_____ ("Major Sub Contractor") is registered in the following Contractor's registrar for perming works at sea:

Name of Registrar: _____

Type of Registration: _____

Type of Registration allows Major Sub Contractor to perform the following works at sea:

_____.

*Please submit a true copy of the registration certificate of the Major Sub Contractor

Date

Stamp and Signature

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law

Appendix A4- Tender Guarantee

Date: _____

(Name of guaranteeing bank or Israeli Insurance Company to be completed)

To:

The Mediterranean Coastal Cliffs Preservation Government Company Ltd

Re: Tender Guarantee Tender no

1. At the request of _____ [name of Bidder, to be inserted] whose registered address is _____, (hereinafter "**Applicant**"), we hereby guarantee to pay to you any sum up to _____ Euro (____ Euro) (the "**Amount of the Guarantee**").
2. We undertake to pay you, upon your first written demand, any sum specified in such demand up to the Amount of the Guarantee, immediately and no later than seven (7) days from the date of receipt of your demand.
3. Your demand for payment of the Amount of the Guarantee may be affected in stages, and payments will be executed in accordance with your demand, provided that the overall total of the payments does not exceed the Amount of the Guarantee.
4. Each demand for payment under this guarantee must be received by us in writing at our address as follows: _____ [Address to be completed]
5. Demand sent to us / received by us via facsimile or email shall not be considered as a demand in writing according to this guarantee.
6. Our undertaking pursuant to this guarantee is autonomous and unconditional and you will not be obligated to explain reason or prove your demand or first demand payment from the Applicant.
7. This guarantee will not be assigned or transferred by you without our consent.
8. The validity of this guarantee will be until _____ inclusive.
9. This guarantee will be governed by the laws of the State of Israel.

Stamp and Authorized Signature(s) of Bank / Israeli Insurance Company



Appendix A5 (1)- Dredging and Sand Nourishment Experience

The Bidder has at least 3 operations of experience in performing Dredging and Sand Nourishment, by "Pump a shore" method of minimum of 120,000 m3 each in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) during last 7 years or b) has experience in performing Dredging and Sand Nourishment, at least 1 operation of "Pump a Shore" method of minimum of 360,000 m3 each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 5 years.

Name of Customer	The type of works performed and the location	Description of your experience with Dredging and Sand Nourishment	Pumped sand quantity, M3	Contact Person Details Mr./Ms: _____ Title: _____ Phone No: _____

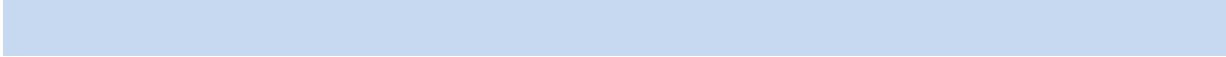
Date

Stamp and Signature

*an authorization of final payment received by Bidder from each of the client in each of the projects detailed above is attached to this declaration.

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law



Appendix A5 (2)- Dredging and Sand Nourishment Experience

The Major Sub Contractor, signed below, has at least 3 operations of experience in performing Dredging and Sand Nourishment, by "Pump a shore" method of minimum of 120,000 m3 each in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) during last 7 years or b) has experience in performing Dredging and Sand Nourishment, at least 1 operation of "Pump a Shore" method of minimum of 360,000 m3 each, made in Open Sea (occurrence of significant wave above 3.0 m during continuous 12 hours yearly) in last 5 years

Name of Customer	The type of works performed and the location	Description of your experience with Dredging and Sand Nourishment	Pumped sand quantity, M3	Contact Person Details Mr./Ms: _____ Title: _____ Phone No: _____

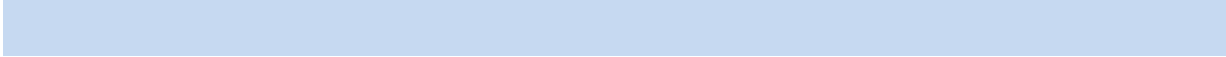
Date

Stamp and Signature

*an authorization of final payment received by Major Sub Contractor from each of the client in each of the projects detailed above is attached to this declaration.

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law



Appendix A6- Undertaking in a Joint and Several Offer

Tender 8/21

The undersigned, being all of the bidders in a Joint and Several Offer in Tender No: 8/21 in accordance with the provisions of Section 5A2 of the General Terms and Conditions to which this document was attached, hereby irrevocably and unconditionally represent, warrant and confirm, jointly and severally, The Mediterranean Coastal Cliffs Preservation Government Company Ltd. (“**Company**”) that we are and shall continue to be, through the entire term of the Tender Process, responsible and accountable, jointly and severally, to all underakings of Bidders in the TENDER pursuant to the TENDER Documents (collectively, “**Obligations**”).

For the removal of doubt, COMPANY shall have the right, at its sole and absolute discretion, to require the performance by of the Obligations or any of them from any of the undersigned alone and/or with any of the others, as COMPANY may elect at its sole and absolute discretion, without having to require first same from, and/or to exhaust its claims towards, any and/or all of the other undersigned.

We hereby confirm that the Gurantee, as such term is defined in the Agreement, shall be produced by Bidder complying with the Pre-requisite in Section 5 of the General Terms and Conditions.

We shall sign the Agreement Jointly and Severally.

For the removal of doubt, any said claim and/or demand which will be brought or made against any one of the undersigned shall be considered a claim and/or demand from and against each and all of the undersigned.



Nothing herein shall be considered as amending or changing in any way whatsoever the appointment, powers and authorizations of the Joint and Several m Bidder's Authorised Representative.

1. **IN WITNESS WHEREOF, the parties hereto have signed this document as of _____, 2021:**

	<u>Name of Member</u>	<u>Signature of Member's authorized representative</u>	<u>Name and title</u>
<u>1.</u>			
<u>2.</u>			



Appendix A7- Appointment of a Representative in a Joint and Several Offer

TENDER No. _____

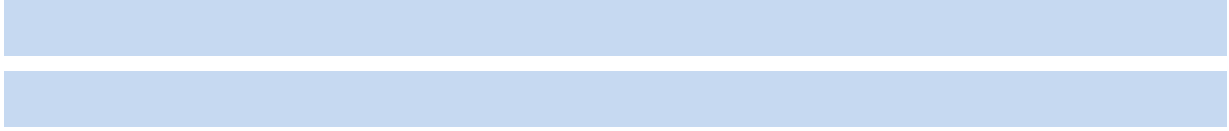
The undersigned, being all of the bidders in a Joint and Several Offer in TENDER No. _____, in accordance with the provisions of Section 5A of the General Terms and Conditions to which this document was attached, hereby appoint and empower _____ [name of Bidder appointed] to be the Authorized Representative of the undersigned Bidders ("Authorized Representative") for the purpose of the TENDER who is empowered and authorized on behalf of the undersigned to do and perform, throughout the full duration of the TENDER process, any and all of the following:

1. To receive on behalf of the Joint and Several Bidders and/or its Members, all TENDER Documents and all documents and/or other materials and communications in any media or form as may be issued by Mediterranean Coastal Cliffs Preservation Government Company Ltd. (“COMPANY”) to the Bidders and/or its Members throughout the TENDER Process (including without limitation addendums to the TENDER Documents).
2. To submit, on behalf of us all requests for clarification, proposed amendments and other documents and communications from time to time throughout the TENDER Process.
3. This instrument of appointment may not be revoked, transferred or changed in any way without the prior written approval of COMPANY.
4. Should the Joint and several Offer be declared as the winning proposal, the Authorized Representative shall submit all guarantees required under the Agreement and/or insurance certificates and/or shall be authorized to receive the consideration due to the Supplier pursuant to the Agreement, on behalf of both Bidders in the Joint and Several Offer.

IN WITNESS WHEREOF, the parties hereto have signed this instrument as of _____, 2021:

	<u>Name of Member</u>	<u>Signature</u> of <u>Name and title</u>	
<u>1.</u>		<u>Member's</u> <u>authorized</u> <u>representative</u>	

<u>2.</u>			
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Appendix A8- Undertaking of Major Sub Contractor

Tender 8/21

We are, the undersigned _____ ("Company"), hereby confirm and certify:

1) We hereby certify, that we have signed an agreement with _____ ("Bidder"), to provide the following Works under the Tender as a sub contractor of the Bidder:

- a) _____
- b) _____
- c) _____
- d) _____
- e) _____

("Sub Contractor Works")

- 2) We hereby certify, that we have inspected all the details and information that the Bidder stated about Contractor in its offer to the TENDER (including all representations made in the agreement attached to TENDER), and we confirm they are complete, true and accurate.
- 3) We hereby certify, that we have inspected, examined and evaluated the TENDER's documents, terms and conditions, including the agreement, appendixes and the Bidder's proposal with regards to the Works, as detailed in the Agreement, and we understand and accept them, and we commit to supply all the Sub Contractor Works and do all such acts do enable Bidder to fully execute its commitments if Bidder's proposal wins the TENDER.
- 4) We hereby certify that there is no prevention under law and/or agreement to execute Bidder's commitment in the TENDER with regards to the Works, as detailed in the Agreement and/or Sub Contractor Works.
- 5) We are aware, that the agreement will be between the Bidder and The Mediterranean Coastal Cliffs Preservation Government Company Ltd. (hereinafter: "MCCP") and we shall not have any claim, complaint or demand against MCCP regarding TENDER and/or the agreement and/or the Works as detailed in the Agreement and/or supply of the Proton Facility and/or the Sub Contractor Works.
- 6) We hereby declare that Bidder has received all authorizations required by us to make his offer and there is no restriction under any law and/or agreement to prevent MCCP and/or any third party on their behalf from executing the using the Works as detailed in the Agreement and/or supply of the Proton Facility and/or the Sub Contractor Works.
- 7) We shall support MCCP and/or any third party on its behalf without any consideration and/or cost so that MCCP and/or any third party on its behalf shall be able to perform effectively and as required in the TENDER all of the Works as detailed in the Agreement and/or supply of the Proton Facility and/or the Sub Contractor Works.



- 8) In the event that our agreement with the Bidder shall be terminated for any reason, upon MCCP 's request we shall continue to supply MCCP all of the Works on the same terms and conditions as required from Bidder in the TENDER.
- 9) For the removal of doubt, MCCP shall have the right, at its sole and absolute discretion, to require the performance by of all of the Works or any of them from any of the undersigned alone and/or with any of the others, as MCCP may elect at its sole and absolute discretion, without having to require first same from, and/or to exhaust its claims towards, any and/or all of the other undersigned.
- 10) We shall be responsible directly towards MCCP for all acts and/or omission by us and/or any third party on our behalf for performing the Sub Contractor Works.
- 11) Without derogating from the above and Section 16.2 of the Agreement, we warrant and undertakes as follows:
 - i. We shall be subject to the same obligations, terms and conditions as the Contractor under the Agreement on a "back to back" basis.
 - ii. We waive for the benefit of the MCCP (or anyone on its behalf) any claim for moral rights or similar intellectual property rights in any plan, design or other work incorporated in the Project, which could have the effect of preventing, suspending or delaying any changes or modifications of any part of the Project, or the delay, suspension and/or prevention of the continuance of the Works.
 - iii. We waive any rights it might have to pursue legal proceedings (court orders, decrees, injunctions etc.) which may result the delay, suspension and/or prevention of the continuance of the Works (i.e. the subcontractor shall be entitled to claim for monetary remedies only).
 - iv. Any dispute between the Contractor and us shall not in any way result the delay, suspension and/or prevention of the continuance of the Works.
 - v. Waiver of any claims or demands of whatever nature against the MCCP.
 - vi. In the event of termination of this Agreement, then, the MCCP shall be entitled to step into the subcontract, and replace the Contractor. In the event the MCCP exercised its "step-in" rights as aforesaid, the MCCP shall have the same rights and obligations as the Contractor under the subcontract.

Major Sub Contractor Signature _____ **Date**
____/____/____

Names of Authorized Signature on behalf of Major Sub Contractor



WE ACCPT THE ABOVE:

Bidder Signature_____ **Date**

____/____/____

Names of Authorized Signature on behalf of Bidder

Appendix B- Commercial Proposal

Name of Bidder: _____

Address: _____

Telephone: _____

Facsimile: _____

No	Description	Unit	Quantity	Unit Rate, Euro	Total Price, Euro	Maximum % of Total Proposal
1.1	Mobilization / Demobilization for each Task, will be paid 85% upon completion of mobilization and 15% in full compliance with Technical Specifications (mainly Section 15.1)	LS	2			20%
2.1	Dredging, transporting, pumping ashore sand and sand nourishment, Task 1, in full compliance with Technical Specifications	M ³	240,000			
2.2	Optional - Dredging, transporting, pumping ashore	M ³	240,000			

	sand and sand nourishment, Task 2, in full compliance with Technical Specifications					
2.3	Optional - Placing and spreading sand fill, of in full compliance with Technical Specifications.	M ³	480,000			
2.4	Optional - Mobilization / Demobilization, Dredging, transporting, pumping ashore sand and sand nourishment, Task 3, in full compliance with Technical Specifications.	M ³	60,000			
	Total Proposal					

All prices in the Bidder's table shall be denoted in Euro.

The Proposed Price for the Task 1 (including Mobilization / Demobilization Placing and spreading sand fill) as defined in the Tender Documents shall be fixed and shall not be linked to any price increase mechanism.

The Proposed Price for the Task 2 (including Mobilization / Demobilization Placing and spreading sand fill) and Section 2.4 of Appendix B ("Relevant Works") shall be linked to the Platts Gasoil 0.1 Fob (med) Italy ("Index"), as follows:

- a) The basic index for the Index shall be the last known index on the Final Submission Date.**
- b) In the event that the index know on the date of payment for the Relevant Works is higher in more than 10% of basic index for the Index shall be the last known index on the Final Submission Date ("Basic Index") then the Proposed Price shall be increased by half of the difference between the Basic Index and Known Index.**
- c) In the event that the Known Index on the date of payment for the Relevant Works is lower in more than 10% of Basic Index then the Proposed Price shall be decreased by half of the difference between the Basic Index and Known Index.**

Except for 2.1 all quantities are optional. In the event that MCCP shall decide to order part of the quantity the total price above shall be adjusted with respect to the quantity actually ordered. Bidder waive any claim and/or demand in the event that the quantity shall be reduced and shall not demand and/or claim for additional consideration.

Total Price shall be calculated as follows according the Quantity of each item as detailed in the table above.

The Bid with the lowest total price shall be the Winning Bidder

For the avoidance of any doubt services under 2.3 may not be executed by the Winning Bidder, but by a third party nominated by MCCP and the Winner discharge MCCP from any claim and/or demand including loss of profits.

Price adjustment Formula for Item 2.1 (and mutatis mutandis 2.2 or 2.4):

In the case the MCCP will significantly change sailing distance (more than 10% difference between New Sailing Route (one direction) and Basic Sailing Route(one direction)) due to change location of Borrow Pit or Disposal Area the following formula will be applied to the Unit Rate of item 2.1:

New Unit Rate = (Unit Rate*60%*New Sailing Route / Basic Sailing Route) + 2.1 Rate*40%

The distance of Sailing Routes for this formula should be one direction only.

