

**THE REPUBLIC OF PERU**



**PRIVATE INVESTMENT PROMOTION AGENCY – PROINVERSIÓN**



**CONSOLIDATED TEXT OF THE TENDER DOCUMENTS**

**COMPREHENSIVE PROJECTS TENDER FOR THE CONCESSION OF THE  
SECOND GROUP OF PROVINCIAL AIRPORTS IN THE REPUBLIC OF PERU**

**JUNE 2009**

The Consolidated Text of the Tender Documents (or "the document") has been prepared by PROINVERSION and is provided only as a reference to the potential investors of the official document written in Spanish and published in PROINVERSION's web site in order to assist them in defining their interest in participating in the Bid for Integral Projects for the Concession of the Second Group of Provincial Airports of the Republic of Peru (the "transaction"). Should there be any difference with the official version of the Consolidated Text of the Tender Documents written in Spanish, the later will prevail.

Receiving this document implies acceptance on the part of the receiving party that the Peruvian State, PROINVERSION or its Financial Advisers are not or will not be subject to any present or future liability or legal responsibility arising from this document or any information related thereto.



## TENDER DOCUMENTS

### 1. TENDER PURPOSE AND CHARACTERISTICS

#### 1.1 Invitation to Tender and Purpose

The Government of the Republic of Peru, through the Private Investment Promotion Agency (PROINVERSIÓN), has issued an Invitation to Tender for the Comprehensive Projects related to the granting in concession to the private sector of the Second Group of Provincial Airports in the Republic of Peru, which is under the jurisdiction of the national government, comprising the following airports:

- Andahuaylas Airport, located in the city of Andahuaylas, Region of Apurímac;
- Alfredo Rodríguez Ballón International Airport, located in the city of Arequipa, Region of Arequipa;
- Peruvian Air Force (FAP) Colonel Alfredo Mendivil Duarte Airport, located in the city of Ayacucho, Region of Ayacucho;
- Inca Manco Cápac International Airport, located in the city of Juliaca, Region of Puno;
- Padre José Aldamiz International Airport, located in the city of Puerto Maldonado, Region of Madre de Dios;
- Peruvian Air Force (FAP) Colonel Carlos Ciriani Santa Rosa International Airport, located in the city of Tacna, Region of Tacna.

The purpose of this Tender is to select the legal entity or consortium made up of legal entities which, after being named the Concessionaire, shall be granted in concession the air transportation infrastructure corresponding to the airports of the Second Group, so that said entity or consortium may take charge of the design, building, financing, operation, maintenance and exploitation thereof.

The Tender shall be held in accordance with the provisions established in these Tender Documents.

#### 1.2 Definitions

The terms and phrases indicated hereinbelow shall have the following meanings:

**1.2.1 Preliminary Acts of the Process:** All the expenses incurred by the Government of the Republic of Peru for commissioning studies and hiring advisory services and other costs required for the execution of this private investment promotion process in the Second Group of Airports. The total sum of said expenses shall be notified by a Circular Letter.

**1.2.2 Confidentiality Agreement:** The agreement that the Bidders shall sign before using the Data Room, whether through Authorized Agents or a Legal



Representative. The text of the Confidentiality Agreement is attached hereto as Appendix 1 of Exhibit 8.

- 1.2.3 Contract Award:** The declaration to be made by the Committee, determining which Bidder has submitted the Best Bid and has been elected Successful Bidder under the terms and conditions established in the Tender Documents.
- 1.2.4 Successful Bidder:** The Short-Listed Bidder who is awarded the Contract.
- 1.2.5 Airports:** Defined areas of land, including all buildings, facilities and equipment, to be used for the arrival, departure and surface movement of airplanes, as well as attend to the needs of passengers and handle the luggage and cargo to be carried by the airplanes. Additionally, for the effects hereof, Airports shall be understood as those comprising Second Group of Airports.
- 1.2.6 Private Investment Promotion Agency (PROINVERSIÓN):** The organization referred to in Law 28660 and the Regulations on the Organization and Functions of PROINVERSIÓN, Supreme Executive Order (Decreto Supremo) 042-2009-EF.
- 1.2.7 Authorized Agents:** The individuals appointed as such by the Bidder, in accordance with Point 2.1 herein.
- 1.2.8 Government Authority:** The national, regional, department, province or municipal officer, institution or agency that, pursuant to law, exercises executive, legislative or judicial powers, or that belongs to any of the aforementioned governments, authorities or institutions, with jurisdiction over the persons or issues in question.
- 1.2.9 Airport Advisor:** The Airport operator with whom the Concessionaire Corporation shall enter into the Airport Advisory Agreement, which shall comply with the minimum guidelines set forth in Appendix 1 of Exhibit 1 hereof.
- 1.2.10 International Prime Bank:** Those entities defined in Appendix 1 of Exhibit 6 hereof authorized to issue bonds for the purposes of this Tender.
- 1.2.11 Local Banking Institution:** The Banks defined in Appendix 2 of Exhibit 6 hereof authorized to issue bonds for the purposes of this Tender.
- 1.2.12 Tender Documents:** This document, including the Appendixes and Exhibits hereof, as well as the Circular Letters issued by the Committee setting the conditions under which the Tender shall be developed.
- 1.2.13 Circular Letters:** All the directives issued in writing by the Committee, whether regarding specific or general aspects, with the aim of complementing, specifying, clarifying, interpreting or amending the contents of the Tender Documents, of another Circular Letter or answering inquiries submitted by those authorized to do so, pursuant to the Tender Documents. The Circular Letters shall form an integral part of the Tender Documents. In



the event of a discrepancy or any incompatibility between the contents of the Circular Letters and those of the Tender Documents published on the date of the Invitation to Bid, the provisions contained in the Circular Letter shall prevail.

- 1.2.14 Co-financing:** The amount of money stated in U.S. Dollars, that the government of the Republic of Peru shall pay out to the Concessionaire.<sup>1</sup>
- 1.2.15 Committee:** The PROINVERSIÓN Committee on Road, Railway and Airport Infrastructure Projects (PRO INTEGRACION), established by Executive Resolution 036-2009-EF, the permanent members of which were appointed by Executive Resolution 047-2009-EF.<sup>2</sup>
- 1.2.16 Evaluation Committee:** The person(s) appointed by the Committee for the purpose of evaluating the documents contained in Envelopes 1 and 2, in accordance with the provisions established in these Tender Documents.<sup>3</sup>
- 1.2.17 Grantor:** The government of the Republic of Peru, acting through the Ministry of Transport and Communication (MTC).
- 1.2.18 Concession:** The public law legal relationship established between the Grantor and the Concessionaire as from the execution of the Concession Contract, whereby the Grantor awards the Concessionaire the right to the economic use and Exploitation of the Airports during the term thereof.
- 1.2.19 Concessionaire or Concessionary Company:** The legal entity, consisting of the Successful Bidder, which enters into the Concession Contract with the Grantor.
- 1.2.20 Tender:** The Tender for the Comprehensive Projects for the granting in Concession of the Second Group of Provincial Airports in the Republic of Peru.
- 1.2.21 Consortium:** A group of two or more legal entities with no legal existence independent of that of its members and which has been created with the aim of participating as a Bidder in this Tender. The consortium must necessarily include the Strategic Investor as a member thereof.
- 1.2.22 Airport Advisory Agreement:** The agreement to be entered into by and between the Concessionaire and the Airport Advisor, the guidelines for which are established in Appendix 1 of Exhibit 1.<sup>4</sup>
- 1.2.23 Concession Contract or the Contract:** The contract that forms part of the Tender Documents, and by virtue of which the design, building, financing, operation, maintenance and Exploitation of the Second Group of Provincial Airports is granted in concession; and which contains all legal, technical and financial documentation that shall govern the relationship between the Concessionaire and the Grantor during the Concession Term.

<sup>1</sup> Amended by Circular Letter 3

<sup>2</sup> Amended by Circular Letter 3

<sup>3</sup> Incorporated by Circular Letter 3

<sup>4</sup> Incorporated by Circular Letter 3



- 1.2.24 Effective Control:** An individual or legal entity effectively controls or is subject to the Effective Control of another individual or legal entity in the cases provided for in Resolution of the Peruvian Securities and Exchange Commission (CONASEV) 090-2005-EF-94.10, amended by CONASEV Resolution 005-2006-EF/94.10, as substituted.<sup>5</sup>
- 1.2.25 CORPAC:** Corporación Peruana de Aeropuertos y Aviación Comercial S.A., a company belonging to the transportation sector that is entirely the property of the government of the Republic of Peru, organized as a corporation and governed by its Articles of Incorporation, the Business Corporations Act and its Corporate Bylaws. CORPAC is currently responsible for operating, equipping and maintaining all commercial airports, as well as establishing, administering, operating and maintaining the auxiliary services for aerial navigation and aeronautical radio communications. It is also in charge of establishing adequate and ideal systems of communication required to regulate and control flyover air traffic.
- 1.2.26 Schedule:** The timeline of activities to be developed during this Tender and which are listed in Exhibit 2.
- 1.2.27 DBFOT:** The method under which Second Group of Provincial Airports shall be granted in Concession for design, building, financing and operation, subsequently being transferred to the government upon the termination of the Concession.
- 1.2.28 Sworn Statement:** Written statement submitted by the Bidder and signed by its Legal Representative in which it represents or assumes a commitment presumed to be true for the effects of this Tender.
- 1.2.29 Participation Fee:** Amount equivalent to US\$1,000 (One Thousand U.S. Dollars) to be paid to PROINVERSIÓN by the interested party that wishes to register as a Bidder and be granted the right to present itself as such in the Tender.
- 1.2.30 Days:** Business days, i.e. not Saturday, Sunday or non-working holidays in the city of Lima. Holidays are understood as those days on which the banks in the city of Lima are not required to be open to the public by order of the Government Authority.
- 1.2.31 Calendar Days:** Business days, non-business days and non-working holidays.
- 1.2.32 Dollar or US Dollar or US\$:** The currency or monetary symbol of legal tender in the United States of America and the currency used for all purposes in this Tender.
- 1.2.33 Affiliated:** One company shall be considered affiliated to another company when the Effective Control of such companies is in the hands of the same Parent Company.

---

<sup>5</sup> Amended by Circular Letter 3



- 1.2.34 Parent Company:** A company that holds Effective Control over one or various companies. This definition also includes those companies that hold Effective Control of a Parent Company, and so on.<sup>6</sup>
- 1.2.35 Subsidiary:** A company whose Effective Control is exercised by the Parent Company.
- 1.2.36 Related Company:** Any Affiliated Company or Subsidiary Company or Parent Company.<sup>7</sup>
- 1.2.37 Exploitation:** The operation, administration and maintenance of an Airport, investment therein and the collection of money from the users for the sale and/or provision of goods and services related to airport activity.
- 1.2.38 Competition Factor:** The variable that defines the winner of the Tender, related to the lower payment sought by the Concessionaire.<sup>8</sup>
- 1.2.39 Closing Date:** The day, place and time when the acts established in Point 11 of the Tender Documents shall be carried out, to be communicated by the Committee through a Circular Letter.
- 1.2.40 Bid Bond:** The bank guarantee obtained by the Bidder in favor of PROINVERSIÓN to guarantee the validity, effect and serious nature of its Economic Bid and Technical Bid.<sup>9</sup>
- 1.2.41 Performance Bond:** The bank guarantee obtained by the Concessionaire in favor of the Grantor to guarantee its compliance with the Concession Contract.<sup>10</sup>
- 1.2.42 IATA:** International Air Transport Association
- 1.2.43 VAT:** The acronym for Value-Added Tax.
- 1.2.44 Consortium Members:** The legal entities that form part of the Consortium.
- 1.2.45 Strategic Investor:** The Bidder or Consortium Member that complies with the requirements provided for in Subpoint 5.1.1 of the Tender Documents and which shall be the shareholder of the Concessionaire with the Minimum Share provided for in Subpoint 7.1.5 of these Tender Documents.
- 1.2.46 Applicable Laws:** The regulations indicated in Point 1.3 hereof.
- 1.2.47 Best Bid:** The Economic Bid through which the Short-Listed Bidder is awarded the Contract.<sup>11</sup>

<sup>6</sup> Incorporated by Circular Letter 3

<sup>7</sup> Amended by Circular Letter 3

<sup>8</sup> Amended by Circular Letter 3

<sup>9</sup> Amended by Circular Letter 3

<sup>10</sup> Amended by Circular Letter 3

<sup>11</sup> Amended by Circular Letter 3



- 1.2.48 MTC:** The acronym for the Ministry of Transport and Communication.
- 1.2.49 Airport Operator:** A company specialized in the operation, administration and maintenance of Airports that is engaged in the Exploitation of one or more Airports.<sup>12</sup>
- 13
- 1.2.50 Minimum Share:** Twenty-five percent (25%) of the capital stock, fully subscribed and paid up, held by the Strategic Investor, which it shall have and maintain in its possession throughout the Concession Term. This Minimum Share must necessarily have the right to vote.
- 1.2.51 Business Plan:** The plan contained in the Bidder's Technical Bid, which shall include its business approach, its commercial development strategy, its investment plan and schedule, the Airport Advisory Agreement with the Airport Advisor and the key staff, in accordance with the guidelines established in Appendix 2 of Exhibit 1 hereof.
- 1.2.52 Bidder:** A legal entity or Consortium made up of legal entities that have paid the Participation Fee for the Tender and submit a bid therein.
- 1.2.53 Listed Bidder:** The Short-Listed Bidder whose Technical Bid, duly submitted in Envelope 2, has been approved by the Committee.
- 1.2.54 Short-Listed Bidder:** The Bidder whose documentation, duly submitted in Envelope 1, has complied with the short-listing requirements provided for in the Tender Documents, having been expressly accepted and declared by the Committee, and is qualified to submit Envelopes 2 and 3.
- 1.2.55 Economic Bid:** The financial proposal of the Bidder, to be submitted in Envelope 3, in accordance with Point 7.2, in the form and manner indicated in Exhibit 7 hereof.
- 1.2.56 Technical Bid:** The document to be submitted by the Bidder in Envelope 2, in accordance with the provisions established in Subpoint 7.1.4, with the contents described in Appendix 2 of Exhibit 1 of these Tender Documents.
- 1.2.57 Draft Contract:** The non-final specimen Contract to be given to the Bidders in order to hear their suggestions. None of the terms and/or criteria contained therein shall binding in any way whatsoever for PROINVERSIÓN, the Committee and/or the Grantor.
- 1.2.58 Legal Representative:** The individual(s) appointed by the Bidder, in accordance with Point 2.2 of the Tender Documents, who shall be vested with the powers provided for in the abovementioned point.
- 1.2.59 Data Room:** The determined area in the offices of PROINVERSION located at Av. Paseo de la República 3361, Piso 7, San Isidro, Lima 27,

---

<sup>12</sup> Amended by Circular Letter 3

<sup>13</sup> Eliminated by Circular Letter 3





Lima, Peru, that shall contain information related to the project and may be visited by those Bidders who have paid the Participation Fee for the Tender, according to the conditions indicated herein.