Basic Sailing Route one direction is 40 nml (attachment)



Payment shall be made only following Acceptance Certificate was delivered by MCCP evidencing completion of relevant stage by Contractor.

The Bidder will have no claim for any additional expenses and/or costs and/or consideration.

Date

Stamp and Signature

I, _____, attorney-at-law, hereby do attest and confirm that _____ is authorized to sign on behalf of _____, and to bind it for purposes of the above stated Bid Form, for all purposes and intents.

Attorney-at-Law



Document B

Agreement

For the

Dredging and Sand Nourishment

Agreement No. _____

Entered and signed this _____ day of the month of _____ in the year 2021

Between

MCCP – The Mediterranean Coastal Cliffs Preservation Government Company Ltd.

4A Hatzoran St., Netanya 8392

(“The MCCP” / "MCCP")

On the one part;

And

[Name, company registered number and address of Contractor to be inserted by MCCP after Agreement award]

Name and Address of Process Agent in Israel: _____

(“Contractor”)

On the second part;

(MCCP and the Contractor shall be referred to, jointly, as the "**Parties**" and individually as a "**Party**")

WHEREAS: The MCCP is a fully owned by the Israeli government and is responsible for all coastal cliff issues, including planning and implementation of recommendation to protect the cliff, as well as ongoing maintenance and monitoring;

WHEREAS: The MCCP has published a Tender no: 8-21 requesting proposals for Dredging and Sand Nourishment all as detailed in the Tender ("**Tender**");

WHEREAS: The Contractor responded to the Tender, and provided MCCP an offer to perform the services detailed in the Tender, in accordance with all of the

conditions of the Tender (hereinafter: the "**Offer**") and the Offer of the Contractor won the Tender;

WHEREAS: The Contractor declared that it has the know-how, experience, expertise, personnel and resources required in order to perform the services that are the subject of the Tender at the highest level, completely and on the dates required and that it is willing to accept the performance of the services pursuant to that specified in the Tender and this Agreement

WHEREAS: The MCCP and the Contractor have agreed to enter into this Agreement based on mutual consent and declaration that no employee- MCCP relations between the MCCP and the Contractor or anyone on its behalf will exist between them or any of their respective subsidiaries.

NOW, THEREFORE, IT IS DECLARED, COVENANTED AND AGREED BETWEEN THE PARTIES AS FOLLOWS:

2. General Rules and Interpretation

2.1. General

- 2.1.1. The preamble to this Agreement, and all of its annexes when signed by both parties, constitute an integral part of this Agreement. For the avoidance of doubt, it is clarified that this Agreement shall not enter into effect until it is signed by the authorized signatories of MCCP.
- 2.1.2. The headings in this Agreement are for convenience only, and they shall not be used in interpreting this Agreement.
- 2.1.3. The parties hereby agree that any change or amendment to this Agreement shall be performed in writing and signed by the parties, and any other manner shall not have any validity whatsoever.

2.2. Rules of Interpretation

The following rules apply unless the context requires otherwise:

- 2.2.1. The singular includes the plural, and the converse applies.
- 2.2.2. Any reference to gender will be construed to include all genders.
- 2.2.3. In any event that a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- 2.2.4. Any reference to Section or Annex is to a Section of, or annex to, this Agreement.
- 2.2.5. Any reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, varied, notated or replaced, except to the extent prohibited by this

Agreement or that other agreement or document, includes the recitals, schedules, and annexes to that agreement or document.

- 2.2.6. Any reference to an agreement includes any undertaking, deed, agreement and binding arrangement, only when conducted in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- 2.2.7. Any reference to a month is to a calendar month according to the Gregorian calendar.
- 2.2.8. In case of any discrepancy, conflict, inconsistency, ambiguity and/or uncertainty as to the interpretation of any provision contained in this Agreement and/or the order of precedence between the various provisions contained in this Agreement, which discrepancy, ambiguity, conflict, inconsistency or uncertainty is not resolved by applying the above order of precedence, those provisions that provide MCCP with the maximum rights and which best serve the interest of MCCP under the circumstances, as MCCP shall determine in its sole discretion, shall apply.

3. Definitions; Interpretation

3.1. **Definitions**

The following terms used in this Agreement and all of its annexes shall have the meaning set forth below:

<p>"Acceptance Certificate"</p>	<p>shall mean MMCP's issuance of a signed Final Acceptance Certificate in the form attached hereto as Appendix B6, following execution of all Works detailed in a Work Order</p>
<p>"Israeli Law" or "Applicable Law"</p>	<p>shall mean any Israeli statute, law, ordinance, rule, regulation, order, writ, injunction, judgment, decree, and all other requirement of any governmental or Local Authority existing as of the date hereof or at any time during the term of this Agreement and applicable to MCCP and/or Contractor</p>
<p>"Contractor's Offer"</p>	<p>The Contractor's winning proposal in the Tender, which is attached to this Agreement.</p>

"Dredging and Sand Nourishment" "	All works detailed in the Technical Specification.
Contractor's Insurance Policies" or "Contractor's Insurance"	All insurance policies to be put in place by the Contractor, as detailed in Section 18.1 hereunder.
"The Contract" or "Agreement"	This written agreement between the MCCP and the Contractor dully signed by MCCP.
" Consideration Annex "	the Financial Offer form of the Tender Documents ("Cost"), as provided by the Contractor in the Offer, and approved by MCCP
"Contractor's Representative"	The appointed person nominated by the contractor for the provisions of this Agreement.
"Israeli Contractor's Representative"	As detailed in the offer submitted by the Contractor in the Tender
"Work Order"	Written order from the MCCP to the Contractor to perform the Works as in the form attached in Appendix "B5".
"Local Authority"	– the relevant local authority where the Works and/or part of are performed.
"Major Dub Contracotr"	As such term is defined in the Tender Document.
"MCCP's Representative" / "MCCP's Representative"	The appointed person nominated by MCCP for the purposes of this project
"Technical Specifications"	As detailed in Document C
"Tender"	Tender No 8-21 published by the MCCP for Dredging and Sand Nourishment.
"Works"	all of the works and the services of any kind or type whatsoever, including but not derogating from the generality of the aforesaid – supply, construction, design, dredging and sand nourishment, operation that are required in order to fulfill all of the obligations of the Contractor pursuant

	to this Agreement to fully perform the Work Order and/or any other service specified in this Agreement and/or the Technical Specifications and/or in the Work Order and any other service (including supply of any equipment and accessory) even if not included in the Technical Specifications and/or in the Work Order and/or this Agreement required (in MCCP's absolute discretion) in order fulfill such Work Order.
"Sand"	Sand according the specification detailed in Document "C".
"Open Sea"	occurrence of significant wave above 3.0 m during continuous 12 hours yearly
"Basic Sailing Route"	the approved sailing route between the Borrow Area in Ashdod and the center of BW-06 in Natania Breakwaters Project equal to 40 nautical miles in one direction (attached map).
"New Sailing Route"	the sailing route of the TSHD in one direction, during the transportation of the sand between the (New) Borrow Pit and (New) Disposal area, traced in accordance with all relevant Marine Laws and specific instructions and approved by the MCCP.

3.2. **Appendixes**

- Appendix B1 - Performance Guarantee
- Appendix B2 - Confidentiality Form
- Appendix B3 - Conflict of Interests
- Appendix B4 - Insurance Appendices
- Appendix B5 - Work Order Form
- AppenndixB6 – Acceptance Certificate
- Appendix B7 - Dredging and Nourishment Permit (היתר הטלה).

- 3.3. Document C- Technical Specifications
- 3.4. In the event of a contradiction and/or inconsistency between the Tender Documents and this Agreement, the provisions of this Agreement shall prevail. It is clarified that in the event of a contradiction between the provisions of the Tender and/or this Agreement and the Contractor's Offer, the provisions of the Tender and this Agreement shall prevail, and the Contractor's Offer shall have a lower priority. In the event of any contradiction between the terms of this Agreement and Appendix B7, the stricter demands relating Contractor's obligations shall prevail. In any case of discrepancy then the decision of the interpretation of MCCP shall prevail and Contractor hereby waives any demand.
- 3.5. The agreement and contractual documentation between the Contractor, MCCP and Supervisor, will be issued in English, however the Permits and other documentation and communication, related to the project could be issued in Hebrew. Contractor should be able to manage this communication in Hebrew. No additional payments or depreciations of contractual obligations will be granted under this issue.

4. **General**

4.1. **Nature of the Agreement**

- 4.1.1 MCCP hereby engages the Contractor and the Contractor hereby agrees to be engaged by the MCCP for sand supply and performance of the Works.
- 4.1.2 This Agreement is a framework agreement for the performance of the Works, as shall be ordered by MCCP from time to time, in its discretion, by means of Work Orders.
- 4.1.3 Subject to fulfillment of all of the obligations of the Contractor pursuant to this Agreement, MCCP undertakes to order from the Contractor the First Stage, as detailed below. It is clarified that notwithstanding the aforesaid, the Contractor shall not be entitled to any compensation and it waives in advance any compensation whatsoever (including if the Contractor suffers damages and/or losses) if MCCP shall not purchase the First Stage. The First Stage represents that it took this possibility into account at the time of submitting its financial offer
- 4.1.4 Works shall be carried out in two stages:
 - 4.1.4.1 First Stage (Task 1) - 240,000 cubic meter of Sand in front of the of the beaches of Netanya all as detailed in the Work Order. Unless detailed otherwise in the Work Order, Contractor hereby warrants and undertakes to complete all Mobilization (as defined in Section 7 of the Technical Specifications) within 3 months from the of

the Work Order and complete all Works related to the first stage within 6 months from the Work Order. It is expressed that M CCP shall have the right to change the timetable in the Work Order including shorten the time of completion and Contractor hereby waives any claim and/or demand in the event of such change.

4.4.1.2 Second Stage (optional) (Task 2) – Additional 240,000 cubic meter of Sand but not less than 200,000 cubic meters in front of the of the beaches of Netanya and/or any other shore in the Israeli coast line all as detailed in the Work Order. Unless detailed otherwise in the Work Order, Contractor hereby warrants and undertakes to complete all Mobilization (as defined in Section 7 of the Technical Specifications) within 3 months from the of the Work Order and complete all Works related to the first stage within 6 months from the Work Order. M CCP shall issue such order upon its own discretion and Contractor waives any claim and/or demand. It is expressed that M CCP shall have the right to change the timetable in the Work Order including shorten the time of completion and Contractor hereby waives any claim and/or demand in the event of such change.

4.4.1.3 M CCP reserves the right to order additional sand amount under conditions of this Agreement. the order amount will be not less than 60,000 m³ of Sand to perform Works. M CCP shall issue such order upon its own discretion and Contractor waives any claim and/or demand

4.1.5 The M CCP intend is to execute the nourishments during the Spring (March-May) or Autumn (September-November) periods, however in some cases the M CCP could order the execution of nourishment in different periods and Supplier hereby waives any demand.

4.1.6 For the avoidance of any doubt the issuance of the First and/or Second Stage are subject to the sole and absolute discretion of M CCP and Contractors hereby waives any demand and/or claim against M CCP.

4.1.7 For the avoidance of aby doubt the Works to be carried by Contractor in each of the Work Orders are subject to M CCP discretion and Contractor hereby waives any demand and/or claim against M CCP.

- 4.1.8 It is clarified, that only a Work Order signed by an authorized signatory on behalf of MCCP shall bind MCCP.
- 4.2. In reliance on the declarations and undertakings of the Contractor in this Agreement, and subject thereto, MCCP hereby delivers to the Contractor and the Contractor takes upon itself to perform every task imposed on the Contractor in accordance with the provisions of this Agreement, in a manner that will meet all of the needs of MCCP and all the provisions of this Agreement above and below and in accordance with the schedules specified in this Agreement and/or the Technical Specifications and/or the Work Order, the shortest thereof.
- 4.3. Every Work Order shall be performed by the Contractor on a turnkey basis and within the framework of the schedules detailed in this Agreement and/or the Technical Specifications and/or the Work Order, the shortest thereof, in exchange for the consideration detailed in the Consideration Annex, unless it is amended with the prior written agreement of the Parties.
- 4.4. Contractor understands and agrees that: (i) MCCP may suspend any Work Order and/or continuity of the Works upon its discretion (ii) may decide upon its sole discretion the extent of the Works in the Work Order and may decide that some of the Works shall be performed by a third party and not by Contractor and/or any third party on its behalf. Contractor waives any demand against MCCP including for additional payment and/or loss of profits.
- 4.5. **Agreement Period**
- The Agreement period will be for twenty four (24) consecutive months as of the signing of the Agreement ("**Agreement Period**"). The MCCP reserves its right to extend the Agreement Period with up to three (3) additional periods, each of 12 consecutive months (i.e., the maximum Agreement Period may reach up to five (5) years).
- 4.6. It is clarified, that meeting the schedules are fundamental to this Agreement, and the Contractor undertakes to make every effort in order to meet the schedules detailed in the Work Order and complete the Work Order in the time detailed in the Work Order even before the date of completion detailed in the Work Order. In the event that Contractor shall complete the Works before the date detailed for the completion of all Works detailed in the Work Order, then MCCP shall pay the Contractor 3,000 Euro for each business day the Contractor has completed all Works before time. However, MCCP may consider the overall quality of the Works and may decide to deny payment based on the quality of the Works.
- 4.7. It is clarified that the schedules detailed in this Agreement and/or the Technical Specifications and/or the Work Order are fundamental to this Agreement, and that deviation from them unless approved in advance and in writing by MCCP shall constitute a breach of this Agreement. Accordingly, the Contractor is aware that in

order to meet the fixed schedules, it must hire parallel work forces and it will be required to hire teams that will work during hours that are outside of regular working hours and it undertakes to do so anyway and for no additional price.

- 4.8. In the event of a contradiction between the schedules detailed in this Agreement and/or in the Specifications and/or in the Work Order , the Contractor shall be bound by the shortest thereof.
- 4.9. If, in the opinion of MCCP there is a reasonable likelihood that the Contractor will not be able to meet its obligations pursuant to this Agreement in full and on time, then, without derogating from any other remedy available to MCCP pursuant to this Agreement and/or any law, the Contractor undertakes to increase at its own expense and under its own responsibility the resources and the investments by it to the extent required in order to meet the schedule and the work plan and all of its obligations pursuant to this Agreement, including acquiring know-how and/or services from third parties in Israel and/or abroad, at the expense of the Contractor, if in the opinion of MCCP, the Contractor does not have sufficient know-how, experience and/or required capabilities. Where the Contractor did not acquire know-how as aforesaid, MCCP shall be entitled to contact the appropriate parties on its own in order to acquire such know-how at the expense of the Contractor plus 15% (including by means of set off from the amounts of the payments owing to it from MCCP pursuant to this Agreement). It is clarified that nothing in this subsection is intended to derogate from any of the obligations of the Contractor and it is exclusively responsible for the success of the Contractor's Works, including meeting the schedules.
- 4.10. **Suspension of Works**
- 4.10.1 As detailed above, MCCP and/or any other authority operating under law, may suspend any Work Order and/or continuity of the Works upon its discretion.
- 4.10.2 Unless specifically specify in this Section and under the exact circumstances detailed in this Section, Contractor shall not be entitled to any compensation and/or consideration in the event of suspension of the Works.
- 4.10.3 Contractor shall be entitled to the compensation for suspension of Works only in the event that MCCP shall direct Contractor not due to any act or omission of Contractor and/or any third party on its behalf to suspense the Works ("Notice of Suspension").
- 4.10.5 Following 4 Business Days of Notice of Suspension and until MCCP notice to Contractor to resume Works by no more than 10 days from Notice of Suspension ("Notice to Resume"), Contractor shall be entitled to 10,000 Euro per each full Business Day in which the Contractor has not performed the Works as a result of Notice of Suspension and not due to any act or omission of Contractor and/or any third party on its behalf

and provided there shall be a Shut Down of Works, as defined herein, during such days ("Compensation for Suspension").