**1.2.60 Second Group of Provincial Airports or Second Group:** Refers to the following Provincial Airports, under the jurisdiction of the national government, which shall be granted in concession:

- Andahuaylas Airport, located in the city of Andahuaylas, Region of Apurímac;
- Alfredo Rodríguez Ballón International Airport, located in the city of Arequipa, Region of Arequipa;
- Peruvian Air Force (FAP) Colonel Alfredo Mendivil Duarte Airport, located in the city of Ayacucho, Region of Ayacucho;
- Inca Manco Cápac International Airport, located in the city of Juliaca, Region of Puno;
- Padre José Aldamiz International Airport, located in the city of Puerto Maldonado, Region of Madre de Dios;
- Peruvian Air Force (FAP) Colonel Carlos Ciriani Santa Rosa International Airport, located in the city of Tacna, Region of Tacna.

**1.2.61 Concession Term:** The term of twenty-five (25) years for which the Concession is granted, commencing on the Closing Date. This period may be extended or terminated in advance in accordance with the terms and conditions provided for in the Contract. In no case may the Concession period be more than sixty (60) years.

**1.2.62 WLU:** The acronym for Work Load Unit, a unit equivalent to one passenger or one hundred (100) kilograms of cargo.

Any and all references made in this document to “Point,” “Appendix,” and “Exhibit” shall be understood as referring to the points, subpoints, Appendixes and Exhibits of these Tender Documents, respectively, unless otherwise indicated.

The words defined above mean the same if used in the plural.

All references to times shall be understood as referring to local time in Peru.

Any terms beginning with capital letters in the Tender Documents that are not expressly defined herein shall have the meaning assigned to them in the Applicable Laws, or the meaning given to them in the use of the activities inherent to the development of the project or, in case of a lack thereof, are terms that commonly begin with a capital letter.

## 1.3 Legal Framework of the Tender

**1.3.1** Executive Order (Decreto Legislativo) 839, dated August 20, 1996, approved the Act for the Promotion of Private Investment in Public Works for Infrastructure and Public Utilities, creating the Private Concession Promotion Commission (PROMCEPRI) as the entity in charge of such





activities. This Law expressly states that the specific method under which private investment shall be promoted in the area of public works for infrastructure and public utilities is that of the “concession.” For such purpose, the procedure and mechanisms for the granting of concessions is established, along with the system applicable thereto.

- 1.3.2** Supreme Executive Order (Decreto Supremo) 059-96-PCM, dated December 26, 1996, approved the Consolidated Text of the standards with the force or status of Law that regulates the awarding in concession to the private sector of public works for infrastructure and public utilities.
- 1.3.3** Supreme Executive Order (Decreto Supremo) 060-96-PCM, dated December 27, 1996, approved the Regulations of the Consolidated Text of the standards with the force or status of Law that regulate the awarding in concession to the private sector of public works for infrastructure and public utilities .
- 1.3.4** Executive Resolution 458-97-PCM, dated September 12, 1997, published on September 15, 1997, established the granting in concession of the Airports of the Republic of Peru under the mechanisms of the Consolidated Text and its Regulations, appointing a Special Committee for such purpose.
- 1.3.5** Law 27111, dated May 11, 1999, transferred the functions, powers and jurisdiction of the PROMCEPRI to the Private Investment Protection Commission (COPRI).
- 1.3.6** Executive Resolution 444-2001-EF, published on September 15, 2001, constituted the Special Committee for the Promotion of Private Investment in Infrastructure and Public Service Projects.
- 1.3.7** Supreme Executive Order (Decreto Supremo) 027-2002-PCM, dated April 24, 2002, ordered the merger of the COPRI, the National Commission on Foreign Investments and Technologies and the Economic Promotion Management of the Peruvian Promotion Commission into the Executive Board of the Privatization Fund (FOPRI), which was later renamed the Investment Promotion Agency (PROINVERSIÓN).
- 1.3.8** Law 28660, published on December 25, 2005, determined the legal nature of the Private Investment Promotion Agency (PROINVERSIÓN) as a Decentralized Public Entity attached to the Economy and Finance sector and a legal entity with technical, functional, administrative, economic and financial autonomy, with an independent budget.
- 1.3.9** Supreme Executive Order (Decreto Supremo) 039-2006-EF, published April 4, 2006, approved the Regulations on the Organization and Functions of the Private Investment Promotion Agency (PROINVERSIÓN).
- 1.3.10** Executive Resolution 444-2001-EF, amended by Executive Resolution 228-2002-EF, constituted the Special Committee on the Promotion of Private Investment in Infrastructure and Public Service Projects.



- 1.3.11** Executive Resolution 065-2006-EF appointed the permanent members of the PROINVERSION Committee on Infrastructure and Public Service Projects.
- 1.3.12** Item (L) of Section 22 of Law 27785, Act on the National Control System and the Office of the Comptroller General of the Republic of Peru, establishes the duty of the Office of the Comptroller General of the Republic of Peru to make a prior report on the transactions, bonds, sureties and other guarantees granted by the State, including contract projects that compromise its credit or financing capacity in any way, whether domestically or abroad.
- 1.3.13** Executive Resolution 022-2004-EF, dated March 23, 2004, published on March 26, 2004, ratified the resolution of the Board of Directors of PROINVERSIÓN adopted in its meeting held on February 4, 2004, through which it approved the Promotion Plan for the granting in Concession of the Airports of the Republic of Peru.
- 1.3.14** Supreme Executive Order (Decreto Supremo) 019-2007-MTC, published on June 8, 2007, established the classification criteria for airport infrastructure in the country and the hierarchy of State-owned airfields.
- 1.3.15** Executive Order (Decreto Legislativo) 1012, published on May 13, 2008, approved the Framework Law on Public-Private Partnerships for the creation of productive jobs and established standards for the streamlining of private investment promotion processes.
- 1.3.16** Supreme Executive Order (Decreto Supremo) 146-2008-EF approved the Regulations of Executive Order (Decreto Legislativo) 1012.
- 1.3.17** Resolution of the Board of Directors of PROINVERSIÓN 250-05-2008, dated September 9, 2008, approved the amendment of the Private Investment Promotion Plan for the granting in Concession of the Airports of the Republic of Peru.
- 1.3.18** Supreme Executive Order (Decreto Supremo) 003-2009-PCM amended the Regulations of the Consolidated Text of the standards with the force or status of Law that regulate the awarding in Concession to the private sector of public works for infrastructure and public utilities .
- 1.3.19** Emergency Order 047-2008 established that the Promotion Plan and its amendments for projects that have been declared a national priority only require the approval of the Board of Directors of PROINVERSIÓN through a resolution, which shall be published in the Official Gazette "El Peruano."
- 1.3.20** In compliance with the provisions established in Emergency Order 047-2008, in Meeting 266 of the Board of Directors of PROINVERSIÓN, held on January 9, 2009, the resolution to amend the abovementioned Promotion Plan was ratified and the publication thereof in the Official Gazette "El Peruano" was ordered.



- 1.3.21** On January 16, 2009, the Resolution of the Board of Directors of PROINVERSIÓN was published, which amends the Private Investment Promotion Plan for the awarding in Concession of the Airports of the Republic of Peru.
- 1.3.22** In the meeting held on September 9, 2008, the Board of Directors of PROINVERSIÓN, at the proposal of the Committee, approved the Tender Documents for the Comprehensive Projects for the Concession of the Second Group of Provincial Airports in the Republic of Peru.
- 1.3.23** The Tender process referred to in these Tender Documents shall be carried out in accordance with the provisions contained herein. For all matters not contemplated in the Tender Documents, the provisions of Supreme Executive Order (Decreto Supremo) 059-96-PCM and its regulations, as amended, shall apply.
- 1.3.24** By virtue of COPRI Resolution 355-4-2001, amended by the Resolution of the Board of Directors of PROINVERSIÓN, dated November 20, 2007, the standards contained in the Consolidated Text of the Law on State Contracting and Procurement, approved by Supreme Executive Order (Decreto Supremo) 013-2001-PCM, are not applicable to this Tender.

## **1.4 Powers of the Committee and PROINVERSIÓN**

- 1.4.1** It is the duty of the Committee to conduct the private investment promotion process of the Tender subject matter hereof. It is authorized to promote, schedule, regulate, modify, direct, supervise, control and enact any and all provisions deemed pertinent or necessary for the execution of such process, as well as to decide on any matters not contemplated in these Tender Documents or in the Applicable Laws and, in general, to exercise all other powers conferred upon it by the Applicable Laws.
- 1.4.2** All amendments to the Tender Documents shall be notified through Circular Letters.
- 1.4.3** The Committee may extend the terms indicated in the Tender Documents. This Tender may be suspended, cancelled or voided, if deemed convenient by the Committee, without the need to give any reasons and without any liability for such suspension, cancellation or voiding.
- 1.4.4** The simple act of submitting the information contemplated in the Tender Documents and/or requested by the Committee for the Short-Listing or Listing of a Bidder does not oblige the Committee to declare said Bidder a Short-Listed or Listed Bidder. Moreover, the simple submission of a proposal does not oblige the Committee to accept it.

The simple act of the Bidder's submission of the documents required for its short-listing implies:

- Full knowledge, acceptance and unconditional submission by the Bidder to any and all the procedures, obligations, conditions and rules – without exception – set forth in the Tender Documents.



- The irrevocable and unconditional waiver to file, before any domestic or foreign judge, court, jurisdiction or authority, any action, claim, complaint, arbitration, request for arbitration, request for indemnity or any other kind of legal proceeding against the State, PROINVERSIÓN, the Committee, the advisors of the abovementioned entities, or any other entity, body, agency or official of the government of the Republic of Peru for exercising any of the faculties established in the Tender Documents.

**1.4.5** Unless otherwise expressly established in the Tender Documents, the decisions of the Committee or PROINVERSIÓN, as applicable, with respect to this Tender are final. They shall not give rise to any kind of indemnity and are not subject to challenge under either the administrative or judicial jurisdiction. Accordingly, by their sole participation in the Tender, the entities included within the scope of the Tender Documents hereby waive their right to file any challenge or action of any other nature against such decisions, with the exception of the cases for challenge provided for in Point 10 of the Tender Documents.

## **1.5 Concession Contract**

**1.5.1** The Draft Contracts shall be made available to the Bidders on the dates indicated in the Schedule.

**1.5.2** The Bidders may submit inquiries on the Tender Documents and suggestions for the Draft Contracts within the terms indicated in the Schedule, following the procedures set forth in Subpoints 3.1.1. and 3.1.2. of the Tender Documents. The Committee shall not be obliged to accept or respond to the suggestions made by the Bidders regarding the Draft Contracts.

## **1.6 Tender Schedule**

The Tender Schedule is contained in Exhibit 2. Unless otherwise expressly indicated, the maximum term of the day on which the Bidders may submit any documentation related to the Tender shall expire at 5.30 p.m. local time in Lima, Peru.

## **1.7 Interpretation and References**

**1.7.1** The terms and expressions used in the Tender Documents shall be interpreted in their natural and obvious sense, unless a different meaning has been specifically assigned to them in these Tender Documents or the Exhibits hereto, or the meaning is inferred from its context; and, in all cases, in accordance with the laws currently in force in the Republic of Peru. It shall be assumed, and no proof to the contrary may be admitted, that the participants of this process are familiar with the laws and regulations currently in force in the Republic of Peru applicable to this case.

**1.7.2** The headings of the chapters, points, subpoints, Appendixes and Exhibits of the Tender Documents are exclusively used for the sake of convenience and shall not affect the interpretation of the contents thereof



- 1.7.3** In case of controversies between the provisions of the Tender Documents and the provisions contained in any of the exhibits hereto, the Tender Documents shall prevail, unless the exhibits expressly, clearly and unequivocally indicate that their contents amend the provisions of the Tender Documents. In all cases, the contents of the Circular Letters referred to in the Tender Documents shall take precedence over the provisions of the Tender Documents, even if not expressly stated.

## **2. AUTHORIZED AGENTS AND LEGAL REPRESENTATIVE**

### **2.1 Authorized Agents**

#### **2.1.1 Appointment of Authorized Agents**

Before using the Data Room, each Bidder must appoint a maximum of two (2) individuals with a shared address in the city of Lima or El Callao as its Authorized Agents.

#### **2.1.2 Letter of Appointment**

The appointment of the Authorized Agents shall be made through an uncertified letter signed by the Bidder, expressly stating their powers and including the appropriate information pursuant to Subpoints 2.1.3 and 2.1.4.

#### **2.1.3 Powers Granted<sup>14</sup>**

Duly appointed Authorized Agents may act separately and not necessarily jointly, and they shall be the sole persons authorized by the Bidder to:

- Represent the Bidder before PROINVERSIÓN, the Committee and the advisors on all issues that are not within the exclusive competence of the Legal Representative, as provided for in Subpoint 2.2.1.
- Respond, on behalf of the Bidder and with binding effect for its principal, to all the questions asked by the Committee.
- Receive legal and other notices.
- Sign, with binding effect for the Bidder, the Confidentiality Agreement referred to in Subpoint 3.2.2.
- **Submit Envelopes 1, 2 and 3, without prejudice to the obligations to be complied with by said envelopes.**

#### **2.1.4 Information**

The information that the Bidder shall provide concerning each one of the Authorized Agents shall be as follows: name, identity document, common domicile in the city of Lima and Callao, telephone and fax numbers, and e-mail address.

---

<sup>14</sup> Amended by Circular Letter 3



## 2.1.5 Notices / Circular Letters<sup>15</sup>

Notice to the Bidder informing it of all Circular Letters or any other document related to this Tender may be given to any of the Authorized Agents and/or the Legal Representative by fax and/or e-mail, with electronic confirmation of complete transmission, in which case the notice shall be understood as received on the date on which the transmission is completed; or by a letter sent by courier or notary public, in which case said letter shall be understood to have been received on the date it is delivered. All notices shall be understood to have been properly given and effective if sent to the shared address in the city of Lima or Callao provided by the Authorized Agents as set forth in Subpoint 2.1.4.

## 2.1.6 Substitution

Subject to prior notice to the Committee that complies with the same requirements described in Subpoint 2.1.2, the Bidder may substitute any of the Authorized Agents at any time, or change the address, phone or fax numbers and e-mail address designated for the Authorized Agents, taking into account that the new common domicile and the phone or fax numbers and e-mail address shall be within the city of Lima or Callao. The appointment of the Authorized Agents or the change of address, phone or fax numbers or e-mail address, as applicable, shall take effect as from the date on which the respective notice issued by the Bidder is received by the Committee.

## 2.2 Legal Representative

### 2.2.1 Appointment and Powers<sup>16</sup>

The Bidder may only appoint up to two (2) Legal Representatives to represent it, jointly or individually. Bidders made up of a Consortium may appoint up to two (2) shared Legal Representatives, appointed jointly by the Members of the Consortium in order to represent it, either jointly or individually.

The address, phone number, fax number and e-mail address of the Legal Representatives, as well as their substitutes, are subject to the provisions established in Subpoints 2.1.4, 2.1.5 and 2.1.6.

The powers granted to each of the Legal Representatives shall be sufficiently broad so that any of them may sign, in name and on behalf of their principal, all documents required by the Tender Documents, specifically including the power to initiate challenge proceedings contemplated in the Tender Documents, sign the letters of presentation of the Technical Bid and Economic Bid, as well as all the documents submitted in Envelopes 1, 2 and 3, and sign the Concession Contract.

---

<sup>15</sup> Amended by Circular Letter 3

<sup>16</sup> Amended by Circular Letter 3





**In the case that the Bidder is a Consortium, said appointment shall be made through the Legal Representatives of the Members of the Consortium empowered for such purpose. These powers shall be accredited through the presentation of a copy, authenticated by a notary public or consul, of the power of attorney or similar document.**

## **2.2.2 Submission of the Power of Attorney**

The power of attorney whereby the Legal Representatives are appointed shall contain the respective powers of representation, as well as the information referred to in Subpoint 2.2.1 of the Tender Documents. It shall be submitted together with the documents contained in Envelope 1.

The appointment of a new Legal Representative or the replacement of those originally appointed shall only enter into effect after the Committee expresses its written approval of the submitted request to the Bidder, the Short-listed Bidder or the Listed Bidder.

## **2.2.3 Place of Granting of the Power of Attorney**

Any power of attorney granted abroad to an appointed Legal Representative must be:

- Duly issued or authenticated before the competent Peruvian Consulate and must attach an uncertified translation into Spanish if it was issued in a different language.
- Endorsed before the Peruvian Ministry of Foreign Affairs.

Powers of attorney granted in Peru must be contained in a notarially recorded instrument or in a notarially certified copy of the minutes of the pertinent corporate governing body whereby they were granted.

## **2.2.4 Filing with the Public Records Office**

In no case shall it be required that the power of attorney granted to a Legal Representative be registered with the Public Records Office at the time it is submitted. However, it shall be registered with the relevant Public Records Office before the Closing Date, if its principal is selected as the Successful Bidder.

## **3. INQUIRIES AND INFORMATION**

### **3.1 Inquiries on the Tender Documents and Suggestions on the Draft Contract**

#### **3.1.1 Term to make inquiries and suggestions**

The Bidders may make inquiries regarding the Tender Documents and suggestions for the Draft Contract only through their Authorized Agents and/or Legal Representatives, as applicable, starting and ending on the dates indicated in the Schedule.





### 3.1.2 Inquiry process<sup>17</sup>

Inquiries regarding the Tender Documents and suggestions for the Draft Contract shall be made in writing and in Spanish, addressed to:

**Antonio Jochamowitz**

Head of Airport Projects

PROINVERSIÓN

Av. Paseo de la República 3361, Piso 1, San Isidro, Lima, Peru

Fax: [511] 221-6224

E-mail: [aeropuertos@proinversion.gob.pe](mailto:aeropuertos@proinversion.gob.pe)

### 3.1.3 Circular Letters

3.1.3.1 The Committee's answers to the inquiries made regarding the Tender Documents shall be notified through Circular Letters to all the Bidders or Short-Listed Bidders, as applicable, without stating the name of the party who made the inquiry.

If the Committee considers it necessary at any time to clarify, amend or supplement the Tender Documents, it shall issue a Circular Letter for such purpose. Said Circular Letter shall be sent to the Authorized Agents and/or Legal Representative at the email address and/or fax number and/or shared address established in Subpoint 2.1.4 of the Tender Documents. It shall be sufficient for the Committee to send the Circular Letter through one of the means indicated by the Bidder in Subpoint 2.1.4 in order to consider the Bidder properly notified.

All Circular Letters issued shall also be published on the PROINVERSION website at [www.proinversion.gob.pe](http://www.proinversion.gob.pe).

After the Bidders have been short-listed, the Circular Letters shall only be forwarded to the Short-Listed Bidders. After the submission of Envelopes 2 and 3, the Circular Letters shall only be sent to the Bidders who submitted said Envelopes.

3.1.3.2 The Circular Letters issued by the Committee shall form an integral part of the Tender Documents. Accordingly, they are legally binding for all Bidders, Short-Listed Bidders and Listed Bidders.

## 3.2 Access to Information – Data Room

### 3.2.1 Access to the Data Room

3.2.1.1 The Bidders shall have access to the information related to the Project, which shall be available for consultation in the Data Room, located at Av. Paseo de la República 3361, Piso 1, San Isidro, Lima, Peru.

---

<sup>17</sup> Amended by Circular Letter 3



- 3.2.1.2 Access to the Data Room shall be coordinated with the Committee pursuant to the rules set forth for the operation thereof contained in Exhibit 8, the "Data Room User Guide," of these Tender Documents.
- 3.2.1.3 The Bidders shall indicate the name of the individuals who will have access to the Data Room through written notice submitted to the Committee by any of their Authorized Agents or Legal Representative. The Committee shall coordinate in a timely manner the effective organization of the visits to the Data Room.
- 3.2.1.4 The Bidders shall have access to the Data Room up until one Day before the date of the Submission of Envelopes 2 and 3, as established in the Schedule.

### **3.2.2 Confidentiality Agreement**

In order to access the Data Room, the Bidders must sign the Confidentiality Agreement included herein in Exhibit 8, Appendix 1.

### **3.3 Verification Meetings<sup>18</sup>**

All Bidders, through their Authorized Agents and/or Legal Representatives, as applicable, shall have the right to request a meeting with the officers and/or advisors of the Committee assigned to the project for the "Concessions of the Second Group of Provincial Airports " up until two (2) days prior to the last Calendar Day designated for the submission of Envelope 1. Short-Listed Bidders may meet with officers and/or advisors up to two (2) Days prior to the submission of Envelopes 2 and 3.

### **3.4 Limitations of Responsibility**

#### **3.4.1 Independent Decision of the Bidders**

All Short-Listed Bidders shall base their decision on whether or not to submit their Technical and Economic Bids on their own research, examinations, inspections, visits, interviews, analyses and conclusions regarding the available information and the information obtained by the Bidder itself by its own means and entirely at its own risk.

#### **3.4.2 Limitation of Responsibility**

The State or any agency thereof, PROINVERSION, the Committee and its Advisors take no responsibility for and do not guarantee, either expressly or implicitly, the entirety, integrity, reliability or accuracy of the information, whether verbal or in writing, provided by them for the purposes of the Tender. Accordingly, no person participating in the Tender may hold any of the above-mentioned parties or their representatives, agents or employees liable for the use that may be given to that information, or for any inaccuracy, insufficiency, defect, failure to update or any other cause not expressly contemplated herein.

---

<sup>18</sup> Amendment by Circular Letter 3



### 3.4.3 Scope of the Limitation of Responsibility

The limitation referred to in Subpoint 3.4.2 applies, in the broadest manner possible, to all the information related to the Tender actually known, not known and that should have been known at any time, including possible mistakes or omissions contained therein, by the State or any agency, body or officer thereof, PROINVERSION, the Committee and its Advisors. This limitation of responsibility also applies to all information, whether or not it was supplied or prepared, directly or indirectly, by any of the parties.

The limitation of responsibility also applies to all the information available in the Data Room, the information provided through Circular Letters or any other means of communication, the information acquired during visits to the facilities related to the Tender and the information mentioned in the Tender Documents, including all Appendixes and Exhibits.

## 4. SUBMISSION OF ENVELOPES 1, 2 and 3

### 4.1 Submission of Envelopes by the Authorized Agent or Legal Representative

Envelopes 1, 2 and 3 may only be submitted personally by one of the Bidder's Authorized Agents or by the Legal Representative. Documents sent by mail, fax or any other means of communication shall not be accepted or received.

### 4.2 Language

Unless otherwise expressly established in the Tender Documents, all documents must be submitted in Spanish or accompanied by an uncertified translation into Spanish. Should any discrepancy between the texts in both languages be detected, the text in Spanish shall prevail. Should brochures or catalogues in a foreign language, not required in the Tender Documents, be attached, the Committee may request the Bidder to translate them into Spanish.

### 4.3 Original Documents and Copies<sup>19</sup>

The documents contained in Envelopes 1, 2 and 3 shall be submitted in one original and three (3) copies, duly marked "Original," "Copy 1," "Copy 2" and "Copy 3" on the first page. The Technical Bid contained in Envelope 2 may also be submitted on CD-ROM.

The copies do not need to be authenticated by a notary public or consul. Should any document to be included in the "Original" envelope be a copy, it must be authenticated by a notary public or before the competent Peruvian consulate, in the case, of those Bidders not resident in Peru. In the latter case, the documents must be endorsed before the Peruvian Ministry of Foreign Affairs.

### 4.4 Method of Submission of Envelopes 1, 2 and 3

The Envelopes must be conveniently submitted closed and clearly marked on the back with the following indications: (i) Public Tender for Comprehensive Projects

---

<sup>19</sup> Amended by Circular Letter 3



for the Awarding in Concession of Second Group of Provincial Airports of the Republic of Peru; (ii) “Envelope 1,” “Envelope 2” or “Envelope 3,” respectively; and (iii) the name of the Bidder or Short-Listed Bidder, as applicable.

Envelope 1 must be submitted separately, while Envelopes 2 and 3 must be submitted enclosed in a single envelope with indications on the back that it contains Envelopes 2 and 3, as well as the rest of the information described in the preceding paragraph.

All documentation submitted in the Envelopes must be perfectly legible. The documentation enclosed in Envelopes 1 and 2 must be clearly numbered and each page must be initialed by the Legal Representative.

Furthermore, a table of contents with a detailed list of all the documents enclosed in Envelopes 1 and 2 must be included.

In case of any discrepancy between a figure expressed in both numbers and letters, the amount expressed in letters shall take precedence.