"Shut Down of Works" shall apply only in the event that a TSHD (as defined in the Technical Specification) with main engines running and full crew, floating in or outside of navigation paths, ready to work.

Compensation for Suspension shall be the final compensation received by Contractor and Contractor shall not have the right and hereby waives any right and/or demand for any compensation and/or return of expenses and/or loss of profits and/or income as a direct or indirect result of any suspension of the Works.

5. Conditions Precedent

- 5.1. The execution of this Agreement and performance of the Works, throughout the performance period (including any extensions to the Agreement if any), are subject to prior execution and fulfillment of any and all the following prerequisites ("**Conditions Precedent**"):
 - 5.1.1. Approval of a dedicated budget for the Project from The Israeli Ministry of Finance.
 - 5.1.2. Approval of the sand specifications and the ecological requirements set by The Israeli Ministry of Environmental Protection and as detailed in Document C.
- 5.2. If any of the Conditions Precedent, specified in Sections 5.1.1 , would not be fully complied by the Contractor and/or approved as stated above, the MCCP may, at its sole discretion, cancel the Project (partially or as a whole), hold the Works and its performance and/or sign an agreement with other contractor/s for the performance of the Works. The contractor shall have no claim regarding any cancellation, hold or signing of a new agreement in that regard and as stated above.
- 5.3. It is hereby clarified that the Contractor will not be eligible in any case, for any compensation, indemnification or payment of any kind with respect to the deferral of deadlines and will not be eligible in any case, for any compensation and/or indemnification and/or payment of any kind, due to the cancellation of the Project (partially or as a whole), holding the Works and its performance and/or the signing of an agreement with any other contractor/s.
- 5.4. In the event that Contractor is not an Israeli entity, Contractor represents that on _____, it entered into an agreement with the Israeli Ministry of Industry and Trade, represented by the Industrial Cooperation Authority ("ICA") with regards to partial offset procurement which is to be carried out in connection with the Works.

6. MCCP Permits and Other Permits

- 6.1. The Contractor acknowledges that the operation of each Work Order is subject to the issuance of (a) Construction Permit (היתר בנייה) if necessary and/or(2) Dredging and Nourishment Permit (היתר הטלה) attached as Appendix B7 ("MCCP Permits").
- 6.2. The Contractor is fully responsible to fulfill all the conditions of obtained MCCP Permits, payment will be done to Contractor for completion of this conditions. Contractor hereby acknowledges that the MCCP Permits may change and Contractor hereby warrant that it shall comply with the amendments and waives any claim or demands relating to such amendments including additional consideration.
- 6.3. MCCP shall also reasonably assist Contractor in co-ordination with Municipality and MCCP's Contractor working at the beach, in relation to access of the land equipment to the beach and dedicated area for storage of Contractor's equipment (to be secured by Contractor) of not more than half dunam.
- 6.4. MCCP shall be responsible for issuing the MCCP Permits.
- 6.5. Contractor shall be responsible to obtain permits or publishing notifications, required under Applicable Law required to execute any and/all Works except for the MCCP Permits ("**Other Permits**").
- 6.6. he Contractor shall cooperate and coordinate its activities under this Agreement with the MCCP for the purpose of applying for and receipt of the Other Permits at its own cost and expense.
- 6.7. The Contractor will assist the MCCP, at the first request of the MCCP, in obtaining the MCCP Permits, mandates and proxies, notifications and licenses required for the execution of this Agreement and the performance of the Works, inter alia, providing all necessary documents, programs, data, information and all other relevant materials.
- 6.8. Notwithstanding the MCCP's obligations with respect to the issuance of MCCP Permits and/or Other Permits (i) in case MCCP Permits and/or Other Permits provided by the MCCP are conditioned upon the fulfillment of any pre-conditions, the Contractor is responsible to fulfill such pre-conditions, at its own cost; (ii) the Contractor is obligated to comply with all conditions stipulated in the MCCP Permits and/or Other Permits and to keep in effect all the provisions stipulated in such MCCP Permits and/or Other Permits; (iii) the Contractor is obligated to refrain from any act or omission that could result in the cancellation and/or restriction of the Permits provided by the MCCP; and (iv) in the event that during the execution of the design and/or the Works, the Contractor is of the opinion that the MCCP Permits and/or Other Permits should be modified or adjusted or are not sufficient, the Contractor shall be responsible to make any such modifications or adjustment to the MCCP Permits and/or Other Permits or to request for additional permit and receive the approval of the applicable Governmental Agency to the adjusted Permits and/or any additional permit.

7. **Representations and Warranties**

7.1. **Contractor's Representations and Warranties**

The Contractor hereby declares, represents, warrants and undertakes as follows:

- 7.1.1. The Contractor is a company duly organized, incorporated and existing under the laws of the state of _____ [*to be completed upon signing date*].
- 7.1.2. Contractor is able to nourish at least 80000 m³ of sand in a month, taking into consideration the weather conditions, Shabbat and Israeli Holidays restrictions (in regard to on shore activity). Friday until 19:00PM and Saturday from 19:00PM
- 7.1.3. The Contractor warrants and undertakes that there is no impediment under any law and/or agreement including Applicable Law to execute this Agreement and it has received all authorizations from any third party to execute all the Works under this Agreement. Contractor waives any demand and/or claim in this regard and shall not be entitled to any compensation in respect thereof.
- 7.1.4. The Contractor has examined the Sand he is intends to supply for the propose of this agreement, according the specification and the provision as detailed in Document "C" and there is no impediment under any law to supply the Sand and execute all Works relating to the Sand. Contractor waives any demand and/or claim in this regard and shall not be entitled to any compensation in respect thereof.
- 7.1.5. The Contractor has the ability to supply the MCCP according to the provision of this agreement, the quantities of Sand as detailed in this Agreement.
- 7.1.6. The Contractor undertakes to comply with all the insurance requirements as detailed in the Agreement and the appendix B4.
- 7.1.7. The Contractor has taken all necessary corporate actions to authorize the entry into and performance of this Agreement and to carry out the transactions contemplated hereunder, including weather impact.
- 7.1.8. Its obligations under this Agreement constitutes a valid and binding obligation.
- 7.1.9. It has read, understood and agreed with all of the Tender documents and it undertakes to fulfil the provisions of these documents including clarifications that were provided and/or that shall be provided to the Tender by MCCP – if any were given/shall be given.
- 7.1.10. It has all of the know-how, capabilities, expertise, proven experience, manpower and equipment required in order to perform its Works pursuant to this Agreement, and it has the financial capability, financial

strength and organizational and logistical ability required in order to perform its obligations under this Agreement.

- 7.1.11. The Contractor has the necessary and adequate skills, competence, commitment, expertise, experience and professional ability required for the performance of the Works and the Contractor's obligations and undertakings according to this Agreement.
- 7.1.12. The execution, delivery and performance of this Agreement by the Contractor and each transaction contemplated hereunder, do not and will not violate, in any respect, a provision of:
- i. Any Law or treaty or a judgment, ruling, order or decree of any governmental agency which is binding on or applicable to it;
 - ii. The Contractor's incorporation documents and by-laws (including the shareholders agreement); or
 - iii. Any other document, agreement or security interest that is binding on the Contractor or its assets.
- 7.1.13. There is no action, suit, legal proceeding, or official investigation before or by any government authority, arbitration tribunal or other body pending or, to the best knowledge of the Contractors and/or its officers, threatened against or affecting it, or any of its properties, rights or assets, which would reasonably be expected to result in an adverse effect on the Contractor's ability to perform its obligations under the Agreement and/or the its undertaking and/or on the validity or enforceability of this Agreement.
- 7.1.14. Its engagement in this Agreement and performance of its obligations under it do not contradict and/or violate any law, order, judgement or obligation, or breach any agreement, whether oral or in writing, of the Contractor vis-à-vis any third party.
- 7.1.15. That it will act to receive from MCCP and it will be its sole responsibility to do so – all of the information, background, technical material, and explanations that are required by it for the provision of the Contractor's Works pursuant to this Agreement, and that he does not have, and shall not have, any claim and/or demand and/or complaint against MCCP in respect of the discovery of any deficiency and/or shortfall whatsoever regarding one of the above
- 7.1.16. The Contractor has examined and mitigated to its satisfaction all risks associated with its obligations under this Agreement.
- 7.1.17. The Contractor has made all necessary investigations for the purposes of sand supplying and perform Dredging and Sand Nourishment, and any part thereof, and accepts full responsibility for the accuracy, adequacy, performance and the design with all Applicable Laws, including, *inter*

alia, all standards of the Standards Institution of Israel, the MCCP's Requirements and the Technical Specifications.

Without derogating from the above, the Contractor is obligated, among others, to issue a Permit of Maritime Cabotage from the Israeli Administration of Shipping and Ports ("**ASP**"), and to compliance with all of the ASP regulations, directives and policies to include vessels and operators licensing and registration, safety procedures, international regulations or treaties, insurance demands etc. It is hereby clarified, that the ability to perform the Works is conditioned by the issuance of such permit, which is at the Contractor's sole responsibility and costs. The Contractor shall not claim in that regard and will not be eligible, in any case, for any compensation and/or indemnification and/or payment of any kind.

- 7.1.18. The Contractor has inspected, as an expert, all factors and data that may be deemed to affect the execution of the Works, including but not limited to: (i) the physical conditions of the sites of the Works detailed in Document "C"; (ii) technical aspects and risks with respect to the Works; (iii) environmental aspects and risks with respect to the Works and sites; and pursuant to its evaluation, the Contractor believes that the performance of its obligations, in accordance with the provisions of this Agreement, is feasible and practical. Furthermore, pursuant to its independent evaluation, the Contractor has satisfied itself that all of the above are fit and suitable for the fulfillment of its obligations in accordance with the provisions of this Agreement, and that the various mechanisms detailed in this Agreement are adequate and sufficient in order to compensate the Contractor regarding any of the abovementioned inspected factors and data.
- 7.1.19. The Contractor and its subcontractors shall be licensed at all relevant times, in accordance with the Applicable Law, to perform the Works and abide by all the requirements and instruction laid down by the competent authorities (including but not limited to the Ministry of Environmental Protection, the Ministry of Health, the Department of Work Safety etc.), and by the various requirements and instructions laid down by the competent Authorities under any Applicable Law as they pertain to the Works and to all of the Contractor's obligations under this Agreement, at any time during the term of this Agreement. Without derogating from the generality of the above, the Contractor undertakes to register with the relevant Governmental Authorities to the extent required under Applicable Laws including but not limited to, the tax authorities and the Israeli Registrar of Contractors, where applicable and maintain such registration all throughout this Agreement.

- 7.1.20. That it will act in good faith, decency and loyalty towards the MCCP and its associates and will refrain from doing any deed or taking any action, which may harm the MCCP.

7.2. **MCCP's Representations and Warranties**

The MCCP hereby declares, represents and warrants as follows:

- 7.2.1. It has the power to enter into and perform its obligations under this Agreement.
- 7.2.2. Each of its obligations under this Agreement constitutes a valid and binding obligation.
- 7.2.3. All authorizations and approvals, as required in connection with the budget regarding the Works, have been regulated and approved by the government of the State of Israel.

8. **Performance of Works**

- 8.1. At any time during the performance period and as long as the Agreement is valid (including its extensions), may issue to the Contractor a Work Order in the form of Appendix B5.
- 8.2. Such Work Order will include all details, specification and instructions required for the performance of any specific work ordered by the MCCP. The MCCP within such Work Order may, at its sole discretion, order any and/or all of the Works.
- 8.3. The Contractor shall comply with all undertakings, obligations and responsibilities towards third parties in connection with the Works, as specified in the MCCP's Requirements, *Document C* and/or the Work Order and relevant Permit.
- 8.4. Upon completion of said acceptance tests to the full satisfaction of MCCP, Contractor shall prepare for MCCP 's an Acceptance Certificate ("**Acceptance Certificate**").
- 8.5. **Independent Tests**
- 8.5.1. The MCCP or anyone on his behalf, may, at any time during the Agreement Period, examine the sand supplied by the Contractor and sample any part thereof and/or all of the sand, and send it to biological and ecological tests, in order to ascertain that the sand indeed fits the criteria detailed in *Document "C"*.
- 8.5.2. The Contractor will provide the MCCP and/or any one on his behalf access to all locations, sites, equipment and facilities under the Contractor's control, for performance of the examinations.
- 8.5.3. For the avoidance of doubt, it is clarified that the Contractor will be obligated to conduct the tests specified in *Document C*, at beginning, and

as a condition of extending the Agreement period. However, if during the Agreement Period the MCCP wishes to make additional tests, it will be at the expense of the MCCP.

8.5.4. It is hereby clarified that any of the examination as describe above will not impose any responsibility of any kind on the MCCP, and shall not reduce or derogate from the Contractor's full responsibility.

8.6. Sand Measuring

8.6.1. The Sand will be measured based on the vessel's built-in `scale mark` by Supervisor nominated by MCCP as detailed below upon its sole and absolute discretion after connection of the discharge pipe to vessel and before start of pumping sand to the shore.

8.6.2. The Contractor will allow the Supervisor (defined in Section 8 to this Agreement) to accompany its crew and perform the following examinations:

- i. The Supervisor will accompany the Contractor's crew ship before the loading of the Sand to the ship. At that point, the Supervisor has to approve that the ship is empty and ready for loading. The Contractor will not begin loading Sand before such written approval from the Supervisor.
- ii. The Supervisor will be present during the entire process of the loading of the Sand. After the completion of the loading, the Supervisor will submit a written approval to the Contractor authorizing the completion of the loading phase. The Contractor will not ship the Sand before such written approval from the Supervisor.
- iii. The Supervisor will join the Contractor's crew ship sailing to Israel, and stay on the ship at all time, during the voyage.
- iv. The Contractor, at its own cost, shall provide to Supervisor on Board living and working conditions, equal to the ship officer's conditions, at the ship during all period of work.
- v. At the Work Site, during the performance of the Works, the Supervisor will examine the Sand, including the quality and quantity, and approve in writing the use of the Sand and the quantities that has been used. The Contractor will not execute and/or perform the Works without approval of the Sands quality. It is hereby clarified that any Sand and or quantities that will not be approved by the Supervisor will not be included in the measurement for payment.