#### **4.5 Preparation and Submission Cost**

The Bidder shall bear all the direct or indirect costs or expenses that it may incur in connection with the preparation and submission of Envelopes 1, 2 and 3, as applicable. The State or any agency, body or officer thereof, PROINVERSION, the Committee and its Advisors shall not be responsible in any case for said costs, regardless of the manner in which the Tender is carried out or its results

#### **4.6 Effects of the Submission of Documents and Binding Nature of the Tender Documents**

The submission of the short-listing documents contained in Envelope 1, the documents included in Envelopes 2 and 3 or any other document or communication to the Committee implies the full knowledge, acceptance and unconditional submission of the Bidder, Short-listed Bidder, Listed Bidder or Successful Bidder, as applicable, to each of the procedures, obligations, conditions and rules, without exception, established in the Tender Documents, and specifically the provisions set forth in Point 3.4.

It also implies their express, irrevocable and unconditional waiver, in the broadest manner allowed by the Applicable Laws, of the right to file any action, counteraction, exception, claim, complaint, request for arbitration, request for indemnity or any other kind of action against the State or any agency, organization or official thereof, PROINVERSIÓN, the Committee or its advisors for any condition, obligations, rule or procedure provided for in these Tender Documents.

Any failure to comply with this point shall be sufficient grounds for the Committee or the Grantor, as applicable, to disqualify or revoke the rights granted to the Bidder, Short-listed Bidder, Listed Bidder, Successful Bidder or Concessionaire. The Tender Documents are legally binding for all such persons, companies and entities.



## 5. SHORT-LISTING REQUIREMENTS: CONTENTS OF ENVELOPE 1

The legal entities or Consortiums that have paid the Participation Fee may participate in this Tender.

A Company, including its Related Companies, may not participate directly or indirectly, individually or through a Consortium, in more than one Bidder. Should the Consortium in which a legal entity participates be unsuccessful, it may not be incorporated into another Consortium or into the company that the Consortium may incorporate for the execution of the Contract for a term of five (5) years.

The participation of airlines (companies engaged in the transportation of passengers and/or cargo by air) in the capital stock of the Concessionaire and/or its capital stock with the right to vote may not exceed, at any time, ten percent (10%).

The other requirements to be met by a Bidder in order to be declared a Short-Listed Bidder are technical, financial and legal in nature. These requirements are detailed in Subpoints 5.1, 5.2 and 5.3 of the Tender Documents.

The Bidder shall accredit its commitment to submit reliable information, introduce the composition of its Consortium and its **Strategic Investor**<sup>20</sup> through the submission of Exhibit 4, Appendix 8, which shall have the character of a Sworn Statement. This Appendix shall be submitted to the Committee in an uncertified document signed by the Bidder's Legal Representative.

The documents required for the short-listing shall be submitted in the form and manner indicated in the Appendixes contained in **Exhibit 1, Exhibit 3 and Exhibit 4.**<sup>21</sup>

### 5.1 Technical and Operating Requirements<sup>22</sup>

**5.1.1 The Bidder or one of its members, in the case of a Consortium, shall comply with at least one of the following minimum technical requirements:**

- i) Be an Airport Operator with at least three (3) years of experience, one million (1,000,000) **passengers a year** for the last three (3) years; or
- ii) Be a ramp operator with at least three (3) years of experience, with one hundred thousand (100,000) **airplanes served over the last three (3) years**; or
- iii) Be a logistical operator with at least three (3) years of experience, with one hundred thousand (100,000) metric tons (MT) **processed over the last three (3) years**; or
- iv) Be a transportation infrastructure operator with at least three (3) consecutive years of experience in a transportation infrastructure concession, **with invoices related to said operation for at least US\$5,700,000 (Five Million Seven Hundred Thousand U.S. Dollars) during the last three (3) years. The accredited experience must have been within the last five (5) years.**

<sup>20</sup> Amended by Circular Letter 3

<sup>21</sup> Amended by Circular Letter 3

<sup>22</sup> Amended by Circular Letter 3



- v) Be a legal entity and shareholder of a concessionaire company involved in infrastructure and/or public utilities **with at least three (3) years of experience in said concession, invoices related to said operation for at least US\$5,700,000 (Five Million Seven Hundred Thousand U.S. Dollars) during the last three (3) years, and at least twenty-five percent (25%) of the capital stock of said concessionaire company. The accredited experience must have been within the last five (5) years.**

The technical requirements may be accredited through a Related Company.

In all of the abovementioned cases, the Bidder shall have an Airport Advisory Agreement entered into with an Airport Advisor, which shall be submitted at the Closing Date.

In case i), the Airport Advisor shall be the one that met the technical requirements for short-listing. In the case it has cited the experience of its Related Company to meet the technical requirements, said Related Company shall act as the Airport Advisor.

In case i), where the accreditation is done through the Related Company, and in cases ii), iii), iv) and v), the Airport Advisor shall meet all the following requirements:

- a) Five (5) years of experience in operating an airport.
- b) Have operated, during the last three (3) years, one or more airports with a **total traffic** of at least three million (3,000,000) passengers.
- c) Have operated, during the last three (3) years, an international airport with a **total traffic** of at least one million (1,000,000) passengers.

#### 5.1.2 The Strategic Investor shall be:

- a) The Bidder, in the case of a legal entity that meets any of the technical requirements indicated above in Items i), ii), iii), iv) or v); or
- b) The Consortium Member that meets any of the abovementioned technical requirements.

In cases i), ii), iii) and iv), the Strategic Investor may meet the technical requirements through its Related Company.

To accredit its compliance with the technical requirements established in this point, the Bidder shall submit, in Envelope 1, Appendixes 1 and 2 of Exhibit 3 of the Tender Documents. The Bidder shall also include an uncertified copy, with an uncertified translation into Spanish, if applicable, of the documents accrediting the experience required for the Strategic Investor, such as contracts, records, certificates and similar documents issued by the competent company, entity or body.





- 5.1.3 Any Strategic Investor that wishes to cite its participation in other previous projects to accredit its compliance with the technical requirements set forth in Subpoint 5.1.1. of the Tender Documents in order to be short-listed shall demonstrate that it is/was the holder of a minimum of twenty-five percent (25%) of the corporation or consortium incorporated to execute said projects.
- 5.1.4 If this share is at least twenty-five percent (25%) but no more than fifty percent (50%), a certification issued by the Chairman of the Board of Directors of the company in which the Strategic Investor is accrediting its status as the shareholder responsible for airport, ramp or logistical operations, transportation infrastructure, other types of infrastructure and public utilities, as applicable.
- 5.1.5 In the case that the Bidder is named the Successful Bidder, the Strategic Investor shall be a shareholder of partner thereof. The Strategic Partner shall hold a share of no less than twenty-five percent (25%) of the capital stock of the Concessionaire.

## 5.2 Legal Requirements<sup>23</sup>

### 5.2.1 The Bidder shall certify its compliance with the legal requirements through the submission of:

- **An uncertified copy, with an uncertified translation into Spanish, if necessary, of the articles of incorporation of the Bidder. In the case of a Consortium, it shall also be necessary to submit an uncertified copy, with an uncertified translation into Spanish, of the articles of incorporation of each one of its Members. Alternatively, in place of the articles of incorporation of the Bidder or the Members of the Consortium, an uncertified copy, with an uncertified translation into Spanish, if necessary, of the current Bylaws or equivalent instrument shall be accepted.**
- **In the case of a Consortium, an uncertified copy, with an uncertified translation into Spanish, if necessary, of the document by which the Consortium was formed shall be submitted.**
- The term of the legal entities that apply to be Bidders shall be equal to or greater than the term of the Concession. The corporate purpose included in their Bylaws shall be sufficiently broad to permit them to be Bidders in this Tender or to participate as a shareholder in other corporations with a purpose that permits them to perform a project such as the one that is subject matter of this Tender.
- A **duly authenticated** Sworn Statement, signed by the Legal Representative in the case that **the Bidder** is a legal entity, confirming its existence, in accordance with the applicable legal principles in its country of origin, drawn up in the form and manner indicated in Appendix 1 of Exhibit 4.

---

<sup>23</sup> Amended by Circular Letter 3





- In the case that the Bidder is a Consortium, in addition to the obligation to comply with the requirement established in the preceding paragraph with respect to each one of its Members, the Bidder (Consortium) shall submit a **duly authenticated** Sworn Statement, signed by its Legal Representative in his/her double capacity as Legal Representative of the Bidder and each one of the Members, confirming their existence and their acceptance of the obligations assumed and Sworn Statements submitted, drawn up in the form and manner indicated in Appendix 2 of Exhibit 4.
- A Sworn Statement, in the form and manner indicated in Appendix 3 of Exhibit 4, signed by the Bidder's Legal Representative, indicating the percentage of shares in the Bidder that belong to each one of its shareholders or partners. In the case of Consortiums, said information shall also be required for each one of its Members.

**5.2.2** The Bidder, or one of its shareholders, partners or Members, or a Related Company of the Bidder or of one of its shareholders, partners or Members, shall be the person that paid the **Participation Fee**. In order to accredit this fact, a copy of the payment voucher for said Fee shall suffice. **In the case that the Bidder has obtained the Participation Fee from a third party through an assignment of rights, it shall accredit this fact through a written instrument certifying the transfer in its favor. Additionally, if applicable, a Sworn Statement explaining the relationship between the Bidder and such person shall be submitted, according to Appendix 4 of Exhibit 4.**

**5.2.3** Have a Legal Representative in accordance with the requirements established in Point 2.2, accrediting this fact through the submission of the respective **power of attorney, according to the provision established in said point.**

**5.2.4** A Sworn Statement, according to Appendix 5 of Exhibit 4, signed by the Bidder's Legal Representative, stating that the Bidder, its shareholders or partners and their members, as well as the shareholders and partners thereof, if the Bidder is a Consortium, do not meet any of the cases representing a lack of ideality for the compliance with its contractual obligations, as detailed in the Appendix referred to hereinabove.

Once the contract has been awarded, these requirements shall be met in due time by the company that signs the Contract.

Moreover, those companies in breach of the provisions established in Section 1366 of the Civil Code and/or to which the limitations set forth in Law 29290 may be applied may not be Bidders.

**5.2.5** A Sworn Statement, in the form and manner indicated in Appendix 6 of Exhibit 4, signed by the Bidder's Legal Representative, stating that the Bidder, its shareholders or partners and their members, as well as the shareholders and partners thereof, if the Bidder is a Consortium, have waived their right to invoke or exercise any privilege or



diplomatic or other immunity, and to file, through diplomatic channels, any claim, right to compensation or any other right in relation to any claim that may be filed by or against the government of the Republic of Peru, PROINVERSIÓN, the Committee and its members and advisors, under Peruvian law or under any other system of law with respect to their obligations related to the Tender Documents, the Technical Bid, the Economic Bid and the Contract.

**5.2.6** The legal and/or technical advisors of the Bidder have not directly provided any type of service associated with this process in favor of PROINVERSIÓN and the Committee during the development of this process, whether on a full-time, part-time or temporary basis. To accredit this fact, a Sworn Statement to such effect, signed by the Bidder's Legal Representative **and drawn up according to Appendix 7 of Exhibit 4** shall suffice.

**5.2.7** The Bidder, its shareholders, partners or Members, as well as the partners or shareholders of such members of the case of a Consortium, do not directly or indirectly hold a share in any other Bidder. To accredit this fact, it shall be sufficient to submit a Sworn Statement to such effect, drawn up in the form and manner indicated in **Appendix 8 of Exhibit 4** and duly signed by the Legal Representative.

**In the case of companies with shares of stock listed on stock exchanges, the share mentioned in the previous paragraph shall be limited to cases in which control is exercised over the management of another Bidder, or of any of its members in the case of a Consortium, pursuant to the provisions of the Regulations Governing Indirect Ownership, Relationships and Economic Groups, approved by CONASEV Resolution 090-2005-EF-94.10, as substituted. To accredit this fact, it shall be sufficient to submit a Sworn Statement to such effect, drawn up in the form and manner indicated in Appendix 9 of Exhibit 4 and duly signed by the Legal Representative.**

### **5.3 Financial Requirements<sup>24</sup>**

The Bidder shall accredit having met the following financial requirements:

**5.3.1** The Bidder shall accredit that it possesses a net equity of at least the minimum amount to be notified by Circular Letter.

**5.3.2** The Bidder may accredit this requirement using figures from a **Subsidiary or Parent Company**.

**5.3.3** In the case of Consortiums, the required net equity shall be accredited by one or more of the Consortium Members, provided that the share of the Member in the Consortium is at least twenty percent (20%). If the equity is accredited by more than one member, **the equity** amounts shall be added together.

---

<sup>24</sup> Amended by Circular Letter 3



- 5.3.4 In the case of Item v) of Point 5.1.1, technically short-listed legal entity shall have at least thirty-five percent (35%) of the financial requirements for short-listing.
- 5.3.5 The financial information referred to in this Point 5.3 shall be submitted in the Spanish language, in the form and manner indicated in Appendix 1 of Exhibit 5 and its sections, in the original and duly signed by the Legal Representative.

The financial requirement shall be accredited with the submission of the audited financial statements corresponding to the past two (2) years or similar documents of the Bidder, or of the Member of the case of a Consortium, or **of the Subsidiary or Parent Company accrediting the financial requirements** of which case the Bidder's Legal Representative shall submit a Sworn Statement explaining its relationship with the Bidder.

Such documents shall be submitted in the Spanish language. In the event that the financial information is submitted in a foreign language, it shall be accompanied by an official translation into Spanish.