- 8.6.3. It is hereby clarified, that in any case of disagreement between the Contractor and the MCCP regarding the Sand quantity or the Sand quality, the Supervisor decision will be the final and binding decision.
- 8.6.4. The Contractor shall maintain a work log at the ship with numbered pages, in one original and two copies. The Supervisor shall have full authority to drawings and instructions to the Contractor from time to time and as required for the correct execution of the Works. The Contractor shall be bound to follow such orders, drawings and instructions. The Supervision will authorize the Sand in writing in the work log.
- 8.6.5. Every Work Order shall be dated and signed by the Supervisor and the Contractor, in order to account for its receipt

9. The Supervisor

- 9.1. For supervision of the Works according to this Agreement, Document "C" and the provisions of the all Permits, the MCCP will appoint a Supervision Company to be in charge of the Sand measurement and the examination the quality of the sand (Hereafter: "**Supervisor**").
- 9.2. The Contractor hereby grants the Supervisor, the right to visit the Contractor (and its subcontractor) at the Work Sites, including the ship and the site of the Sand source (mining site), during the performance of the Works for the review progress and performance of the Works, schedule, measuring, cost, quality of the Sand and any other issue related to protection of the environment. The Contractor agrees to provide the Supervisor all information required by Supervisor for the inspection and examination of the Sand.
- 9.3. It is clarified that the contractor shall not load the Sand and/or dump/nourish the Sand during the performance of Dredging and Sand Nourishment without getting a written authorization signed by the Supervisor before any action as described above.
- 9.4. For the avoidance of doubt, it is clarified that any act as a described above in Section 9.4 without getting a written authorization signed by the Supervisor, shell not entitle the Contractor with any disbursement regard to the quantity of the Sand, which the Contractor has loaded and/or dumped, without getting a written authorization signed by the supervisor **in advance**.
- 9.5. The Contractor undertakes to bear all the Supervisor living and accommodation expense, accordance with the standards of the ship's crew throughout the day and night during the Performance Period, including the time the Supervisor spend on the mining site.
- 9.6. The Contractor shell fill in, during Performance Period, a work log form. The Contractor will write in the work log action or an important event associated with execution of the Works. In addition, every day, the Contractor will fill in the quantities

of Sand that are on the ship at the beginning and the end of each day, and at the beginning and the end of each sand dumping act.

- 9.7. Notwithstanding the above, the MCCP's representative or the Supervisor may require from time to time any additional reports and/or other documentation and information as it may deem necessary to monitor the performance of the Works.
- 9.8. It is hereby clarified, that work log signed by the Supervisor is an official document for calculating the quantities of the sand supplied by the Contractor, and constituted a binding Document. The Contractor shall have no claim regarding the work log or any of the Supervisor decision in the work log.
- 9.9. The original of the work log shall be delivered to the MCCP at the time of final acceptance of the Works.

10. Contractor's Representative

- 10.1. On or before the Effective Date, the Contractor shall appoint the Contractor's Representative to be its representative in all dealings with the MCCP in connection with this Agreement and the performance of the Works hereunder. The Contractor's Representative shall have experience in similar scope and complexity projects. Concurrently with the execution of this Agreement, the Contractor shall notify the MCCP in writing the contact details of the Contractor's Representative.
- 10.2. From the Effective Date and until the receipt of the Acceptance Certificate , the Contractor's Representative shall be situated in Israel.
- 10.3. The MCCP may, at any time and following written notification, demand that the Contractor replace the Contractor's Representative, provided such right shall not be used veraciously. Accordingly, the Contractor undertakes to substitute, upon the MCCP's request, the Contractor's Representative with an employee who is sufficiently skilled and qualified for the position, as specified above, subject to the MCCP's acceptance.
- 10.4. The Contractor's Representative has the authority to make and give all necessary instructions, approvals and decisions required to be given by the Contractor in relation to this Agreement, unless and until the Contractor notifies the MCCP in writing of a limit to the authority of the Contractor's Representative.
- 10.5. The Contractor may request at any time the MCCP's prior written approval for the replacement of the Contractor's Representative, which approval shall not be unreasonably withheld.
- 10.6. Without derogating from the above, Contractor shall also nominate an Israel representative as detailed in the offer to the Tender. Israeli Contractor's Representative shall be an Israeli citizen fluent in Hebrew and shall engage in all matters relating to handling all permits required by the Israeli authorities and the coordination if the Works between Contractor and MCCP and other third parties in Israel. All conditions

detailed in this Section shall apply mutatis mutandis on Israeli Contractor's Representative.

11. Safety

- 11.1. The Contractor shall comply with all safety requirements, which will detailed in every separated Works order according the permit provision and the provision of the MCCP's safety consultant, including all Applicable Laws regarding work safety, and shall endeavor to meet or exceed EU's safety standards.
- 11.2. The Contractor will bear all the responsibilities and obligations pertaining to the work Site, which will, determined in the Works order.
- 11.3. The Contractor shall ensure that it is the Contractor's obligations under this Agreement in a safe manner and without risks to health and safety.
- 11.4. The Contractor shall maintain safety plans detailing all actions and procedures to be Implemented and followed in the performance of the Works, all pursuant to Applicable Laws and in compliance with the safety requirements detailed in the safety provision of each work order ("**safety plans**"). The purpose of the safety plans is to prevent injury to persons or damage to property arising from the performance of its obligations under this Agreement.
- 11.5. The Contractor must immediately comply with any direction in respect of health or safety issued by any Israeli Governmental Authority.
- 11.6. The Contractor must notify the MCCP's representative, the Supervisor and the Israeli governmental Authority, about any of the following:
 - 11.6.1. Pollution or leakage of any toxic material into the sea and a long the beach;
 - 11.6.2. Dangerous event which may compromise the Works and/or any person;
 - 11.6.3. Diseases and/or illnesses which could adversely affect the Works;
 - 11.6.4. Notice of non-compliance the Contractor receives under Applicable Laws regarding work safety;
 - 11.6.5. Other events giving rise to a requirement to notify a Governmental Authority under any Applicable Laws regarding work safety, arising in connection with the performance of its obligations under this Agreement.
- 11.7. Contractor shall have procedures in place for handling emergencies such as pollution or leakage of any toxic material or any natural disasters, and First aid equipment. The Contractor shall comply with this provision, even if not obliged to do so under Applicable Laws.
- 11.8. The Contractor shall provide certified training of its employees regarding work safety. Furthermore, the Contractor shall have its employees sign a confirmation that they received and understood the content of the training, and that the obligation

is imposed on them to use personal safety equipment. In addition to the aforesaid, and without derogating therefrom, any time that the Contractor arrives to maintain and/or repair its works the Contractor shall provide its employees, prior to commencement of the work, a refresher of the provisions of the work safety procedures and rules, including work at heights, will ensure that the employees understood what is required of them according to such procedures, provisions and rules and they shall undertake to perform the work in accordance therewith and the Contractor will have them sign a document in which they confirm this. For the avoidance of doubt, it is hereby clarified that nothing in the performance of the aforesaid in this section is intended to release the Contractor from its responsibility pursuant to law to the welfare and safety of its employees, the work environment and to those located on it or nearby and/or to impose liability of any kind whatsoever on MMCP or anyone on its behalf.

12. Cleaning; Waste Disposal

- 12.1. Without derogating from the Technical Specifications, during the execution of the Works, the Contractor shall keep the Site clean and free from all unnecessary obstructions, and shall store or dispose of any equipment or surplus materials. The Contractor shall clear away and remove from the Site any waste, stuff and equipment that is no longer required.
- 12.2. Without derogating from the Technical Specifications, the Contractor undertakes to perform the work under this Agreement with minimum waste and taking into account the environmental protection. The Contractor shall use during execution of the Works only equipment in accordance with accepted international standards, and accordance with the standards set out in Document "C".
- 12.3. Without derogating from the Technical Specifications the Contractor shall leave the Site and the Works in a clean and safe condition in the end of each project, and as a condition to receive the Acceptance Certificate . If the contractor, for any reason will not remove his equipment, and leave the work site in a clean and safe condition, within a reasonable time which determined by the Supervisor, the MCCC would be allowed to contact a different contractor to do the required work, and deduct from the Contractor's payment the costs, and the Contractor shall not have any claim in that regard.

13. Contractor's Equipment

The Contractor shall be responsible for all his equipment. When brought on to any applicable Work Site, the Contractor's equipment shall be deemed to be exclusively intended for the execution of the Works.

14. **Contractor's Code of Conduct**

14.1. **Compliance with Applicable Laws**

14.1.1. The Contractor shall comply with all the relevant labor Laws applicable to the Contractor's personnel (including any of Contractor's foreign employees), including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.

14.1.2. The Contractor shall require its employees to obey all Applicable Laws, including those concerning safety at work.

14.1.3. The Contractor shall pay all taxes, levies and other mandatory payments with respect to the Contractor's Personnel, including, without limitation, social security, income tax and health insurance, as applicable.

14.1.4. **Workplace Ethics**

The Contractor shall comply with all Applicable Laws regarding employment (including minimum wages and working days and hours) in addition, workplace environment and take all necessary actions in order to protect employee rights and prevent the abuse of any of these rights.

14.1.5. **Employees**

The Contractor shall, at all times, take reasonable precautions to prevent any unlawful, riotous or disorderly conduct among any person employed by the Contractor or by its subcontractors. The Contractor shall comply with any request by the MCCP to remove any person employed by the Contractor or its subcontractors, if in the MCCP's opinion such person behaved inappropriately, is unfit to perform his or her duties, or has been negligent in performance of his or her responsibilities. All costs regarding any such removal will be solely borne by the Contractor.

14.1.6. **Environmental Protection**

The Contractor will comply fully with all Applicable Laws and the MCCP's Requirements concerning the protection of the environment, emissions, surface discharges and effluent from the Contractor's activities and seek ways to conserve natural resources and energy, reduce waste and the use of hazardous substances, minimize any adverse impacts on the environment and in any event shall not exceed the values prescribed by Applicable Laws. In addition, the Contractor shall take all necessary steps to limit damage resulting from pollution, and other results of his operations.

14.2. **Artifact and Antiquities**

14.2.1. All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the MCCP. The

Contractor shall take reasonable precautions to prevent Contractor's employees, subcontractors, or other persons from removing or damaging any of these findings.

14.2.2. The Contractor shall, upon discovery of any such finding, promptly give notice to the MCCP's representative and the supervisor. In addition, the Contractor undertakes to comply with the provisions of any Applicable Law pertaining to such findings, including inter alia, the Antiquities Law 5738-1978.

14.2.3. 13.3 Without derogation of Contractor's responsibilities, the Contractor shall immediately notify the MCCP about any Environmental or Safety accident, or Antiquity founding's, or other accident or failure, that could delay the works execution.

15. Design

15.1. The Contractor shall carry out and be responsible for the design of Dredging and Sand Nourishment subject to all Permits and the provisions of Document "C".

15.2. The Contractor undertakes to perform a design Dredging and Sand Nourishment so that it shall be fit for the purpose that described in Document "C" accordance with the MCCP's requirements in each Works Order. The Contractor shall be responsible for the design and for the accuracy of the applicable MCCP's Requirements Document "C", the Agreement and the Tender Documents.

15.3. In the event that, during the execution of the design and/or the Works, the Contractor discovers any error, fault, omission, ambiguity, inconsistency, inadequacy or other defect in the MCCP's requirements, it shall promptly notify the MCCP's representative about this error and ask for instructions of MCCP. In the case the Contractor did not notify the MCCP about the discovered error within 7 days from its detection, the Contractor will take full responsibility for this error corrective actions..

15.4. The design obligations of the Contractor under this Agreement shall not be affected or diminished as a result of any MCCP's error and the Contractor is deemed to have taken into account any defect which might be discovered; and it shall not be entitled to any change in connection with its design obligations as a result of any MCCP's error.

15.5. Notwithstanding the generality of the above, the Contractor acknowledges that it has reviewed the MCCP Permits, it approves that such MCCP Permits sufficient and compatible for the performance of the Works.

15.6. The Contractor warrants that the designers on his behalf have the experience and capability necessary for the execution of the design. The Contractor undertakes that the designers shall be available to attend design meetings with the MCCP at all

reasonable times. At Least one of the Contractor's designers will be authorized to sign on the "Building Permit" request in accordance with Applicable Laws

- 15.7. The Contractor acknowledges that as part of the Design process, the MCCP may provide comments and corrections and such comments and/or corrections, shall be binding upon the Contractor, however it is clarified that such comments and/or corrections shall not constitute a Change and shall not impose any liability on the MCCP.

16. **Subcontracting**

16.1. **General**

- 16.1.1. Contractor shall not engage any of the Works to any subcontractors which without MCCP's prior written request. MCCP may oppose such subcontracting for any reason and Contractor hereby waives any demand. In the event that the Contractor submitted an offer to Tender using a Major Sub Contractor then all of Sub Contractor Works, as defined in the Tender shall be carried out only by such Major Sub Contractor.
- 16.1.2. The below sections shall apply only to subcontractors approved by MCCP in writing and in advance and the Major Sub Contractor.
- 16.1.3. The Contractor shall ensure that any subcontractor is reputable and possesses sufficient experience, expertise and ability to perform its obligations in accordance with this Agreement.
- 16.1.4. Subcontracting of any part of the Works and/or any consent given by the MCCP, shall not relieve the Contractor from any warranty, liability or obligation under this Agreement and any breach by a subcontractor of, or failure by a subcontractor to comply with, the obligations of the Contractor under this Agreement shall be deemed, for all intents and purposes, a breach or failure by the Contractor, which at all times shall remain entirely responsible for any failure to take reasonable care on the part of its subcontractors to the extent permitted by Applicable Laws.

16.2. **Subcontracts Provisions**

- 16.2.1. The subcontracts with respect to the Works including the Major Sub Contractor shall include the following provisions:
- i. The subcontractors, with respect to the subcontracted works, shall be subject to the same obligations, terms and conditions as the Contractor under this Agreement on a "back to back" basis.
 - ii. The undertakings and obligations of the subcontractors as stipulated in the subcontracts will also be in favor of the MCCP as a third party.