## 5.4 Simplification Mechanism<sup>25</sup>

This is the mechanism whereby the Bidders short-listed in any tender carried out by PROINVERSION between April 2008 and April 2009 may request the authenticity of the documents they may have submitted for short-listing (Envelope 1) in any such tenders.

Any Bidder intending to make use of the Simplification Mechanism shall comply with the following:

- 5.4.1 Request that the Committee maintain the effectiveness of any documentation submitted in any of the previous processes, as well as the submission date. This request shall be submitted in Envelope 1.
- 5.4.2 **Prior to the expiration of the term set for the submission of Envelope 1, Bidders shall submit an application enclosing a Sworn Statement of effectiveness of the information, in the form and manner indicated in Appendix 2 of Exhibit 5, so that the Committee may issue a Certificate of the Authenticity of the Short-Listing Documents.**
- 5.4.3 **The Committee shall confirm the authenticity of the Sworn Statement, as well as its applicability to this Tender's short-listing process, proceeding to carry out the respective evaluation of accordance with the provisions established herein.**
- 5.4.4 **In Envelope 1, Bidders shall submit the following documentation:**
- **The Certificate of the Authenticity of the Short-Listing Documents**
  - **A Sworn Statement of the Authenticity of the Documents in the form and manner indicated in Appendix 3 of Exhibit 5 hereof**
  - **Any new or additional documentation required for the purposes of short-listing in the Tender Documents**
  - **A copy of the payment receipt for the Tender Participation Fees**

---

<sup>25</sup> Amended by Circular Letter 3



## 5.5 Verification of Information Submitted to the Committee

From the time of submission of the documentation referred to in Point 5 to the Closing Date, Bidders agree to make available to the Committee all documents requested thereby in order to confirm the accuracy of the documentation submitted, pursuant to the provisions established in said Point 5.

Prior to the Closing Date, the company signing the Contract shall provide the Committee with certification that the company and the Consortium Members, as applicable, are in no way prevented from participating in the selection processes or entering into government contracts issued by CONSUCODE. If it is determined that the information supplied is false, the Awarding of the Contract shall be rendered null and void.

## 6. SUBMISSION OF ENVELOPE 1 AND SHORT-LISTING RESULTS

### 6.1 Submission of Envelope 1<sup>26</sup>

6.1.1 Bidders shall request that the Committee set a date and time for the formal submission of Envelope 1 within the term set forth in the Schedule.

6.1.2 Envelope 1 shall be received **by the Committee or by the Envelope 1 Evaluation Committee appointed by the Committee, and shall be opened in the presence of a notary public. A report shall be drawn up evidencing the submission by the corresponding Bidder of the documents contained in Envelope 1, as well as of the number of pages of the documentation included therein.**

6.1.3 **The report referred to in the previous paragraph shall evidence the acceptance or rejection of the contents of Envelope 1, as applicable. Envelope 1 shall be rejected if it is lacking any of the documents required and, if applicable, note will be made of any objections raised by the Bidder.**

6.1.4 **In the evaluation following receipt of Envelope 1 of the event of a presence of defects in the documents contained in Envelope 1 of the opinion of the Evaluation Committee, said Committee shall request the Bidder to remedy the situation or to abide by its directions within the term prescribed in Exhibit 2, subject to being excluded from short-listing.**

Furthermore of order to facilitate the examination, verification and comparison of information and requirements, the Envelope 1 Evaluation Committee may request any Bidder to clarify of writing, the information contained in Envelope 1, without this implying any changes to the contents. The request for clarification and corresponding response shall be made in writing of accordance with the provisions of the previous paragraph.

---

<sup>26</sup> Amended by Circular Letter 3



6.1.5 Following the Envelope 1 Opening Act, neither the Bidder nor any other person directly associated with the process shall receive any information concerning the short-listing thereof until such time as the Committee's report has been made available to said Bidder.

6.1.6 Within the maximum term set forth in the Schedule, the Committee shall issue its opinion, announcing the Short-Listed Bidders who may participate in the following stages of the Tender.

## 6.2 Gradual Announcement of the Short-Listed Bidders<sup>27</sup>

The Committee shall advise each Bidder of the results of the short-listing process, for which purpose it shall serve an individual notice.

The Committee's decision with respect to short-listing shall be final and conclusive.

## 6.3 Amendments to the Formation of Consortiums

Any Short-Listed Bidder may form a Consortium up to fifteen (15) Calendar Days prior to the submission of Envelopes 2 and 3. Furthermore, within that term, the Short-Listed Bidders of the case of a Consortium, may make changes to their formation. In any of the two cases (the formation of a Consortium or a change to an already-existing Consortium) Short-Listed Bidders may associate themselves with other legal entities or even with other Short-Listed Bidders. Any changes which may take place shall ensure that the Bidder continues to have the technical and operating experience and meets the financial requirements referred to in the Tender Documents, for which purpose it shall submit the relevant supporting documentation, if applicable, and shall not be able to reduce the Minimum Share. Furthermore, sworn statements shall be submitted, along with any other documentation called for by the legal requirements for new members of a Consortium. The new formation of the Bidder shall comply with the condition of not having a direct or indirect share in any other Bidder.

The formation of new Consortiums or changes in the formation of already-existing Consortiums shall be submitted for the consideration of the Committee within the previously established term. The Committee reserves the right to accept such changes.

Any additional documents submitted by virtue of this point shall form part of Envelope 1 for all purposes considered herein and in the Contract.

The Committee's decision on short-listing shall be final and conclusive.

## 7. CONTENTS OF ENVELOPES 2 AND 3

### 7.1 Contents of Envelope 2<sup>28</sup>

Envelope 2 shall be submitted in original and three (3) copies, appropriately marked "Original," "Copy 1," "Copy 2" and "Copy 3" on the first page. Additionally, the Technical Bid that forms part of Envelope 2 **may be** submitted on CD-ROM.

<sup>27</sup> Amended by Circular Letter 3

<sup>28</sup> Amended by Circular Letter 3



The contents of Envelope 2 shall be numbered and shall be subject to the provisions set forth in this point, pursuant to the following stipulations:

## 7.1.1 Sworn Statement<sup>29</sup>

**Short-Listed Bidders shall submit a Sworn Statement, in the form and manner indicated in Appendix 4 of Exhibit 5, detailing the following:**

**The information, declarations, certification and of general, any and all information submitted in Envelope 1 is still in effect as of this date, and will remain in effect up to the Closing Date.**

## 7.1.2 Contract<sup>30</sup>

7.1.2.1 Short-Listed Bidders shall submit one **(1) copy** of the final version of the Contract, duly signed by the Short-Listed Bidder's Legal Representative. Such final version shall be given to Listed Bidders of accordance with the Schedule.

7.1.2.2 Any amounts which may need to be filled in in the Contract shall not be included in the wording thereof. They shall be included on the Closing Date, based on the Economic Bid submitted by the Listed Bidder that is awarded the contract of the Tender.

## 7.1.3 Bid Bond<sup>31</sup>

7.1.3.1 The Bidder shall guarantee the validity, effectiveness and seriousness of the Economic Bid, and it shall submit a joint and several, irrevocable and unconditional bond, without the benefit of excussio or division, which is automatically executable in favor of PROINVERSIÓN, pursuant to the provisions established hereinbelow.

7.1.3.2 **The Bond shall be issued in the form and manner of a Bank Guarantee, submitted in the form and manner indicated in Appendix 1 of Exhibit 9. Alternatively, a bond issued by an international prime bank will be accepted, if confirmed by a Local Bank. This bond may be drawn up in accordance with the formalities used by the bank carrying out the transaction, provided it meets the requirements outlined in Appendix 1 of Exhibit 9.**

7.1.3.3 This bond shall be in force as from the date of submission of the Economic Bid, during and up to ninety (90) days following the date of submission of Envelopes 2 and 3. The Committee may order a mandatory extension of said bond, and the Bidder shall renew it for the prescribed terms.

<sup>29</sup> Amended by Circular Letter 3

<sup>30</sup> Amended by Circular Letter 3

<sup>31</sup> Amended by Circular Letter 3





7.1.3.4 The amount of the bond shall be notified via Circular Letter.

7.1.3.5 Once the awarding of the Contract has been announced, the Committee may order the execution of the corresponding bond submitted by the Listed Bidder that is to become the Successful Bidder, if the Listed Bidder fails to comply with the obligations set forth for the Closing Date for reasons attributable thereto.

7.1.3.6 The Bid Bond submitted by a Listed Bidder that does not end up as the Successful Bidder shall be returned fifteen (15) Days following the Closing Date.

#### 7.1.4 Technical Bid<sup>32</sup>

Short-Listed Bidders shall submit their Technical Bid in Envelope 2 of accordance with the provisions set forth in Appendix 2 of Exhibit 1 herein.

#### 7.1.5 Commitment of Incorporation<sup>33</sup>

7.1.5.1 The Short-Listed Bidder and each of its members of the case of a Consortium, shall submit a Sworn Statement of its **intention to incorporate a special purpose corporation in Peru, which may adopt any of the corporate forms governed by the Peruvian Business Corporations Act, to act as Concessionaire and the minimum subscribed capital stock of which shall be notified via Circular Letter. Such company shall be incorporated in the form of cash contributions, of which an amount equivalent to no less than twenty-five percent (25%) of the capital stock shall be paid up by the date of incorporation, completing the remaining amount by the end of the second year of the Concession Term.**

The Strategic Investor shall have and maintain the Minimum Share as from the date of incorporation of the Concessionaire, for a term of five (5) years, commencing on the Closing Date, and may not transfer or assign said share in such a manner that ends up with a share lower than that set forth in the preceding paragraph.

**The Sworn Statement form to be used can be found in Appendix 5 or 6 of Exhibit 5 herein, depending on whether the Bidder is a legal entity or a Consortium.**

7.1.5.2 The Strategic Investor shall have a Minimum Share equivalent to twenty-five percent (25%) in the shareholding structure of the Concessionaire **as from the date of incorporation of the Concessionaire.**

---

<sup>32</sup> Amended by Circular letter 3

<sup>33</sup> Amended by Circular Letter 3





### **7.1.6 Acceptance of the Tender Documents and Contract<sup>34</sup>**

The Short-Listed Bidder shall submit a Sworn Statement indicating that it is familiar with the Tender Documents and accepts the final version of the Contract, to be made available on the date noted in Exhibit 2, further agreeing that in the event it is announced as the Successful Bidder, the Concession Contract shall be signed by the Concessionaire company duly organized and existing under the laws established in Subpoint 7.1.5.

This document shall be submitted in the form and manner indicated in Appendix 7, Exhibit 5 of these Tender Documents.

## **7.2 Contents of Envelope 3: Economic Bid**

**7.2.1** The Listed Bidder shall submit its Economic Bid in Envelope 3 of accordance with Exhibit 7.

**7.2.2** The contents and requirements of the Economic Bid shall be announced via Circular Letter.

**7.2.3** The Economic Bid shall remain in effect for at least thirty (30) Days following the Closing Date, even in the event that the respective Economic Bid was not declared the Successful Bid.

**7.2.4** For the purposes of this Tender, the submission of Envelope 3 by a Listed Bidder represents an irrevocable Economic Bid that implies, without exception, that the Listed Bidder subjects itself to the terms and conditions of the Contract and to the provisions set forth in the letter of presentation for its Economic Bid.

## **8. ACT OF RECEPTION OF ENVELOPES 2 AND 3, OPENING AND EVALUATION OF ENVELOPE 2**

### **8.1 Act of Reception of Envelopes 2 and 3 - Opening of Envelope 2**

**8.1.1** The submission of Envelopes 2 and 3 shall be made in accordance with the general rules provided for in Point 4. Notwithstanding the foregoing, the Committee shall grant a grace period of up to thirty (30) minutes for the submission.

**8.1.2** In the event that all Short-Listed Bidders are present prior to the expiration of the grace period, the Committee may begin the reception of Envelopes 2 and 3.

**8.1.3** The Committee Chairman, or the acting chairman, shall call the Short-Listed Bidders in the order in which they were short-listed in order to hand over the envelopes, including Envelopes 2 and 3, and then proceed to open them and to hand over Envelopes 2 and 3 separately to the notary.

**8.1.4** The Notary public shall then open Envelopes 2 of the sequence of short-listing.

---

<sup>34</sup> Amended by Circular Letter 3



- 8.1.5 Once all Envelopes 2 have been opened, the notary public shall sign and seal all the numbered pages of the documents contained in the envelopes, and then turn the envelopes over to the Committee for evaluation, which shall be conducted in accordance with the provisions established in Point 8.2.
- 8.1.6 The unopened Envelopes 3 shall be sealed and kept in the custody of the notary public until the date of the ceremony for the Opening of Envelope 3 and the awarding of the contract. The date of this ceremony is indicated in the Tender Schedule referred to in Point 1.6 of the Tender Documents.
- 8.1.7 Once the ceremony has ended, the respective report shall be prepared and signed by the Committee members and by any Short-Listed Bidders intending to do so.