- iii. The subcontractor shall waive for the benefit of the MCCP (or anyone on its behalf) any claim for moral rights or similar intellectual property rights in any plan, design or other work incorporated in the Project, which could have the effect of preventing, suspending or delaying any changes or modifications of any part of the Project, or the delay, suspension and/or prevention of the continuance of the Works.
- iv. The subcontractor shall waive any rights it might have to pursue legal proceedings (court orders, decrees, injunctions etc.) which may result the delay, suspension and/or prevention of the continuance of the Works (i.e. the subcontractor shall be entitled to claim for monetary remedies only).
- v. Any dispute between the Contractor and a subcontractor shall not in any way result the delay, suspension and/or prevention of the continuance of the Works.
- vi. Waiver of any claims or demands of whatever nature against the MCCP.
- vii. In the event of termination of this Agreement, then, the MCCP shall be entitled to step into the subcontract, and replace the Contractor. In the event the MCCP exercised its "step-in" rights as aforesaid, the MCCP shall have the same rights and obligations as the Contractor under the subcontract.
- viii. A "termination for convenience" provision in the event that this Agreement is terminated for convenience. Such provision shall state, *inter alia*, that the Subcontractor will use its best efforts to mitigate all effects of such termination, including cancelation of orders and/or reassignment of materials and/or equipment and/or labor.

17. The Payment Consideration

17.1. Pricing

- 17.1.1. The MCCP will pay the Contractor the price for sand supply, detailed in the winning Bid, multiplied by the cubic meter of sand required for the applicable service, as detailed in the Work Order ("**Work Order Amount**").
- 17.1.2. Cubic meter quantities shall be calculated based upon the number of cubic meters measured in the ship by the Supervisor as detailed in section 8.6.
- 17.1.3. It is hereby clarified and agreed, that the price for cubic meter of sand which the Contractor offered in the Consideration Annex - The Bidder's Offer in the Bid includes all costs of any type or kind, which related to the

performance of this agreement and his appendices, to include, but not only, the supply of the sand, design of the Dredging and Sand Nourishment.

- 17.1.4. Payment for Section 1.1 of Consideration Annex shall be conditioned upon receiving a signed approval by MCCC including MCCC's Supervisor that Mobilization has been completed.
- 17.1.5. Payment for Section 2.1 of Consideration Annex (except for last payment) shall be paid monthly according to the quantity of Sand nourished in previous month as approved by MCCC.
- 17.1.6. Payment for Section 2.2 of Consideration Annex (except for last payment) shall be paid monthly according to the quantity of Sand spread in previous month as approved by MCCC
- 17.1.7. Payment for Demobilization and the last payment for Section 2.1-2.2 of Consideration Annex shall be made against a Acceptance Certificate for such stages.
- 17.1.8. Notwithstanding the above, MCCC may decide upon its own discretion that any payment is conditioned upon receipt of an Acceptance Certificate for the performance milestone signed by MCCC and/or an approval signed by MCCC. If a completion certificate signed by MCCC and/or such approval is not received, the consideration shall not be paid. Notwithstanding the aforesaid, MCCC shall be entitled to pay the Contractor part of the payments in its discretion, however this section does not impose any obligation whatsoever on MCCC.
- 17.1.9. Except for VAT, any tax and/or levy and/or obligatory payment of any kind applicable or that shall become applicable in the future on the Works and/or any transaction pursuant to this Agreement, shall be entirely imposed on the Contractor and paid by it.
- 17.1.10. It is declared and agreed that the consideration is fixed and final and that it includes appropriate and fair consideration for the Contractor, including profit for all of the expenses associated with and deriving from the Works and the other obligations of the Contractor pursuant to this Agreement or pursuant to any law, and the Contractor and/or anyone on its behalf, shall not claim and shall not be entitled to sue MCCC for increases or changes to the consideration, whether due to increases in labor costs, currency exchange rate increases, the imposition or increase of taxes, levies or other obligatory payments of any type or kind, whether direct or indirect or due to any other factor.
- 17.1.11. Without derogating from the above, Contractor shall make no claim for additional compensation irrespective of the nature of the material and/or its silt content (percent of fines passing ASTM sieve No. 200) and/or hard layers actually encountered, whether he did or did not obtain additional

information. Contractor shall make no claim for additional compensation arising from weather and/or sea conditions, ship traffic from and to the port.

17.2. **Payment Terms**

- 16.2.1 Payment shall be made within sixty (60) calendar days following Contractor receiving an Acceptance Certificate for each stage as detailed in Appendix B and provided that the Contractor has provided MCCP at least forty-five (45) calendar days prior to the payment with an invoice in the amount of the relevant Payment;
- 16.2.2 The prices shall not be linked to any index and shall remain the same all through the term of the Agreement.

17.3. **Currencies of Payment**

The Currencies of the payment according to this agreement will be in Euros.

17.4. **Taxes**

- 17.4.1. VAT in accordance with Applicable Laws shall be borne and paid by the MCCP. Any other taxes, including customs, duties and taxes pursuant to any Applicable Law, VAT in other countries and income tax with respect to any of the Contractor's employees, shall be solely borne and paid by the Contractor.
- 17.4.2. The Contractor shall bear the full responsibility for the Sand Importing and supply of the Sand, and he shall bear any payment regarding Mining projection or any other projection, which related to his performance according to this agreement and the Bid.

17.5. **Performance Guarantee**

- 17.5.1. Concurrently with the execution of this Agreement, and as a condition precedent thereto, the Contractor shall provide the MCCP with an irrevocable, autonomous and unconditional guarantee in the amount of five hundred thousand Euro (500,000) Euros, issued by a licensed Israeli bank or Israeli insurance company that has a license to deal in insurance pursuant to the Insurance Services Supervision Law– 1981 by a licensed Israeli bank or Israeli insurance company that has a license to deal in insurance pursuant to the Insurance Services Supervision Law– 1981 with a credit rating by one of the following local rating firms, of at least: (i) (AA-) in the rating scale published by S&P Maalot; **or** (ii) (Aa3) in the rating scale published by Midroog (“**Performance Guarantee**”).
- 17.5.2. The Performance Guarantee shall be valid for periods of at least twelve (12) months each, following its issuance, and until the lapse of two (2) months following the end of the Agreement Period (including any

extension of such period, if any). The Contractor shall extend the Performance Guarantee each time throughout the term of this Agreement, for additional minimum twelve (12) month periods, thirty (30) days prior to its expiration date, until the due expiration thereof in accordance with the terms of this Section 17.5.1.

- 17.5.3. Notwithstanding the above, MCCP shall have the right (not the obligation) in the event it shall exercise its right under Section 3.4.1.2 that the Performance Guarantee shall be reduced by half following the issuance of a Work Order in accordance with Section 3.4.1.2
- 17.5.4. Upon submission of the Performance Guarantee to the MCCP in accordance with the terms and conditions of this Agreement, the MCCP will return to the Contractor the Tender Guarantee submitted by it as part of its Bid.
- 17.5.5. The Performance Guarantee shall be denoted in Euro, and shall be linked to the Israeli CPI. However, in the event that the ratio between the Israeli CPI, known on the date of forfeiture of the Performance Guarantee and the basic index specified in the Performance Guarantee is lower than one (1), then the amount in the Performance Guarantee shall not be subject to indexation.

17.6. **Guarantees - General Terms**

- 17.6.1. Each Guarantee shall be subject to Israeli Law with exclusive jurisdiction regarding any proceedings resulting from shall be held by the competent Israeli courts of the district of Tel-Aviv. The terms of the Uniform Rules for Demand Guarantee, as published by the International Chamber of Commerce or any other international standards shall not apply to any of the Guarantees.
- 17.6.2. All costs regarding all Guarantees will be solely borne by the Contractor.
- 17.6.3. If the Contractor fails to provide the MCCP with any extended Guarantee within fourteen (14) days following the expiration or exercise thereof, it shall constitute a Contractor Default Event, in.
- 17.6.4. Israeli VAT shall be added to the amount of each Guarantee.
- 17.6.5. Without derogating from the aforementioned, the MCCP in its sole discursion may instruct the Contractor to issue the applicable guarantee from a different licensed Israeli bank or by a licensed Israeli insurer in the event that a future reduction in credit rating of the licensed Israeli bank or the licensed Israeli insurer is reasonably expected.

17.7. **Exercise of Guarantees**

- 17.7.1. The MCCP shall notify the Contractor in writing fourteen (14) days prior to making any demand under any Guarantee, except for in any of the

following events, upon the occurrence of which the MCCP may make an immediate demand without notifying the Contractor in advance:

- i. Upon or following the occurrence of a Contractor Default Event, which may not be remedied by the Contractor, considering, *inter alia*, the nature and extent of the Contractor Default Event; or
- ii. In the event a court of competent jurisdiction (or any other competent governmental authority) declares the Contractor to be bankrupt or insolvent, or if a receiver or liquidator (whether temporary or permanent) is appointed for all or a substantial part of the Contractor's assets. Or
- iii. Any other event that requires an immediate forfeiture of the Guarantee, at the MCCP's sole discretion.

To the extent applicable, the MCCP shall inform the Contractor of the underlying reasons for exercising the applicable Guarantee.

For the avoidance of doubt, failure on behalf of the MCCP to notify the Contractor fourteen (14) days prior to making any demand under any Guarantee, shall not derogate from its right to forfeit the Guarantee and shall not give rise to any objection claims towards the forfeit demand.

- 17.7.2. The MCCP, at its sole discretion, may make a demand under any Guarantee in respect of any amount which it considers due or payable (but which has not been paid) by the Contractor to the MCCP, or for which the Contractor may become liable towards the MCCP under, or as a result of, any breach of this Agreement by the Contractor.
- 17.7.3. If the Contractor fails to provide the MCCP with any extended Guarantee, within fourteen (14) days prior to its expiration, the MCCP may, in its discretion, immediately demand the exercise of such a Guarantee, and the provisions of Sub-Section 17.7.1 shall not apply. Any such exercise shall not relieve the Contractor from providing the MCCP with all extended Guarantees, including a replacement Guarantee for the one exercised. The MCCP will hold the amounts received by it following the exercise of the Guarantee in substitution for the Guarantee and will regard such amounts in accordance with all provisions relating to Guarantee under this Agreement, *mutatis mutandis*. The Contractor will be entitled to deliver a replacement Guarantee to the MCCP, with the same terms and conditions required under this Agreement and seven (7) Business Days thereafter, the MCCP would return the amounts held by it in their nominal value.
- 17.7.4. The MCCP at its sole discretion may make a demand with respect to any Guarantee as aforesaid, whether or not the amount demanded is, or the

circumstances relating to the amount are, in dispute or subject to any court resolution or other proceedings.

17.7.5. The licensed Israeli bank or the licensed Israeli insurer shall not hold and shall not be entitled to use any of the Contractor's claims as cause for refraining from paying the MCCP the amount demanded under any Guarantee.

17.7.6. Within Seven (7) days from the forfeiture of any amount from any Guarantee, the Contractor shall be obligated to replenish the forfeited Guarantee amount so that the MCCP shall hold at all times the Guarantee at its full amount in accordance with this Agreement.

17.8. **Replacement Guarantee**

If, at any time prior to the expiration date of a Guarantee, the licensed Israeli bank or the licensed Israeli insurer ceases to hold its license to operate as a banking corporation by virtue of the Israeli Banking (Licensing) Law, 5741-1981, or its license to operate as an insurer by virtue of the Israeli Financial Services (Insurance) Control Law, 5765-2005, as applicable; or if the rating of such licensed Israeli bank or a licensed Israeli insurer falls below the required rating as detailed in this Agreement, then the Contractor must, within thirty (30) days after that event occurs, provide the MCCP with a replacement Guarantee which complies with the applicable requirements set forth in this Section and that the guarantee issuer complies with the requirements detailed in Section 17.5.1. Without derogating from Section 17.7, failure by the Contractor to provide such replacement Guarantee shall entitle the MCCP to forfeit the Guarantee until such time the replacement Guarantee is submitted to the MCCP.

18. **Liability; Indemnification; Warranty; Limits of Liability**

18.1. The Contractor assumes liability in respect of any damage and/or injury and/or loss of any kind whatsoever including to body and/or to property that shall be caused to MCCP, its employees, its representatives, its invitees and anyone on its behalf, and the Contractor, its employees, its representatives, its invitees and anyone on its behalf, and any entity, person or third parties whatsoever, due to an act or omission of the Contractor, its employees, its representatives or anyone on its behalf during the performance of its obligations under this Agreement and it shall be required to discharge to the injured parties, and it undertakes to compensate MCCP for any amount that it is required to pay in connection with the aforesaid damages. The liability of the Contractor shall be valid even if MCCP is required to pay to any injured party or to any other person or entity in respect of its possession of the land or for any other grounds of liability, or based on any other reason.

18.2. The Contractor shall be liable towards MCCP and anyone on its behalf, towards the employees of the Contractor and anyone on its behalf (including subcontractors) and towards any third party, for any damage, whether to body or to

property, loss or legal expenses, including any damage that shall be caused to existing infrastructure at MCCP's stations during the performance of the Services, and for any other damage that shall be caused to MCCP and/or to any third party directly or indirectly, from the performance of the Contractor 's Services and/or in connection therewith and/or the provision of the Services or as a result of defective materials or from faulty performance of the works that are the subject of this Agreement whether during the performance of the Contractor 's Services or thereafter, whether caused by it or caused by its employees and/or representatives and/or by anyone and throughout the period of liability pursuant to law.

- 18.3. The Contractor shall be required to compensate MCCP immediately upon the first demand of MCCP any loss, damage and/or expense that shall be caused for any reason in connection with the aforesaid in this Agreement if caused to MCCP due to such injury or damage (even if the injury is not caused by the act and/or omission of the Contractor and/or anyone on its behalf and is caused, for example, due to a willful act of a third party except for willful damage caused by passersby and/or MCCP's employees) and/or breach of any of the obligations of the Contractor pursuant to this Agreement, and it undertakes to indemnify MCCP, immediately upon its first demand for the full amount paid by MCCP or which it is likely to pay in connection with such injury, loss or damage and all of the expenses borne by MCCP or that it is likely to bear in connection with a claim for such injury, loss or damage, all without derogating from the rights of MCCP pursuant to this Agreement and/or under any law for any other remedy or relief.
- 18.4. The Contractor hereby fully exempts MCCP from compensation to any of the Contractor 's employees and subcontractors and their employees and all others acting on the behalf of any thereof in respect of any injury or damage caused to them during and/or as a result of the performance of the Services, and it undertakes to indemnify MCCP immediately upon its first demand and to do so in the full amount paid or likely to be paid by MCCP in connection with such injury and damage and for all of the expenses borne by MCCP or that it is likely to bear in connection with a claim for such injury or damage, all without derogating from the rights of MCCP pursuant to this Agreement and/or under any law for any other remedy or relief.
- 18.5. The Contractor hereby fully exempts MCCP from compensation to any third party made by such third party, including damage caused to the bicycles and/or loss of time and/or distress and/or monetary loss and/or any other damage including of such damages were not caused by the Contractor and/or anyone on its behalf, and it undertakes to indemnify MCCP immediately upon its first demand and to do so in the full amount paid or likely to be paid by MCCP in connection with such injury and damage and for all of the expenses borne by MCCP or that it is likely to bear in connection with a claim for such injury or damage, all without derogating from the rights of MCCP pursuant to this Agreement and/or under any law for any other remedy or relief.