## **8.2 Evaluation of the Contents of Envelope 2 <sup>35</sup>**

- 8.2.1 **All bids submitting the required documentation shall be accepted.**
- 8.2.2 **The Committee shall be entitled to request Bidders, within the term it defines, to submit additional information and/or clarifications with respect to the Technical Bid, without these representing an amendment to or variation of the Technical Bid submitted.**
- 8.2.3 **The Committee is also entitled to request Bidders, within the term it defines, to submit verbal supporting information for the Technical Bids admitted.**
- 8.2.4 **The results of the evaluation of Technical Bids shall be noted in a report to be signed by the Committee members.**
- 8.2.5 **The results of the evaluation of the documents contained in Envelopes 2 shall be individually reported to the Short-Listed Bidders prior to the Opening of Envelopes 3.**
- 8.2.6 **The decision of the Committee concerning the results of the evaluation of the bid contained in Envelopes 2 shall be final, with no possibility for claims or appeals of any type on the part of the Short-Listed Bidders.**
- 8.2.7 **The Committee shall declare as Listed Bidders only those Short-Listed Bidders that have submitted Technical Bids which have been admitted and considered to be technically acceptable.**

**Only Short-Listed Bidders for which the contents of Envelope 2 have been declared acceptable shall go on to the next stage of the Tender, i.e., the Opening of Envelope 3.**

---

<sup>35</sup> Amended by Circular letter 3



**8.2.8 The Successful Bidder's Technical Bid shall form an integral part of the Concession Contract.**

**9. OPENING OF ENVELOPE 3 AND AWARDING OF THE CONTRACT**

**9.1 Opening and Evaluation of Envelope 3 (Economic Bids)**

**9.1.1** On the date fixed in the Tender Schedule referred to in Point 1.6., the Committee Chairman shall publicly read aloud the list of Listed Bidders.

**9.1.2** He will then proceed with the Opening of Envelope 3 corresponding to the Listed Bidders.

**9.1.3** If any of the Economic Bids contained in the Envelopes 3 of the Listed Bidders do not meet the requirements set forth in the Tender Documents, to be determined via Circular Letter, these shall not be considered by the Committee as a valid Economic Bid.

**9.1.4** The Committee Chairman, aided by the notary public, shall announce the amount of the valid Economic Bids submitted in accordance with the provisions of Exhibit 7, identifying the principal of the respective Economic Bid.

**9.2 Process for Awarding the Contract<sup>36</sup>**

**9.2.1** The contract shall be awarded to the Listed Bidder that submits the Best Bid of accordance with the procedure to be notified via Circular Letter.

**9.2.2** Receiving one valid Economic Bid shall be sufficient for the awarding of the contract.

**9.2.3** **Once the contract awarding process has ended, the notary public shall issue a report which shall be signed by the Committee members or their representatives, the Successful Bidder and any other Listed Bidders who wish to do so.**

**9.3 Tie of Economic Bids**

**9.3.1.** In the event of a tie between two (2) or more Bids, the Committee shall request the submission of new Economic Bids (each of them hereinafter referred to as a "New Economic Bid"). In the same event, no later than two (2) hours after the Committee has declared the tie, the Listed Bidders involved in the tie shall submit a New Economic Bid.

**9.3.2.** Any New Economic Bid submitted shall be subject to the same terms and conditions as the original Economic Bid.

**9.3.3.** Each Listed Bidder submitting a New Economic Bid shall do so by submitting a new Envelope 3, which shall contain a new Letter of Presentation of the Economic Bid, duly signed by the Legal Representative of the respective Listed Bidder.

**9.3.4.** A New Economic Bid shall be lower than the amount indicated in the original Economic Bid of the respective Listed Bidder. In the case that any

<sup>36</sup> Amended by Circular letter 3



Listed Bidder fails to submit a New Economic Bid, the original Economic Bid submitted by such Listed Bidder shall remain in effect for all purposes of the Tender.

The Committee shall Award the Contract to the Listed Bidder which has submitted the Best Bid.

- 9.3.5.** If the tie persists after the event for the Submission of New Economic Bids, the Successful Bidder shall be determined by a drawing conducted with the assistance of the notary public. Such a drawing shall be conducted in the same event, involving the Bidders who are the principals of the indicated bids. The Contract shall be awarded to the Bidder whose name is chosen.

## 10. APPEALS

### 10.1 Appeal Procedure

- 10.1.1** Any Listed Bidder may submit a motion for appeal to the Committee against the Awarding of the Contract. Such appeal shall be noted as an objection in the notary public's report of the Event for the Opening of Envelope 3 and shall be duly substantiated of writing, within a maximum term of eight (8) Days, commencing on the day following the date of the Awarding of the Contract. The Committee shall resolve said appeal within a maximum term of ten (10) Days, commencing on the date of submission of the appeal. As a requirement for the processing of the appeal, the Listed Bidder shall submit the bond referred to in Point 10.2 within three (3) Days, commencing on the day following the Awarding of the Contract.
- 10.1.2** Against the Committee's resolution, the affected Bidder may file a motion for appeal with the Board of Directors of PROINVERSIÓN within a term of three (3) Days, commencing on the day following the date of its reception. The appeal may also be submitted against an implied resolution denying the challenge in the case that, after the lapsing of the ten (10) Days allowed for the Committee to decide on the appeal filed, the Committee still has not issued the corresponding resolution. In this latter case, the term to submit the appeal shall be calculated as from the day following the date of expiration of the mentioned ten (10) Day term.
- 10.1.3** The appeal filed against the express or implied resolution of the Committee shall be resolved in the second and final instance by the Board of Directors of PROINVERSIÓN within a term of no more than thirty (30) Days, commencing on the day when it is filed. The resolution in second and final instance shall be final and conclusive.

### 10.2 Appeal Bond<sup>37</sup>

- 10.2.1** No appeal shall be considered to have been effectively submitted, and shall completely lack effect unless, within a term of three (3) Days following the date of the awarding of the contract, the challenging Bidder submits to the Committee a joint and several, irrevocable and unconditional bank bond without the benefit of excussio or division, which is automatically executable of accordance with Appendix 3 of Exhibit 9 in favor of PROINVERSIÓN. Such bank bond shall be issued by a Local Bank, as

---

<sup>37</sup> Amended by Circular Letter 3



provided in Appendix 2 of Exhibit 6 of the Tender Documents of the amount of **US\$ 2,370,000 (TWO MILLION THREE HUNDRED AND SEVENTY THOUSAND U.S. DOLLARS)**

**10.2.2** The challenge bond may be executed by PROINVERSIÓN in the event that the motion for appeal submitted by the Bidder is declared inadmissible or unfounded if said motion for appeal is not submitted within the term set forth in Subpoint 10.1.2 and the Committee's respective resolution (express or implied) shall be accepted. In the case that the challenge or the motion for appeal submitted is admitted, the challenge bond shall be returned to the Bidder, not accruing any interest in its favor.

**10.2.3** The effectiveness of the challenge bond referred to in this Subpoint shall be sixty (60) Days, commencing on the Closing Date of the Tender.

### 10.3 Suspension

The Tender may be suspended, cancelled or rendered null and void at any time and without the need to cite any reasons whatsoever if the Committee so deems it convenient, without being liable for such effect. **This decision is final and conclusive and may not be challenged.**

## 11. CLOSING PROCEDURE

### 11.1 Closing Date

The Closing Ceremony shall be held in the place and at the time to be indicated via Circular Letter and shall be conducted in the presence of a notary public, who shall certify the acts referred to in Point 11.2. The notarial expenses incurred in such event shall be borne by the Successful Bidder.

In case the Concessionaire fails to meet the requirements provided in the Tender Documents for this event, the Committee shall render null and void the Awarding of the Contract and shall order the execution of the Bidder's Bid Bond. In this case, the Committee, at its sole criteria, may Award the Contract to the Listed Bidder that submitted the second Best Bid and/or adopt any other decision it may deem convenient.

### 11.2 Closing Ceremony

The following actions shall be carried out on the Closing Date:

#### 11.2.1 The Successful Bidder shall submit the following documents:<sup>38</sup>

11.2.1.1 A certified copy of the notarially recorded instrument evidencing the incorporation of the Concessionaire and accrediting its filing with the Public Records Office in and for Lima. The Concessionaire company shall have been incorporated in Peru, with the same partners, shareholders or Members of the same proportion they held on the date of the Awarding of the Contract of the case of a Consortium, with a minimum subscribed capital stock as provided in Subpoint 7.1.5.

---

<sup>38</sup> Amended by Circular letter 3



- 11.2.1.2 A certified copy of the power of attorney of the person who will be signing the Contract on behalf of the Concessionaire, with evidence of filing with the pertinent Public Records Office.
- 11.2.1.3** Sworn Statements from the Concessionaire and its Main Partners declaring that they are not prevented from entering into government contracts, nor have they incurred in the limitations set forth in the Applicable Laws. Such information shall be supplied by the Concessionaire in the form and manner indicated in **Appendix 5 of Exhibit 4**.
- 11.2.1.4 Accreditation by the Concessionaire of the ratification of all acts carried out and duly substantiated, signed by the Successful Bidder's Legal Representatives, especially the signing of the Concession Contract and any other right or obligation corresponding thereto in accordance with the Tender Documents, the Concession Contract or the Applicable Laws. Depending on the type of company, the nature of the act subject of ratification and the faculties corresponding to the company's governing bodies, ratification shall be accredited through the submission of a certified copy of the respective resolution.
- 11.2.1.5 The Concessionaire shall submit signed reports evidencing reception of all real and personal property forming part of the Concession.
- 11.2.1.6 The Concessionaire shall pay the amount corresponding to the Preparatory Acts for the Process. Such payment shall be made in the form and manner to be advised by the Committee in due course, via Circular Letter.
- 11.2.1.7 The Concessionaire shall submit three (3) sets of the duly signed Airport Advisory Agreement.**
- In the case of Item i) of Subpoint 5.1.1 of the Tender Documents, the Airport Advisory Agreement shall be entered into with the Airport Operator or with the Related Company that accredited the technical short-listing requirement.**
- The Airport Advisory Agreement shall include the minimum guidelines indicated in Appendix 1 of Exhibit 1 of the Tender Documents.**
- 11.2.1.8 Submission of evidence of the state of not being prevented from entering into government contracts issued by CONSUCODE, for the Bidder as well as for its Main Partners; and in the case of a Consortium, for the Members thereof and the Main Partners of said Members.
- In the event of determining that the information supplied is false, the Awarding of the Contract shall be revoked.





**11.2.1.9 Concession Contract Performance Bond in an amount to be advised via Circular Letter in force as from the Closing Date until two (2) years after the Concession Term, in the form and manner indicated in Appendix 2 of Exhibit 9.**

**11.2.1.10 Furthermore, the Successful Bidder that is Awarded the Contract shall enclose the following documentation, duly certified by a notary public or Peruvian consul, authenticated by the Peruvian Ministry of Foreign Affairs, as applicable:**

- **Document evidencing the incorporation of the Bidder or of each of the Members, in the case of a Consortium, with an official translation into Spanish, if required**
- **The documents submitted in Envelope 1 to accredit the experience required in Subpoint 5.1.1, such as contracts, records, certificates and other similar documents issued by the company, entity or competent organization, with an official translation into Spanish, if required**

## **11.2.2 Government's Obligations**

11.2.2.1 Verify the passing of the Supreme Executive Order (Decreto Supremo) referred to in Section 2 of Executive Order (Decreto Ley) 25570, a piece of legislation that supplements Executive Order (Decreto Legislativo) 674, amended by Article 6 of Law 26438, whereby the government guarantees each and every one of the obligations, statements and guarantees of the Grantor set forth in the Concession Contract.

11.2.2.2 The Ministry of Transportation and Communication (MTC) shall grant the operating licenses in favor of the Concessionaire.

11.2.2.3 PROINVERSIÓN shall return the Bid Bond to the Successful Bidder.

11.2.2.4 PROINVERSION shall deliver a copy of the Legal Stability Agreements provided for in Executive Orders (Decreto Legislativos) 662 and 757, if the Successful Bidder applies to such agreements, within a term of ten (10) Days following the date of the Awarding of the Contract.

11.2.2.5 This obligation shall not apply:

- If such Legal Stability Agreement(s) has/have already been signed and exchanged by the parties prior to the Closing Date.
- If the Concessionaire and/or its shareholders decide not to sign such agreements, which shall be presumed as a matter of law if the corresponding application for subscription of the Legal Stability Agreements is not submitted by the Concessionaire and/or by its shareholders to PROINVERSIÓN or, if applicable, to





the pertinent government authority, within a term of ten (10) Days following the Awarding of the Contract.

- If PROINVERSIÓN or the Government Authority, if applicable, determines that the conditions set forth by the applicable legal provisions for the Concessionaire to sign such Legal Stability Agreements have not been met.<sup>39</sup>

### 11.2.3 Execution of the Concession Contract

After verifying the compliance with the acts described in Subpoints 11.2.1 and 11.2.2., the Concessionaire's Legal Representative shall proceed to execute the Concession Contract, along with the Grantor's representative.

### 11.2.4 Entry into force of the Concession Contract

The Contract shall enter into full force and effect for legal purposes as from the Closing Date, following its execution. The Closing Date shall be identified for all purposes as the date when the Contract is executed.

## 11.3 Execution of the Bid Bond

**11.3.1** If the Successful Bidder fails to comply with any of its obligations provided for by the Closing Date, as outlined in Subpoint 11.2.1, due to reasons for which it is responsible, PROINVERSIÓN may execute the Bid Bond, immediately and without a need to serve prior notice to the Successful Bidder. The execution of this bond shall not limit or restrict any other right which PROINVERSIÓN may have before a Successful Bidder that has failed to comply with its obligations with respect to its bid.