- 18.6. The Contractor hereby fully exempts MCCP from compensation to a local authority due to the Contractor 's Services, and it undertakes to indemnify MCCP immediately upon its first demand and to do so in the full amount paid or likely to be paid by MCCP in connection with such injury and damage and for all of the expenses borne by MCCP or that it is likely to bear in connection with a claim for such injury or damage, all without derogating from the rights of MCCP pursuant to this Agreement and/or under any law for any other remedy or relief.
- 18.7. The Contractor hereby fully exempts MCCP from compensation to a local authority due to the Contractor 's Works and it undertakes to indemnify MCCP upon its first demand and to do so in the full amount paid in connection with such injury and damage and for all of the expenses borne by MCCP or that it is likely to bear in connection with a claim for such injury or damage, all without derogating from the rights of MCCP pursuant to this Agreement and/or under any law for any other remedy or relief.
- 18.8. It is hereby declared and agreed that MCCP and anyone on its behalf shall not have any liability of any kind whatsoever towards the Contractor and/or its employees and/or anyone on their behalf for any damage caused to the property and/or business of the Contractor for any reason whatsoever – even if the MCCP or anyone on its behalf was aware of the possibility of such damage, and without derogating from the generality of the aforesaid, also if the damages are indirect and consequential, including, without limitation, consequential economic damages of any kind caused to the Contractor and/or anyone on its behalf, such as lost income and/or lost profits and/or loss of goodwill.
- 18.9. Without derogating from the aforesaid, MCCP shall not be liable in any manner whatsoever towards any third party in respect of the breach of copyrights and/or intellectual property rights of any kind in the implementation of the Services, registered and unregistered, and the liability for any such breach shall apply to the Contractor alone, at its sole expense.
- 18.10. Without derogating from such obligations of the Contractor , in any event that a temporary or permanent injunction is issued against MCCP (and/or its affiliated companies), that forbids use of the results of the Services of the Contractor (and/or any part thereof, including without derogating from the generality of the aforesaid, the implementation, characterization, customization, developments, interfaces, editions and versions, changes and the remainder of the Services), due to a claim that the Services or any component thereof, infringes a patent, copyright and/or exclusive or contradictory right of use of a third party (whether in Israel or abroad) (hereinafter: the "Infringing Component"), or if in the opinion of MCCP there is a suspicion that such an order will be granted, the Contractor shall be obligated to obtain for MCCP, at its expense, as soon as possible, and in any event within not longer than 45 days from the date of issuance of the order or the date on which such suspicion arose, permission to continue to use the Infringing Component or to replace it or rewrite the lines of code, or to replace the Infringing Component with

a component of equivalent capability such that the claimed infringement shall be defrayed, while ensuring the minimum disruption of MCCP's work. If at the end of such period of 45 days the Contractor shall not succeed in defraying the claimed infringement and to cancel the injunction, MCCP shall be entitled to settle with the third party at the expense of the Contractor and act in its discretion in order to cancel the injunction, and the Contractor shall indemnify MCCP and/or anyone on its behalf against any expense and damage caused to it as a result thereof.

- 18.11. The termination of this Agreement and/or the completion of the Services pursuant hereto shall not derogate from the liability of the Contractor regarding damages where the grounds of the complaint derive from this Agreement.
- 18.12. It is clarified that the only remedies to which the Contractor shall be entitled against MCCP are financial remedies alone, and it shall not be entitled to prevent MCCP from continuing to perform the Services itself and/or by others in any event and for any reason whatsoever, even if it claims that MCCP breached this Agreement.
- 18.13. If MCCP is obligated to pay any amount in respect of a debt which, pursuant to this Agreement, the Contractor is obligated- whether it derives from a claim of an employee of the Contractor or an employee of MCCP or of a third party or of an insurer or any other source, MCCP shall be entitled to full indemnification and compensation from the Contractor for any such damage caused to it at the level of such amount plus all of the expenses of MCCP including legal expenses and attorneys' fees that it will have in connection with such a claim, plus linkage differentials, and the Contractor shall return to MCCP these amounts immediately after MCCP submits a demand in which it itemizes the expenses it so incurred. MCCP will notify the Contractor of any event in which it is sued according to this provision.
- 18.14. If MCCP is obligated to pay any amount in respect of a debt which, pursuant to this Agreement, the Contractor is obligated- whether it derives from a claim of an employee of the Contractor or an employee of MCCP or of a third party or of an insurer or any other source, MCCP shall be entitled to full indemnification and compensation from the Contractor for any such damage caused to it at the level of such amount plus all of the expenses of MCCP including legal expenses and attorneys' fees that it will have in connection with such a claim, plus linkage differentials, and the Contractor shall return to MCCP these amounts after MCCP submits a demand in which it itemizes the expenses it so incurred. MCCP will notify the Contractor of any event in which it is sued according to this provision.
- 18.15. Without derogating from the obligations of the Contractor in this Agreement, MCCP shall be entitled, in any event in which the Contractor breached its obligations under this Agreement and/or does not provide the Works as required under this Agreement and/or there is likelihood that it shall have difficulty in providing the Works pursuant to this Agreement (including due to a prior attempt) to repair on its own and/or by means of others the damages which the Contractor is

liable to repair pursuant to the provisions of this Agreement at the expense of the Contractor , and this is without limiting the scope of the liability of the Contractor under this Agreement, and the Contractor shall bear all of the expenses associated with the repair of such expenses and costs plus 20% general expenses of MCCP

- 18.16. It is clarified that the liability of the Contractor under this Section shall not exceed an amount equivalent to three times the value of the total price of Section 1.1 and 2.1 combined, however, this liability limitation shall not apply in the case of damage to a third party of any kind whatsoever and/or bodily injury and/or damage to real property and/or damage derived from an intentional and/or negligent act and/or omission of the Contractor and/or anyone on its behalf and/or damage derived from intellectual property infringement and/or damage derived from breach of a confidentiality obligation and/or breach of an information security obligation.
- 18.17. For this purpose the "Contractor " – including its employees and/or anyone on its behalf and including subcontractors and Designated Subcontractors and/or any of them and/or any of their employees and/or anyone on their behalf.

19. **Insurance**

19.1. **CONTRACTOR's Insurance**

- 19.1.1. Without derogating from the contractor liability by any law and/or under this Agreement, and before executing any activity under this agreement, the Contractor undertakes to arrange and to maintain, at his sole expense, throughout the period this agreement is valid and any subsequent period, the insurance policies specified in the certificates of insurance as set forth in Enclosures & (hereafter "The Contractor certificates") with a duly licensed and reputable insurance Companies.
- 19.1.2. The Contractor undertakes to arrange and maintain Professional indemnity insurance in accordance with the terms and conditions set out in the Contractor certificates throughout the entire term during which liability claims may asserted against The MCCP or Contractor in connection with this Agreement.
- 19.1.3. Without derogating from Contractor's obligations, the Contractor undertakes to arrange and to maintain, at its sole expense, throughout the period this agreement is valid and any subsequent period the following insurances in accordance with the terms and conditions set out in the Contractor certificate: Employers liability insurance
- 19.1.4. Without derogating from Contractor's obligations, the Contractor undertakes to arrange and to maintain, at its sole expense, throughout the period this agreement is valid and any subsequent period a P&I marine insurances in accordance with the terms and conditions set out in the certificate of entry and the NORTH P&I RULES 2015-2106 attached hereinafter

- 19.1.5. Without any request from The MCCP, The Contractor shall present The MCCP, before executing any activities according to this agreement, the insurance certificate and the certificate of entry signed by its insurers. The Contractor declares that presenting the certificates is a preliminary and suspending term for executing any activity under this agreement and that The MCCP is entitled to prevent The Contractor from executing any activity as aforesaid. No later than 7 days before the expiry of the Contractor's policies, the contractor shall present The MCCP the certificates for any subsequent insurance period.
- 19.1.6. The Contractor undertakes to comply with the insurance policies terms and to pay premiums in respect of the insurances, in full and on time, and to not act in any way that can harm the validity of the insurance policies. Furthermore, The Contractor undertakes to cooperate with The MCCP, as maybe required, to protect and fulfill the rights of MCCP or anyone acting on its behalf under the insurance policies, including immediately notifying the insurer of any event that could be sued upon under Contractor's insurance policies.
- 19.1.7. The coverage limits detailed herein are intended to set a minimum requirement for the insurance coverage to be obtained by Contractor and shall not be construed as limiting its liability under this contract or any Law or as precluding Contractor from extending or increasing the insurance coverage at its discretion or according to its estimate of the risks and liabilities to which it may be exposed.
- 19.1.8. The Contractor undertakes to perform any reasonable changes, adjustments or extensions required by The MCCP to the above insurances, to comply with its obligations under this contract.
- 19.1.9. It is hereby declared and agreed that the arrangement of the above insurances by The Contractor and/or the presentation of the certificate and/or the examination of the certificate by the MCCP and/or any requirement made by the MCCP to perform changes, adjustments or extensions to the above insurances shall not in any way constitute an approval that the policies are in accordance with the provisions of this agreement and in no way impose any liability on the MCCP, nor shall it limit or derogate from The Contractor's obligations under this agreement or by any law.
- 19.1.10. The Contractor shall, within reasonable time from an occurrence of such event, notify its insurer(s) and the MCCP of any material event which may give rise to any claim, demand, proceeding, damage, cost or charge of any kind arising from its performance under this Agreement.
- 19.1.11. The Contractor shall include in all its contracts with its subcontractors who are involved in the performance of the work and/or services pursuant

to the Contract provisions obligating them to effect and to maintain through the offices of a duly licensed and reputable insurance company, the relevant insurance policies that they are obligated to effect and maintain under the Contract and for the same period/s that Contractor's Insurances must be in effect as mentioned hereinabove.

- 19.1.12. The Contractor shall ensure that all of its sub-contractors have adequate insurance to cover their liabilities as stipulated in this Agreement.
- 19.1.13. This Section is of the essence of the engagement, and the breach thereof shall be deemed a fundamental breach of the agreement.

20. **Liquidated Damages**

20.1. **Liquidated Damages for Delay**

- 20.1.1. In the event that the Contractor fundamentally breaches this Agreement, Tit shall pay MCCP liquidated damages in the amount of NIS 250,000 in respect of such breach. This shall not derogate in any way from MCCP right to terminate the Agreement.
- 20.1.2. In the event that the completion of any services ordered by the MCCP as specified within any issued Work Order in accordance with the provisions of this Agreements is delayed by more than fourteen (14) days ("Grace Period") then MCCP will be entitled to and may charge the Contractor with liquidated damages as of the first day of the delay in the amount of 3,000 Euro per day ("**LDs for Delay**"). For the removal of any doubt in such fulling of the TSHD, as defined in the Technical Specification, shall be included in the Grace Period. MCCP upon shall on its own and absolute discretion postpone the collection of Liquidated Damages due to minor discrepancies or bad weather.
- 20.1.3. The MCCP will be entitled to offset any amount due from the Contractor, including the LDs for Delay, from any amount the Contractor is due from the MCCP, including by exercising the Performance Guarantee.
- 20.1.4. The MCCP's right to any LDs for Delay shall be without prejudice to any other relief or remedy available to the MCCP under the Agreement or under Applicable Laws and the exercise of the LDs for Delay will not be interpreted as MCCP's agreement for any delay in the performance of the Works.

21. **Confidentiality**

- 21.1. The Contractor undertakes to maintain a total and absolute confidentiality and not to pass to others, either directly or indirectly, any professional, commercial or any other information, data or documents that reached it or have been received by it from the MCCP or any other party related directly or indirectly to this Agreement, including without limitation the Operator (collectively, the: "**Disclosing Party**"),

whether disclosed in writing, orally or by inspection of tangible objects (including documents, prototypes, samples, technical data, trade secrets, know-how, research, developments, products, product plans, services, customers, markets, software, inventions, processes, designs, drawings, marketing plans, financial condition or the Site), which are designated as Confidential or which, by its nature should be considered as Confidential or Proprietary (the: “**Confidential Information**”). Any disclosure by the Contractor in oral form should be identified by the Contractor as “Proprietary” or “Confidential” at the time of oral disclosure.

- 21.2. The Contractor undertakes to retain the Confidential Information in strict confidence, not to make any use of such Confidential Information other than as stipulated herein, and not to disclose such Confidential Information to any third party without the expressed prior written authorization from an authorized officer of the Disclosing Party.
- 21.3. The Contractor shall only disclose the Disclosing Party’s Confidential Information to its employees and consultants having a need to know such information and only to such extent as to allow such employees to perform their respective duties.
- 21.4. The Contractor shall use at least as strict a standard of care in protecting the Disclosing Party’s Confidential Information as it uses to protect its own information of like character, but in any event not less than a reasonable degree of care.
- 21.5. The Contractor shall use such Confidential Information only for the purpose of this Agreement unless otherwise agreed to by the Disclosing Party in writing.
- 21.6. The Contractor shall promptly return or destroy (at the MCCP’s choice) all such Confidential Information upon the termination of this Agreement, or at any time, upon request of the MCCP.
- 21.7. The Contractor shall be responsible that its subcontractors, Contractors, employees and consultants observe the provisions of this Section 21, including after termination of their engagement or employment with the Contractor and shall be fully accountable and responsible for actions which constitute a breach of its obligations under this Section 21, whether such actions are authorized by it or not.
- 21.8. Nothing contained herein shall in any way restrict or impair the Contractor’s right to use, disclose or otherwise deal in information which, subject to demonstration by written evidence: **(i)** at the time of disclosure to the Contractor is in the public domain; **(ii)** after disclosure to the Contractor becomes part of the public domain otherwise than through an act or omission of the Contractor; **(iii)** was in the Contractor’s possession prior to the time of disclosure to the Contractor; **(iv)** is rightfully obtained at any time by the Contractor from a third party without restrictions in respect of disclosure or use; or **(v)** is independently developed (by personnel having no access to the Disclosing Party’s Confidential Information) by the Contractor without reference to Confidential Information received from the Disclosing Party.

21.9. The Contractor hereby undertakes to have its employees, subcontractors, Contractors and consultants which are employed or engaged in the performance of the Works, or any part thereof, execute a confidentiality undertaking in the form attached as Appendix "B2" hereto. The Contractor shall provide the MCCP with all signed confidentiality undertakings, immediately upon the MCCP's first demand.

22. **No Conflict of Interest**

22.1. The Contractor, including any of its subsidiaries, Members, Sponsors, employees, consultants or subcontractors or any entity related to the Contractor or acting on its behalf shall not have any conflict of interest between any of their other activities or obligations, and the activities, obligations and rights under this Agreement. In the event the Contractor is in doubt as to whether a certain engagement or employment is in conflict of interest with this Agreement, the Contractor shall request the MCCP's prior written approval.

22.2. The Contractor shall not employ or engage, with respect to this Agreement, any consultant or expert, who was or still is employed or engaged by the MCCP with respect to the Project and/or other lines, without the prior written approval of the MCCP.

22.3. The Contractor hereby undertakes to have its employees, subcontractors and Contractors, which are employed or engaged in the performance of the Works, execute a commitment of no conflict of interest, in the form attached as appendix "B3" to this Agreement. The Contractor shall provide the MCCP with all signed commitment letters, immediately upon the MCCP's first demand.