**11.3.2** In case of non-compliance by the Successful Bidder, the Committee shall have the power, but not the obligation, to accept the bid made by the Listed Bidder which submitted the second-best Economic Bid. In such case, the Committee shall notify the Bidder who submitted said bid, informing the Bidder of the decision to declare it the new Successful Bidder, further informing the Bidder of the Closing Procedure and the date, time and place when said procedure is to take place.

**11.3.3** Notwithstanding the provisions of Subpoint 11.3.1, PROINVERSIÓN and/or the Committee may initiate any and all legal actions permitted by the Applicable Laws as a direct or indirect consequence of the act of non-compliance by the original Successful Bidder.

## 12. FINAL PROVISIONS

### 12.1 Applicable Laws

The Tender Documents, the documents forming part of the Circular Letters and the Concession Contract shall be governed by and interpreted in accordance with the Applicable Laws, as set forth in Point 1.3.

---

<sup>39</sup> Pursuant to the provisions of Law 27342, the minimum amount of capital stock required in order to have access to the legal stability regimen is US\$5,000,000 (Five Million U.S. Dollars).



## 12.2 Destination and Use of the Resources to be Created for the Government

The distribution of the funds earned by the government from the Concession, if applicable, shall be conducted in accordance with the Third Supplementary Provision of the Framework Law on Decentralization. Likewise, the resources of the FONCEPRI shall be determined in accordance with Supreme Executive Order (Decreto Supremo) 021-98-PCM, if applicable.

## 12.3 Conformity of the Office of the Comptroller General of the Republic of Peru

The Tender Documents, as well as the Contract deriving from this process, shall incorporate issues relevant to the report, if any, issued by the Office of the Comptroller General of the Republic of Peru, as applicable, by virtue of Section 22, Item “L” of Law 27785, which reads as follows:

“Section TWENTY-TWO: Powers

The following are powers of the Office of the Comptroller General of the Republic of Peru:

Issue a previous report on the transactions, bonds, sureties and other guarantees granted by the government, including draft Contracts, which may in any manner compromise its credit or financial position, whether domestically or abroad.”

### EXHIBITS:<sup>40</sup>

Exhibit 1 Appendix 1	Technical Issues: Guidelines for the Airport Advisory Agreement
Exhibit 1 Appendix 2	Technical Issues: Guidelines for the Submission of the Technical Bid
Exhibit 2	Schedule
Exhibit 3 Appendix 1	Technical Short-Listing Requirements: Strategic Investor
Exhibit 3 Appendix 2	Technical Short-Listing Requirements: Sworn Statement of the Strategic Investor
Exhibit 4 Appendix 1	Legal Short-Listing Requirements: Sworn Statement of Legal Entity Incorporated
Exhibit 4 Appendix 2	Legal Short-Listing Requirements: Joint and Several Commitment for Short-Listing
Exhibit 4 Appendix 3	Legal Short-Listing Requirements: Sworn Statement of Corporate Organization
Exhibit 4 Appendix 4	Legal Short-Listing Requirements: Declaration of the Entity that Paid the Participation Fee
Exhibit 4 Appendix 5	Legal Short-Listing Requirements: Sworn Statement that There are no Impediments to Entering into Government Contracts
Exhibit 4 Appendix 6	Legal Short-Listing Requirements: Declaration of Waiver of the Right to Resort to Diplomatic or Other Types of Privileges or Immunity
Exhibit 4 Appendix 7	Legal Short-Listing Requirements: Sworn Statement of No Incompatibility
Exhibit 4 Appendix 8	Legal Short-Listing Requirements: Sworn Statement of not Being Related to Another Bidder
Exhibit 4 Appendix 9	Legal Short-Listing Requirements: Sworn Statement of not Being Related to Another Bidder (applicable to companies with shares of stock listed on stock exchanges)
Exhibit 5 Appendix 1	Financial Short-Listing Requirements: Specimen Letter of Submission of Financial Information
Exhibit 5 Appendix 2	Simplification Mechanism: Sworn Statement for the Issuance of Certificate of Authenticity of the Documentation Required for Short-Listing

<sup>40</sup> Amended by Circular Letter 3



Exhibit 5 Appendix 3	Simplification Mechanism: Sworn Statement of Authenticity of Information
Exhibit 5 Appendix 4	Contents of Envelope 2: Sworn Statement of Authenticity of Information
Exhibit 5 Appendix 5	Contents of Envelope 2: Sworn Statement of Incorporation of Legal Entity
Exhibit 5 Appendix 6	Contents of Envelope 2: Sworn Statement of Incorporation of Legal Entity (applicable to Bidder as a Consortium)
Exhibit 5 Appendix 7	Contents of Envelope 2: Sworn Statement of Acceptance of Tender Documents and Contract
Exhibit 6 Appendix 1	International Prime Banks and List of Authorized International Financial Institutions
Exhibit 6 Appendix 2	Authorized Local Banks
Exhibit 7	Specimen Letter of Submission of Economic Bid
Exhibit 8	Data Room Users' Guide
Exhibit 8 Appendix 1	Confidentiality Agreement
Exhibit 8 Appendix 2	Form used in the Identification of Persons Authorized to use the Data Room
Exhibit 8 Appendix 3	Multiple Service Application Form
Exhibit 8 Appendix 4	Visit Application Form
Exhibit 8 Appendix 5	Technical Inquiries Form
Exhibit 9 Appendix 1	Specimen Bid Bond Letter
Exhibit 9 Appendix 2	Specimen Concession Contract Performance Bond
Exhibit 9 Appendix 3	Specimen Bank Bond for Challenge of the Awarding of the Contract



**EXHIBIT 1<sup>41</sup>**

**APPENDIX 1**

**TECHNICAL ISSUES: GUIDELINES FOR THE AIRPORT ADVISORY AGREEMENT**

**Subject: Subpoint 11.2.1.7 of the Tender Documents**

**1. GENERAL**

The Concession of the Second Group of Airports shall not include aviation and air traffic services.

The type of Concession is called DBFOT (Design, Build, Finance, Operate and Transfer).

The Concession shall be granted as a co-financed concession, i.e., with contributions made by the government of the Republic of Peru.

The Concession term shall be twenty-five (25) years, with a possible extension under criteria and conditions to be established in the Concession Contract.

**2. SECOND GROUP OF PROVINCIAL AIRPORTS**

The provincial airports under national jurisdiction comprising the Second Group are as follows:

- a. Andahuaylas National Airport, located in the city of Andahuaylas, Region of Apurímac
- b. Alfredo Rodríguez Ballón International Airport, located in the city of Arequipa, Region of Arequipa
- c. Peruvian Air Force (FAP) Colonel Alfredo Mendivil Duarte National Airport, located in the city of Ayacucho, Region of Ayacucho
- d. Inca Manco Cápac International Airport, located in the city of Juliaca, Region of Puno
- e. Padre José Aldamiz International Airport, located in the city of Puerto Maldonado, Region of Madre of Dios
- f. Peruvian Air Force (FAP) Colonel Carlos Ciriani Santa Rosa International Airport, located in the city of Tacna, Region of Tacna

**3. GUIDELINES FOR THE AIRPORT ADVISORY AGREEMENT**

**Purpose**

Assist the concessionaire in the management and general operation of airports, specifically in passenger and cargo processing, as well as in the handling of aircraft and equipment in the apron and maneuvering areas; organization, strategic planning, direction and supervising of the preparation of Master Plans/Direction Plans; environmental planning and management; orientation in the undertaking of aero-commercial business, operational safety and civil aviation security, design, engineering and maintenance of airport infrastructure, personnel management and training, as well as the design and implementation of operational systems, among other areas.

---

<sup>41</sup> Amended by Circular Letter 3



## Term

The term of the Airport Advisory Agreement shall be five (5) years, commencing on the date of execution of the Concession Contract. This Contract may be terminated by the Concessionaire company, in which case the obligation shall subsist for said company to substitute the originally designated Airport Advisor with another advisor of equal experience, and to satisfy all requirements requested in the Consolidated Tender Documents.

## Main Activities of the Airport Advisor

### i) Engineering and Preparation of Master Plans

- a. Direction and Supervision for the Preparation of Master Plans: The Airport Advisor shall direct and supervise the preparation of Master Plans, up to the approval stage, which the Concessionaire shall submit within the term set forth in the Concession Contract.
- b. Review of Technical Files for the Master Plan Works: The Airport Advisor shall review and issue an opinion on the technical files that the Concessionaire will prepare for each of the works of the Master Plan approved by the Peruvian Civil Aviation Administration (DGAC).
- c. Supervision of Issues Related to Environmental Management: The Airport Advisor shall revise and issue an opinion on the results of the Environmental Audit and the Mitigation Plan to be prepared by the Concessionaire during the first few years of the Concession in the event that PROINVERSION has not previously done so.

The Airport Advisor shall also lend the Concessionaire its experience in supervising to make sure that the issues related to Environmental Management that form part of the various obligations originating from the Concession Contract or from the requirements for approval of the Master Plans requested by the Aviation Authority will include an analysis of bird hazards, hazardous material management, liquid and solid waste management, evaluation of noise-emitted sound pollution and the corresponding mitigation measures, as well as base environmental evaluations and their mitigation measures.

### ii) Service Levels

- a. Service Levels at the Terminal: Notwithstanding the provisions set forth in the corresponding exhibit of the Concession Contract, and within a term of the first six (6) months of the Concession, the Airport Advisor shall prepare a proposed methodology for the measurement of the service levels proposed in the Concession Contract, as well the values and procedures for the supervision of their correct application. Accordingly, the Airport Advisor shall have performed an evaluation of the service levels of each airport within a term of no more than sixty (60) days after the Closing Date.

Additionally, the Airport Advisor shall develop a system that allows for the periodical and objective evaluation of the satisfaction of the main airport users, including the passengers, airlines and business concessionaires. For this purpose, the evaluations shall be designed in such a manner that their results may be compared with those published by other airports with similar traffic levels.



### iii) Commercial Operations

- a. Review of the Air Business Plan: The Airport Advisor shall review and issue an opinion on the Air Business Plan devised by the Concessionaire.
- b. Study of Non-Aviation Business Opportunities: The Airport Advisor shall review and issue an opinion on the Study of Non-Aviation Business Opportunities conducted by the Concessionaire.

### iv) Administrative Matters

- a. Organization of the company: Within a term of the first thirty (30) days of the Concession, the Airport Advisor shall submit to the Concessionaire a proposed Organization Chart for the Concessionaire company and the profiles of each department head and managerial position.

### v) Operational Matters

- a. Airport Operating Plan: The Airport Advisor, in conjunction with the Operations Manager, shall prepare an airport operating procedures plan covering all essential main and secondary operations described in Point 3 of Appendix 2 of this Exhibit and the Concession Contract, taking into account the regulations set forth for such purpose in the corresponding Peruvian Aviation Regulations (RAP) and International Civil Aviation Organization (ICAO) Exhibits. The Airport Advisor shall periodically monitor the performance of the airport operations under the Concessionaire during the effective term of the Airport Advisory Agreement, taking corrective actions for any results which are not in line with the ratios established in this Plan. The Plan shall serve as input for the preparation of the Airfield Manual and Airport Certification described in the following item.
- b. Preparation of the Airfield Manuals and Airport Certification: Within a term of the first eighteen (18) months of the Concession, the Airport Advisor shall prepare the Airfield Manuals required for the Second Group of Airports in accordance with the guidelines set forth in the exhibit of the Concession Contract and the regulations in force established by the Peruvian Civil Aviation Administration (DGAC) in RAP 139.

This manual shall include, among other fundamental issues, the detailed design of airport operating procedures, a preview of contingency management and safety measures. In addition, the Airport Advisor shall remedy any objections which may be raised by the competent authority whenever the Manual is submitted as a requirement to secure the Airfield Certificate.

- c. Securing an Airfield Certificate: The Airport Advisor shall direct, supervise and participate in the process to be conducted by the Concessionaire in requesting the Peruvian Civil Aviation Administration (DGAC) to issue an Airfield Certificate for each of the airports that so require, in accordance with RAP 139.

### vi) Staff Training

Staff Training Program: Within a term of the first six (6) months of the Concession, the Airport Advisor shall prepare a proposal for a Training Program to be applied to each department or management area related to airport operations. The subjects of the courses to be imparted are as follows:





- a. Operations: The Airport Advisor shall conduct a minimum of twelve (12) workshops (at least sixteen -16- hours each) per year, on the following subjects:
  - ✓ Administration and supervision of operations in:
    - Areas corresponding to the air side
    - Public areas in the passenger terminals
    - Areas corresponding to the ground side
  - ✓ Implementation of safety policies within the scope of the ICAO and RAP safety and security standards in place:
    - Systematic approach to operational safety, including the organization, responsibility guidelines and the policies and procedures necessary
  - ✓ Relevance, application and supervision of IATA, ICA and ICAO standards and recommendations
  - ✓ Supervision of compliance with the regulations issued by the Peruvian Civil Aviation Administration (DGAC)
  - ✓ Preparation of procedures and supervision of process flows on the ground side and air side of the airports
  - ✓ Application of noise mitigation policies, supervision and monitoring of other environmental issues
- b. Master Plan Updating: The Airport Advisor shall conduct a minimum of three (3) workshops (at least 16 hours each) per year on how to update each airport's Master Plan in accordance with international standards and recommendations and the Peruvian Civil Aviation Administration (DGAC) regulations.