23. Termination

23.1. **Termination following Contractor's Default Event**

23.1.1. In the event a Contractor Default Event is not remedied within the applicable cure period specified in the MCCP's notice of Contractor Default Event, the MCCP may terminate this Agreement, with immediate effect by providing a termination notice to Contractor.

23.1.2. Notwithstanding the above, the MCCP may extend, at its sole discretion, the cure period to remedy any such Contractor Default Event, considering the nature of the Contractor Default Event, and provided that the Contractor has:

- i. Undertaken in writing towards the MCCP to remedy the Contractor Default Event promptly; and
- ii. Agreed to a program for remedying the Contractor Default Event acceptable to the MCCP; and
- iii. Commenced and is diligently pursuing the remedy of the Contractor Default Event in accordance with said program.

23.2. **Immediate Termination**

Notwithstanding anything in this section 24, the MCCP may terminate this Agreement immediately, without the Contractor having any right to pursue any remedy, upon the occurrence of any of the following:

23.2.1. If the applicable Contractor Default Event is in the MCCP's opinion irremediable by the Contractor, considering, *inter alia*, the nature and extent of the Contractor Default Event and/or causes or may cause major disturbance to the timely and proper completion of Works.

23.3. **Remedies**

23.3.1. General

If the Contractor breaches one or more of its obligations under this Agreement, the Contractor shall pay the MCCP for any damage, loss or expense that the MCCP may incur due to such breach, as specified by the MCCP at its sole discretion, including LDs for Delay; this shall not prejudice the MCCP's rights to any other relief or remedy available to the MCCP under this Agreement and by Applicable Laws.

It is hereby clarified and agreed that such payments for any damage, loss or expense, shall be paid to the MCCP regardless of whether this Agreement has been terminated by the MCCP due to the Contractor Default Event or not.

23.3.2. For avoidance of doubt and without prejudice to the MCCP's rights under this Agreement or by Applicable Laws, it is expressly stated that the MCCP may set-off any amount owed to it from the Contractor from any amount owed to the Contractor hereunder, including the retained amounts.

23.3.3. For avoidance of doubt it is expressly stated that the Contractor or anyone on its behalf, including employees, members, sponsors, subcontractors etc., shall have no possessory lien over the Site (or any part thereof) or the Works (or any part thereof) or any other materials, Sand, tools, equipment etc. required for or used in connection with the performance of Works.

23.4. Effects of Termination of this Agreement by either Party

23.4.1. Upon termination of this Agreement by either Party:

- i. The Contractor shall stop the performance of all Works in accordance with the instructions and within the time as specified in the MCCP's termination notice.
- ii. The Contractor shall place no further subcontracts or orders (referred to as subcontracts in this Section) for equipment, tools, materials, services, supplies or any part or component of the Works, except as necessary to finally complete the continued portion of this Agreement, if any, in accordance with the MCCP's instructions.
- iii. The Contractor shall terminate such subcontracts or orders which relate to the terminated Works, only if and as shall be directed by the MCCP in writing, and settle all outstanding liabilities and termination settlement procedures arising from the termination of such subcontracts or orders.

The Contractor shall assign to the MCCP, at its request, all rights, title and interests of the Contractor under any specific subcontracts or orders, including those relating to the terminated Works which should not be terminated under the MCCP's instructions as aforementioned. Only in the event this Agreement shall be terminated by the Contractor due to the MCCP's breach of its undertaking, the MCCP shall reimburse the Contractor for the costs incurred by the Contractor as a direct result of such termination or assignment, as applicable.

It is hereby clarified that the MCCP may instruct the Contractor to refrain from terminating certain subcontracts and assign to the MCCP all rights, title and interests of the Contractor under such subcontracts.

- iv. The Contractor will deliver to the MCCP all relevant manuals, plans, work protocols, inventory lists, punch lists, materials, reports, knowledge, information, data and any other documents in its possession or in the possession of anyone acting on its behalf, as well as reports detailing the Works performed by it until the termination date.
- v. The Contractor must protect, clearly border and make safe property in its possession or control, and in which the MCCP has, or may acquire, an interest.
- vi. The Contractor must permit the MCCP to take possession and title of all Works which have been designed, developed, manufactured, procured, supplied constructed and/or installed prior to the termination and all of the proprietary information detailed in Section 21.
- vii. The Contractor shall transfer to the MCCP's possession at least one copy of the latest version of each Developed Software. The MCCP's license above shall include the license to make copies of such Developed Software, with no limit and at no additional cost.

The Contractor will cooperate with any new contractors or service provider selected by the MCCP as much as may be required, and pass the Works to such new contractor or service provider in an orderly manner and as quickly as possible.
- viii. The Contractor must provide, at the request of the MCCP, training to any person(s) proposed by the MCCP or any entity on its behalf.
- ix. The Contractor shall make available to the MCCP all manuals to enable the MCCP or anyone on its behalf, to carry out the operation and maintenance work and maintain safety standards for the Works.
- x. The Contractor will use its best efforts to mitigate all effects of termination, including cancelation of orders and/or reassignment of materials and/or equipment and/or labor.

23.4.2. In any event of termination and/or expiration of this Agreement for any reason whatsoever, and without derogating from any other remedy and/or relief to which MCCP is entitled pursuant to this Agreement and/or any law in the event of a breach by the Contractor (a) MCCP shall be entitled to perform itself and/or by means of others anything that according to this Agreement was required to be performed by the Contractor, (b) the Contractor waives any lien right pursuant to the Contractor's Agreement Law-1974, and hereby undertakes that upon the termination of this Agreement, to cease and to transfer to MCCP and/or to anyone on its

behalf, in an organized manner the ownership, rights to use and possession of all of the Work's products, whether or not completed, including the materials, programs, documents, applications, changes, editions and versions and other media to MCCP, if there shall be any in the possession and/or ownership of the Contractor, all for no additional consideration and without delay.

23.4.3. In any event of termination of this Agreement and/or any other claim against the MCCP, the Contractor specifically, unconditionally and irrevocably waives and relinquishes any right it might have to claim enforcement, or for any injunctions, decrees, writs, caveats or any other procedure which may result in, directly or indirectly, a disturbance to, or the suspension of the implementation of the Project, and that the sole remedy available to the Contractor shall be limited to monetary compensation.

23.4.4. Payments to the Contractor

- i. Upon termination of this Agreement for any reason by either Party, and in the event that until termination notice, the Contractor has performed any part of the Works which entitles it to consideration and all other amounts which the Contractor is entitled to pursuant to this Agreement, Contractor shall be entitled to such amounts as aforesaid, less any payments the MCCP is entitled to under this Agreement, as applicable, including liquidated damages. Such payment shall be paid in accordance with the payment procedures stipulated in Section 17 above; however, the MCCP may suspend any such payment until the completion of any of the Contractor's obligations under this Agreement.
- ii. MCCP may suspend any such payment in the event the Contractor continues to disrespect and/or not execute obligations under this Agreement 15 calendar days after having been formally notified of such default by MCCP.
- iii. For the avoidance of doubt, other than as specifically provided in this section 23.4.4, the MCCP will not be indebted by any compensation, reward or any other payment for or in connection with the termination of this Agreement, and the Contractor shall have no right to any compensation, including without limitation, for demobilization, payments, including any kind of compensation payable by the Contractor pursuant to any subcontract or order, loss of goodwill, customers, profits, expenses or for any other loss or damage, arising as a result of the expiration or termination of this Agreement for any reasons.

24. **Force Majeure**

24.1. **Force Majeure Event**

24.1.1. "Force Majeure Event" shall mean each of the following events which occurred in the State of Israel or in Mediterranean sea, declared by the State of Israel as Force Majeure Event for marine traffic or construction works. .

Provided such event:

- i. is beyond the reasonable control of either Party to this Agreement, constitutes exceptional circumstances which could not have been foreseen upon the tender date by such Party, and which, despite the exercise of every reasonable effort, such Party was unable to prevent or minimize; and
- ii. (a) causes material physical damage or destruction to the Project; and/or (b) materially and directly delays the scheduled performance of the Works.

Where the affected Party was able to limit, mitigate or minimize the consequences of the above detailed events, such events shall constitute Force Majeure Events only to the extent which the affected Party could not limit, mitigate or minimize them.

24.1.2. For the avoidance of doubt, the following events (but not only these events) shall **not** in any way be regarded as Force Majeure Events:

- i. inclement weather and other material disturbances which are reasonably foreseeable;
- ii. physical conditions or obstacles (both above or below the ground and including subterranean water sources) encountered in the course of the Project or otherwise;
- iii. suspension, termination, interruption, denial or failure to obtain or renew any permit, license, consent or approval which is required for the carrying out of the Contractor's obligations under this Agreement; and
- iv. any acts of terror, hostilities or animosities.
- v. any other event the consequences of which are specifically provided for in this Agreement which otherwise would constitute Force Majeure Event as defined above;

24.2. **Limitation of Liability - Force Majeure**

Neither Party shall be liable for any delay in the performance of the Agreement, or any undertaking hereunder, if such delay is due to or consequence of a Force Majeure Event.

24.3. Procedures upon Force Majeure Event

A Party affected by any Force Majeure Event shall (i) promptly notify the other Party in writing of any such event, the expected duration thereof, and its anticipated effect on the Party affected in terms of the performance required hereunder; (ii) provide alternative methods to continue the performance of any requirement under this Agreement affected by such Force Majeure Event; and (iii) make reasonable efforts to promptly remedy any such Force Majeure Event.

25. Independent Contractor

- 25.1. The Contractor hereby declares that in the performance of its obligations under this Agreement it acts as an independent Contractor .
- 25.2. The Contractor declares that there is nothing in this Agreement or in any of its provisions which creates between the Contractor , its employees, or anyone on its behalf and MCCP employer-employee relations, and all of the employees that shall be engaged by the Contractor on the Site, for purposes of performance of its obligations under this Agreement shall be and shall be considered as employees of the Contractor alone and there shall not be between them and MCCP any employer-employee relationship. The Contractor hereby declares that it notified and clarified to all of the persons engaged by it, whether directly or as a subcontractor, in the performance of this Agreement, that there is no employer-employee relationship between them and that there shall not be any employer-employee relationship.
- 25.3. Furthermore, the Contractor shall be solely and exclusively liable to its employees, or those engaged by it or those on its behalf for all liability, debt or obligation owned by an employer or that is likely to be owed by them to their employees – including but without derogating from the generality of the aforesaid, national insurance and national health payments, deduction of income tax or other taxes imposed of any kind whatsoever, wages as defined in the Wage Protection Law-1958, severance pay as defined in the Severance Pay Law-1963, any payments in respect of annual leave pursuant to the Work Hours and Rest Law-1951, payments and allocations to pension funds or other insurance funds, and all payments and social benefits of any kind whatsoever, pursuant to any law, agreement or collective agreement, and all payments pursuant to changes in the aforesaid laws, and any law that shall be added to or replace them.
- 25.4. Without derogating form the aforesaid, since the Contractor serves as an independent Contractor in the performance of the Works it shall be liable to its workers and/or anyone on its behalf in connection with its obligations under this Agreement in respect of any event of injury, disability, death, damage or loss that shall occur or be caused to them, whether directly or indirectly, as a result of an

accident that took place during work and in connection thereto or at the time he arrived at work and returned therefrom.

- 25.5. Without derogating from the generality of the aforesaid, the parties declare that the Contractor, its employees and/or anyone on its behalf shall not be entitled to any payment in the nature of a severance payment, in any cause of the termination of this Agreement for any reason whatsoever.
- 25.6. If for any reason a court and/or tribunal shall determine that any employee or employees of the Contractor are employees of MCCP, whether together with the Contractor or alone, then the Contractor undertakes to compensate and indemnify MCCP, immediately upon its first request, for any amount that MCCP shall be required to pay to any person and/or entity in connection with any such determination, including any legal expenses connected thereto. MCCP shall be entitled to collect for such damage, in whole or in part, by means of exercise of the bank guarantee, in whole or in part, and/or by means of set off from the consideration owing and/or that may be owed to the Contractor pursuant to this Agreement, all in the discretion of MCCP.

26. Assignment

- 26.1. The Contractor shall not assign, pledge, transfer or dispose of its rights and obligations under this Agreement, or any part thereof, to any third party, without the MCCP's prior written approval.
- 26.2. The MCCP will be entitled to transfer or assign its rights and obligations under this Agreement, or any part thereof, at its sole and absolute discretion, to any person, party or governmental authority, including the Operator, provided that the Contractor's rights under this Agreement will not be materially affected.

27. Notices

- 27.1. Any notice required or permitted to be given to a Party pursuant to the provisions of this Agreement will be in writing and will be effective and deemed given to such Party under this Agreement on the earliest of the following: **(i)** the date of personal delivery, or in the event such notice is delivered or received after 5pm local time of the designated receiving Party - one (1) Business Day after the date of delivery; **(ii)** one (1) Business Day after transmission by facsimile, addressed to the other Party at its facsimile number, with confirmation of transmission; **(iii)** one (1) Business Day after deposit with a return receipt express courier for domestic deliveries, or five (5) Business Days after such deposit for deliveries abroad; or **(iv)** five (5) Business Days after deposit in local mail by registered or certified mail (return receipt requested) for local deliveries.

For the avoidance of doubt, the periods provided hereinabove refer to any notice received prior to 5pm local time of the designated receiving Party. Any notice received after 5pm local time shall be deemed as received the following Business Day.

- 27.2. All notices not delivered personally or by facsimile will be sent with postage and other applicable charges prepaid and properly addressed to the Party to be notified at the address set in the Agreement lead in.

28. **Governing Law**

This Agreement shall be governed by and construed according to the Laws of the State of Israel, without regard to the conflict of Laws provisions thereof and the competent courts in Tel Aviv shall have exclusive jurisdiction.

29. **Miscellaneous**

29.1. **Further Assurances**

Each of the Parties hereto shall perform such further acts and execute such further documents as may reasonably be necessary to carry out and give full effect to the provisions of this Agreement and the intentions of the Parties as reflected thereby.

29.2. **Entire Agreement**

This Agreement, together with all Annexes, Volumes and attachments hereto, contain the entire understanding of the Parties with respect to the subject matter hereof, and all prior negotiations, discussions, commitments, and understandings which were made, if they did, either in writing or orally between the Parties, concerning such subject matters are superseded hereby and thereby.

29.3. **Vienna Convention**

The provisions of the United Nations' Convention on Contracts for the International Sale of Goods 1980 (sometimes referred to as the Vienna Convention) does not apply to this Agreement.

29.4. **Delays or Omissions**

Consent of the parties to deviate from any of the provisions of this Agreement in a particular case or another concession or delay provided to one party by the other shall not constitute a precedent, and no inference by analogy shall be drawn from it in respect of any other case.

If a party does not exercise any of the rights conferred upon it by this Agreement in a particular instance, such fact shall not be regarded as a release or waiver of those rights in any other instance and shall not be construed as any release or waiver of the rights of the parties and authorities granted pursuant to considered as implying or indicating a waiver of any rights of the parties or conditions to their authorities under this Agreement. Any waiver, extension or abstention or delay or concession granted by one party to the other shall be effective only if provided in writing, and shall apply only to the circumstance for which it was given.

29.5. **Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and enforceable against the Parties actually executing such counterpart, and all of which together shall constitute one and the same instrument.

29.6. Severability

If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Applicable Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not fundamentally changed. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

29.7. Successors and Assigns

Except as otherwise expressly limited herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors, and administrators of the Parties hereto.

29.8. Amendments and Waivers

Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of both Parties hereto.

29.9. Rights Cumulative

Subject to any express provision in this Agreement to the contrary, the rights, powers and remedies of a Party under this Agreement are cumulative and are in addition to, and do not exclude or limit, any right, power or remedy provided by Law or equity or by any agreement.

IN WITNESS WHEREOF, the parties hereto have undersigned:

**MCCP – The Mediterranean
Coastal Cliffs Preservation
Government Company Ltd.**

**[name of Contractor to be inserted
by MCCP after Agreement award]**

By: _____
(Name & Title of Signatory)

By: _____
(Name & Title of Signatory)



Date: _____

Date: _____

By: _____
(Name & Title of Signatory)

By: _____
(Name & Title of Signatory)

Date: _____

Date: _____

Contractor Signature Approval

I, the undersigned, _____, Esq., from _____, hereby certify that the joint signature of _____, together with the Contractor's printed name, obligates the Contractor for all intents and purposes.

Date: _____

Signature: _____

Appendix B1 - Performance Guarantee

To

The Mediterranean Coastal Cliffs Preservation Government Company Ltd.

Re: Letter of Guarantee no. _____ (Performance Guarantee)

Contract no _____ dated _____ for Dredging and Sand Nourishment (the "**Contract**") Pursuant to the request of _____ (the "**Contractor**"), we hereby irrevocably, autonomously and unconditionally guarantee to pay you any amount up to an aggregate amount of _____ Euro linked to the Index as provided herein (the "**Guaranteed Amount**").

The "**Index**" - shall mean the Israeli Consumer Price Index.

The "**Basic Index**" - shall mean the Index published in respect of the month of ----- at a rate of ----- points. [to be completed in accordance with the base CPI]

The "**New Index**" - shall mean the Index last published before actual payment under this security.

If at the time of payment of any amount under this security, the New Index shall be higher than the Basic Index, the Guaranteed Amount shall be calculated as increased in a rate equal to the rate in which the New Index has increased in comparison with the Basic Index. If it transpires that the New Index is equal to the Basic Index or lower therefrom, the Guaranteed Amount shall remain unchanged.

Within ten (10) days of the date on which your first written demand was received by us, we shall pay you any amount required in your demand up to the Guaranteed Amount without you being required to substantiate your demand or to demand payment thereof from the Contractor prior thereto and without set off or deduction and free of any fees or taxes, notwithstanding any claims or objections by the Contractor or ourselves or by any other party whatsoever.

Our undertakings pursuant to this Security are autonomous, direct, primary, unconditional, irrevocable obligations and we hereby confirm that no change in the terms of the Contract and/or any claims in connection with the Contract shall derogate from any of our obligations in connection with this Security.

This security shall expire on _____ (the "**Expiry Date**"), and any demand thereunder must reach us, in writing, at the offices of the branch signing below, whose address is: _____, not later than the Expiry Date. Any demand reaching us after the Expiry Date, or received by us either by fax, telex, cable, e-mail or any other electronic transmission, will not be honored.

Your demand for payment of the Guaranteed Amount may be affected in stages, and payments will be executed in accordance with your demand provided that the overall total of the payments does not exceed the aggregate Guaranteed Amount.

The Guaranteed Amount shall be reduced by any payment affected by us under this security. The forfeiture of part of this security shall not impair the validity of the part that has not been forfeited.

This security will not be assigned or transferred by you without our consent except for its assignment or transfer to the State of Israel which will not require our consent.

This security shall be governed and interpreted by the laws of the State of Israel and the District Court of Tel Aviv shall have exclusive jurisdiction in connection therewith.

Yours faithfully,

Appendix B2- Confidentiality Form

To

MCCP – The Mediterranean Coastal Cliffs Preservation Government Company Ltd.

Re: Confidentiality Undertaking

1. I, the undersigned, _____ carrier of ID / Passport / Company No.* _____, an employee / an external expert / a subcontractor* of _____ (the “**Contractor**”) which provides services, either directly or indirectly, to MCCP - The Mediterranean Coastal Cliffs Preservation Government Company Ltd, (“**the MCCP**”), hereby undertake, ex officio my role in the Contractor, in providing services to the MCCP, given my involvement in the Contractor’s and the MCCP’s affairs, to maintain complete confidentiality of all information related to the MCCP, including any data, survey, document, policy, information of any kind, commercial and professional terms and details related to the MCCP’s activities, which came into my possession through the MCCP or others associated directly or indirectly with the MCCP, software and computer applications developed for the MCCP etc., and not to use them in any manner even after the termination of my work for the MCCP or the Contractor.
2. I hereby undertake not to copy in any format and/or not to transfer any material or information which came into my possession during my aforementioned work or as a product of my work, to any entity, including the MCCP-related entities, and not to distribute to any other consultants of the MCCP other than by the MCCP or according to its instructions.
3. I hereby undertake not to remove from the MCCP’s offices or the Contractor’s offices, without written permission, documents or other material belonging to the MCCP, and upon finishing my work for the MCCP in the Contractor’s framework or within the Contractor, to return to the MCCP any document and material in my possession or control, and not to harm the MCCP’s goodwill in any way.
4. The liabilities listed above shall not apply in any of the following cases:
 - 4.1 The information was known to the Contractor prior to receiving it from the MCCP under the agreement between the MCCP and the Contractor, without infringement of a commitment of confidentiality made by any entity.
 - 4.2 The information came to the Contractor’s possession through a third party without a breach of the agreement between the Contractor and the MCCP and the Contractor is not subject to a confidentiality undertaking towards that third party.
 - 4.3 The information is public knowledge, not as result of breach by the Contractor of the between the MCCP and the Contractor.



- 4.4 The information is independently developed (by personnel having no access to the Proprietary Information) by the Contractor without reference to Confidential Information received from the MCCP.
5. My obligations above were given of my own free will and are irrevocable.

Date: _____

Signature: _____

* *cross out non appropriate options*

Appendix B3 - Conflict of Interests

To

MCCP – The Mediterranean Coastal Cliffs Preservation Government Company Ltd.

Re: Commitment for No Conflict of Interest

I, the undersigned, [redacted] holder of ID / Passport / Company No* . [redacted] [redacted], employee / an external expert / a subcontractor* of [redacted] (the “**Contractor**”) which signed an agreement No. _____ for Dredging and Sand Nourishment (the “**Agreement**”) with MCCP - The Mediterranean Coastal Cliffs Preservation Government Company Ltd (“**the MCCP**”), hereby declare as follows:

1. At the time of signing this Agreement there is no conflict of interest between any other activity and obligation of mine and between the Contractor’s obligations under this Agreement.
2. I will refrain from any activity that involves a conflict of interest between fulfilling my functions as a subcontractor/employee/external expert of the Contractor under this Agreement and between the performance of a function or other obligation of the Contractor, directly or indirectly, and I hereby undertake to notify the Contractor and the MCCP f any concern regarding a conflict of interest between my obligations as a subcontractor/employee/external expert of the Contractor under this Agreement and between other activities of mine, and I undertake to act in accordance with the MCCP’s instructions to prevent such conflict of interest.
3. I hereby declare that it was made clear to me and that I am aware that the MCCP may prevent me from participating in any future bidding procedure (or any similar procedure) published by the MCCP, due to reasons of conflict of interest.
4. My obligations above were given of my own free will and are irrevocable.

Name: [redacted]

Date: [redacted]

Appendix B4- Insurance Appendices

INSURANCE CERTIFICATE

Messrs.

The Mediterranean Coastal Cliffs Preservation

Government Company Ltd

Htzoran 4A Natania

Israel

(Hereinafter: "MCCP" "The MCCP")

Date _____

Agreement Ref: _____

Insurance period: _____

We the undersigned hereby confirm that we have affected the following insurance in the name of Our Insured _____ with accordance with the terms and conditions of the above Agreement as follows regarding the insured commitment to perform beach nourishment of the Israeli coastline by importing sand and supplying sand onto the coastline hereinafter: ("the project"):

- 1.
2. Employers Liability Insurance, as prescribed by Applicable Law of the country were the project will be established in respect for any damages and or claimants costs and expenses the insured shall be liable to pay regarding injury or death to any employed person caused by an accident or sickness with limits of liability of USD 5,000,000 for any one occurrence and in the aggregate.

The policy is extended to cover the liability of the MCCP in so far as it is considered as the employer of any person employed by the insured.

The policy is on an occurrence basis.

The policy does not exclude liability in respect of territorial limits.

The policy does not exclude liability in respect of marine activity

3. Professional indemnity Insurance with the limit of the insurer's liability of NIS 8,000,000 for any one occurrence and in the aggregate in respect of any professional act or omission or error by the insured, and all the employees and any other person and entity acting on its behalf regarding:
4. The planning procedures of the project including designing the professional program for the beach nourishment.
5. The implementation off the sand nourishment program.
The policy is extended to cover the MCCP's liability regarding any act, omission or negligence by the insured subject to a "cross liability clause".
The policy does not exclude loss of use or delay, loss of documents, libel and slander nor dishonesty of the insured employees.
The policy does not exclude any professional business activity regarding planning and/or implementation of the beach nourishment in respect of the project.
it is hereby endorsed that the insurance period shall not be less than five (5) years. The policy is extended to include a five (5) years extended reporting period at the expiration date.
The policy is on "claims made" basis. Retroactive coverage is unlimited.
6. The policies in subsections 1- 2 above includes the name the MCCP, or their subsidiaries, parent, affiliates, executive officers, shareholders, directors, employees and sub-contractors as additional insured.
7. All the above policies are primary with no right of contribution from any other insurance available to the MCCP and/or subsidiaries, parent, affiliates, executive officers, shareholders, directors, employees and sub-contractors. The policies includes an express condition to the effect that they shall take precedence over any insurance taken out by the MCCP and/or their subsidiaries, parent, affiliates, executive officers, shareholders, directors, employees and/or sub-contractors, and that the insurer waives any plea and/or demand regarding participation in the MCCP insurance.
8. The policies include a provision that the insurance will not be reduced, canceled, or not renewed without a prior written notification to be sent to the MCCP by registered mail 60 days in advance.

9. The MCCC's right for indemnification from all of the above policies will not be effected by the insured not fulfilling the terms and/or provisions of the policies, whether or not done in good faith.
10. Each of the policies includes provisions pursuant to which the competent court in respect to all matters regarding the project is the court of the Tel-Aviv Jaffa district, which shall have the sole jurisdiction.

Insurance Company

Signed by



CERTIFICATE OF ENTRY

To:

The Mediterranean Coastal Cliffs Preservation
 Government Company Ltd
 Htzoran 4A Natania
 Israel
 (Hereinafter: "MCCP" / "The MCCP")

Date _____

We the undersigned hereby confirm that as from _____ and subject to the memorandum and articles of the association, the rules of the association for the time being in force and the terms of any circulars which have been or may be issues pursuant to the rules, and in accordance with the particulars and in respect of the interests below, the undermentioned ship has been entered in this association and the name of the INSURED (senior member) on whose behalf such ship has been noted in the association's records regarding the insured commitment to perform beach nourishment of the Israeli coastline by mining sand abroad, importing sand and supplying sand onto the coastline.

IMO NO.	SHIP	GT	P&I	FD&D	WAR

INSURED (SENIOR MEMBER):

POLICY YEAR:

PERIOD OF INSURANCE:

PORT OF REGISTRY:

NAME AND FULL ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS

OF THE REGISTERD OWNER:

CLASS 1 PROTECTING AND INDEMNITY

JOINT MEMBERS PER RULE 9 (1):

CO-ASSUREDS PER RULE 9 (1):

The Mediterranean Coastal Cliffs Preservation
Government Company Ltd

GENERAL TERM AND

CONDITIONS: not less than the NORTH OF ENGLAND P&I MCCP

LTD rules of the MCCP for the time being force and the following clauses:

RISK COVERED: the assured(s) shall only be covered for P&I RISKS as set out in SECTION 3 "RISK COVERED" - Rule 19 and all of its sub-sections.

It is stated and noted that the above "risk covered" sections are extended to include the insured commitment to perform beach nourishment of the Israeli coastline by mining sand abroad, importing sand and supplying sand onto the coastline.

ADDITIONAL TERMS:

ADDITIONAL 3/4THS R.D.C. CLAUSE: Cover under rule 19 (10) of the

Protecting and indemnity class has been extended to include the additional 3/4ths R.D.C. risks.

SECTION 4

CONDITIONS, EXCLUSIONS, LIMITATIONS AND WARRANTIES:

It is hereby agreed and noted that rule 28 "exclusion of certain relating to special operations" is cancelled.

Contractual liability clause:

- a. the member shall also be insured by the MCCP in respect of liabilities (including contractual liabilities), costs and expenses arising from charter parties or other contracts for the use of the entered ship but only in respects of the risks that would be covered by the MCCP in accordance with the rules and the certificate of entry but for the exclusions and limitations contained in rule 19.
- b. Including also liabilities, costs and expenses arising from requirements to include co-assureds and waivers of subrogation.
- c. Including contractual liabilities to third parties arising from entered ship's crewmembers activities on shore or away from the entered ships.
- d. the cover provided under paragraphs (1),(2),(3) is subject to a limit of USD 50,000,000 each accident or occurrence.

This certificate has been issued for and on behalf
of: _____

Signed by



Appendix B5- Work Order Form

Date: _____

Description of Work Order Requested:

work site (including Map and any other Relevant measurements and information):

Details of the design requirements:

Time schedule:



Estimated quantity of sand:

Regulatory and environmental guidelines:

Safety instructions:

Special provisions:

Signatures:

The Mediterranean Coastal Cliffs Preservation

Government Company Ltd CEO: _____

The Mediterranean Coastal Cliffs Preservation

Government Company Ltd CFO: _____



Appendix B6- Acceptance Certificate

To:

[Name of Contractor]

[Street]

[City]

[Country of origin]

From:

The Mediterranean Coastal Cliffs Preservation

Government Company Ltd

Htzoran 4A Natania

Israel

We hereby certify that _____, as defined in the Agreement No. _____ you have completed the following Works:

THIS CERTIFICATE IS ISSUED WITHOUT PREJUDICE TO THE RIGHTS AND POWERS OF ASSOCIATION UNDER THE AFORESAID CONTRACT.

Signed: _____

The Mediterranean Coastal Cliffs Preservation

Government Company Ltd

Name

Date



Confirmed:

Signed: _____ for *[Name Of The Contractor]*

Name

Date

Document C