## 4. TECHNICAL REQUIREMENTS

### Securing and Maintaining an Operating License

The Concessionaire shall secure, within a term to be defined in the Contract, an Operating License for the Andahuaylas, Arequipa, Ayacucho, Juliaca, Puerto Maldonado and Tacna airports and keep it in force during the remaining period of the Concession Term.

This License is granted by the Peruvian Civil Aviation Administration (DGAC) on the basis of compliance with the provisions set forth in Peruvian Aviation Regulation (RAP) 139, which compiles the technical infrastructure and equipment requirements recommended by the International Civil Aviation Organization (ICAO).

Section 139.101 of RAP 139 establishes the General Certification Requirement that no person (individual or legal entity) may operate an airport in Peruvian territory without an operating license, in accordance with this RAP and the Airport Operating Manual approved by the Peruvian Civil Aviation Administration (DGAC).

This condition is established for airports under the management of the operator where RAP 139 regulations are applicable.

### Reaching and Maintaining Service Levels

The service levels to be maintained by the Concessionaire in each airport shall be defined in the Contract.



**EXHIBIT 1<sup>42</sup>**

**APPENDIX 2**

**TECHNICAL ISSUES: GUIDELINES FOR THE SUBMISSION OF THE TECHNICAL BID**

**Subject: Subpoint 7.1.4 of the Tender Documents**

**1. TECHNICAL BID**

- 1.1 The Bidder shall submit a Preliminary Operating Plan to cover the essential main and secondary operations described in Point 3 of Appendix 2 of this Exhibit, which the Concessionaire will undertake as from the moment it takes possession of the Airports. This plan shall take into consideration the manner in which the transition of the operations under CORPAC will take effect up until 23:59 p.m. of the day prior to the Closing Date in favor of the Concessionaire and shall be in effect up until the submission of the Airport Operating Plan for which the Airport Advisor is responsible, within the term set forth in Appendix 1 of this Exhibit, which shall substitute the Preliminary Operating Plan.
- 1.2. The Bidder shall submit a Business Plan, at the conceptual level, Second Group of Airports, taking into consideration the minimum technical requirements set forth in this appendix. With this purpose in mind, it may use as a reference the Conceptual Master Plans prepared by the ICAO and the general investment schemes by airport prepared by the technical advisors of PROINVERSION, as well as additional information from the Data Room.

The Business Plan for the Second Group of Airports shall contain the following:

- (a) Business Focus: Opinion of the Consortium with respect to the business under concession, including an identification of its strengths and weaknesses, as well as the critical factors for the success of the Concession.
- (b) Commercial Development Strategy: Description of the Bidder's strategy to increase income and/or enhance the operations of the Airports. This section shall include a description of the non-regulated services that the Concessionaire will provide, as well as a brief description of businesses which are collateral or complementary to airport operations, as identified by the Bidder, including expectations for possible indirect investments, such as hotels, shopping centers, cold terminals, etc. The projections by airport may also include (i) airport operations; (ii) passengers; and (iii) cargo carried out by the Consortium for the first ten (10) years of Concession, indicating: (a) domestic and international traffic; and (b) features of the aircraft expected to be used in each airport.
- (c) Investment Plan and Schedule: This section shall contain: (i) schedule of implementation of mandatory works; (ii) description of any mandatory investments to be made during the initial period of the Concession, with a demonstrative effect of the benefits from private investment; (iii) preliminary estimates of investments in the area of aircraft movement (runway, apron and auxiliary roads) that the Concessionaire may deem necessary to perform in order to comply with the existing regulations and considering the projected traffic. Information with respect to the

---

<sup>42</sup> Amended by Circular Letter 3



investments included in this section shall be submitted in a conceptual form, excluding the estimated cost. Also to be included is a brief description of the financing plan conceived for the Concession.

- (d) Key Staff: Introduction to the team of professionals to be hired for the operation of the Second Group of Airports (organizational structure to operate the Second Group of Airports ). A résumé shall be included, detailing the experience of the following officers (Key Staff): General Manager, Operations Manager, Regulation Manager, Infrastructure and Maintenance Manager, Security Manager and Business Manager.

## 2. QUALIFICATION OF THE TECHNICAL BID

The points to be evaluated shall be as follows:

- (a) Preliminary Operating Plan: It shall be verified that the plan includes main and secondary operations, their coherence, consideration of safety and security issues, and the strategy to carry out the transition of the operation at the Closing Date, among other matters.
- (b) Business Development Strategy: An analysis shall be made of the coherence of the business strategy, the submission of innovative business concepts and their feasibility, considering the partner-economic situation of the cities in which the Airports are located. In addition, the income distribution scheme shall be verified in terms of percentage of airport and non-airport income expected.
- (c) Investment Schedule Plan: The inclusion of mandatory works in the Investment Plan and the scheduling of their execution in accordance with the minimum terms to be set forth in the Concession Contract shall be verified. An assessment shall be made of the investments (works and terms) projected in the area of aircraft movement (runway, apron and auxiliary roads) by airport, considering the traffic projections submitted.
- (d) Key Staff: Introduction of the team of professionals that the Bidder will hire, if it becomes the Successful Bidder that is Awarded the Contract, to operate the Second Group of Airports (organizational structure to operate the Second Group of Airports). A detailed profile shall be included as well as the experience of the following officers (Key Staff): General Manager, Operations Manager, Regulation Manager, Infrastructure and Maintenance Manager, Security Manager and Business Manager.
- (e) As of the Closing Date, the Concessionaire shall submit documented résumés for Key Staff. These résumés shall be in line with the Key Staff profiles submitted in Envelope 2.

## 3. OPERATIONS FOR WHICH THE CONCESSIONAIRE SHALL BE RESPONSIBLE

The Concessionaire shall be responsible for the main operations, essential secondary operations and non-essential secondary operations, which are defined as follows:

- Main Operations: Include services such as Landing and Take-Off, Aircraft Parking Service and the Use of the Passenger Terminal. The Main Operations may only be performed by the Concessionaire.
- Essential Secondary Operations are services such as Ground Assistance, Cargo Service, Fuel Shipment, Storage and Transport. Essential Secondary Operations



may be carried out by the Concessionaire or by any other legal entity appointed by the Concessionaire.

- Non-Essential Secondary Operations are services such as vehicle parking and any other service not included within the main operations and essential secondary operations related to the operation of the airport.

Details of the property to be handed over under the Concession by airport (and Concession areas) may be found in Exhibit 1 of the Concession Contract.



**EXHIBIT 2<sup>43</sup>**

**TENDER SCHEDULE**

**Subject: Points 1.2.26 and 1.6 of the Tender Documents**

<b>ACTIVITY</b>	<b>DATE</b>
Call for Bids	April 17, 2009
Delivery of the First Draft Contract	April 17, 2009
<b>Suggestions on the First Draft Contract</b>	<b>Until May 22, 2009</b>
<b>Delivery of the Second Draft Contract</b>	<b>June 1, 2009</b>
<b>Suggestions on the Second Draft Contract</b>	<b>Until June 19, 2009</b>
<b>Delivery of the Third Draft Contract</b>	<b>July 13, 2009</b>
<b>Suggestions on the Third Draft Contract</b>	<b>Until July 31, 2009</b>
Inquiries about the Tender Documents	Until July 16, 2009
Dealing with Inquiries Regarding the Tender Documents	August 6, 2009
Last Day for Submission of Envelope 1	September 3, 2009
Objections to Envelope 1	September 8, 2009
Correction of Objections to Envelope 1	Until September 11, 2009
Announcement of Short-Listed Bidders	September 16, 2009
Delivery of Final Version of Contract	October 2, 2009
Public Ceremony for the Reception of Envelopes 2 and 3 and the Opening of Envelope 2	October 19, 2009
Publication of the Technical Evaluation of Envelopes 2	October 26, 2009
Public Ceremony for the Opening of Envelopes 3 and Awarding of the Contract	October 28, 2009
Closing Date	To be advised via Circular letter

NOTE: In case the expiration of the term of any activity coincides with a non-business day, the term shall be considered to expire at 5:30 p.m. local time in Lima, Peru on the first following business day.

<sup>43</sup> Amended by Circular Letters 2 and 3



**EXHIBIT 3<sup>44</sup>**

**Appendix 1**

**TECHNICAL SHORT-LISTING REQUIREMENTS: STRATEGIC INVESTOR**  
**Subject: Point 5.1 of the Tender Documents**

**1. AIRPORT OPERATOR**

Passenger Traffic served in the past four (4) years by airport operated

<b>Airport Name</b>	<b>COUNTRY</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
.....					
.....					
.....					
<b>TOTAL</b>					

Description of the Strategic Investor's share in the airport operations submitted:


**2. RAMP OPERATOR**

Aircraft served in the last three (3) years, for domestic and international flights:

<b>Airport</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Domestic</b>			
<b>International</b>			
<b>TOTAL</b>			

Description of the ramp services provided by the Strategic Investor:


<sup>44</sup> Amended by Circular Letter 3





**3. LOGISTICAL OPERATOR**

Cargo stated in Metric Tons (MT) processed in the past three (3) years, for domestic and international flights (import/export):

<b>Airport</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>Domestic</b>			
<b>International</b>			
<b>TOTAL</b>			

Description of the service provided for the freight by Strategic Investor:


**4. OPERATOR IN TRANSPORTATION INFRASTRUCTURE CONCESSIONS**

Annual invoicing for the past three (3) years in airport concessions:

<b>Concession</b>	<b>COUNTRY</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
.....				
.....				
.....				
<b>TOTAL</b>				

Description of the concessions:




**5. LEGAL ENTITY HOLDING SHARES IN THE COMPANY ACTING AS A CONCESSIONAIRE IN INFRASTRUCTURE AND PUBLIC UTILITIES**

Concession	Country	Years of Experience	Share Percentage
.....			
.....			
.....			
<b>TOTAL</b>			

Description of the concessions:


Very truly yours,

.....(1), .....(2) .....(3) .....(4)

**Bidder**

**Strategic Investor**

.....(5)

.....(8)

.....(6)

.....(9)

.....(7)

.....(10)

**DESCRIPTION OF INFORMATION REQUIRED**

- (1) Place where the document drawn up
- (2) Date when the document is drawn up
- (3) Month when the document is drawn up
- (4) Year when the document is drawn up
- (5) Signature of Bidder's Legal Representative
- (6) Name of Bidder's Legal Representative
- (7) Bidder's full name
- (8) Signature of Strategic Investor's Legal Representative
- (9) Name of Strategic Investor's Legal Representative
- (10) Full name of Strategic Investor



**EXHIBIT 3<sup>45</sup>  
Appendix 2**

**TECHNICAL SHORT-LISTING REQUIREMENTS:  
STRATEGIC INVESTOR'S SWORN STATEMENT  
Subject: Point 5.1 of the Tender Documents**

Messrs.

**Agencia para la Promoción de la Inversión Privada - PROINVERSIÓN**  
Lima, Peru

**Bidder:** .....(1)

For the purposes of short-listing under the Tender Documents for the Integrated Projects for the awarding in Concession of the Second Group of Provincial Airports, we hereby submit our Sworn Statement as Strategic Investor, enclosing the required documents and information.

We hereby declare under oath, as follows:

1. The company .....(2) will be acting as Strategic Investor, assuming all the requirements imposed on the free disposal of its shares of stock, as defined in the Concession Contract.
2. All the information submitted for the accreditation of the relevant experience of our Strategic Investor is true.

.....(3), .....(4) .....(5) .....(6)

**Bidder**

.....(7)

.....(8)

.....(1)

**Strategic Investor**

.....(9)

.....(10)

.....(11)

.....(12)

**DESCRIPTION OF INFORMATION REQUIRED**

- (1) Full name of Bidder
- (2) Full name of Bidder's Strategic Investor
- (3) Place where document is drawn up
- (4) Date when document is drawn up
- (5) Month when document is drawn up
- (6) Year when document is drawn up
- (7) Signature of Bidder's Legal Representative
- (8) Name of Bidder's Legal Representative
- (9) Signature of Strategic Investor's Legal Representative
- (10) Name of Strategic Investor's Legal Representative
- (11) Full name of Company Acting as Strategic Investor

<sup>45</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>46</sup>  
Appendix 1**

**LEGAL SHORT-LISTING REQUIREMENTS:  
SWORN STATEMENT OF INCORPORATION OF LEGAL ENTITY  
Subject: Subpoint 5.2.1 of the Tender Documents**

**SWORN STATEMENT**

We hereby state, under oath, that .....(1) is a legal entity duly organized and existing under the laws of .....(2) and that it is currently in good standing in accordance with the legal provisions applicable in .....(3).

..... (4), .....(5) .....(6) .....(7)

Entity: .....(8)

Bidder: .....(9)

Legal Representative: .....(10)

.....(11)

**NOTE: In the event that the Bidder is a Consortium, it shall submit a Sworn Statement issued by each of its Members.**

**DESCRIPTION OF INFORMATION REQUIRED**

- (1) Full name of Bidder or company that forms part of the Consortium
- (2) State, province or town where company was incorporated
- (3) Country of origin where company was incorporated
- (4) Place when document is drawn up
- (5) Date when document is drawn up
- (6) Month when document is drawn up
- (7) Year when document is drawn up
- (8) Name of company forming part of the Consortium
- (9) Full name of Bidder
- (10) Full name of Bidder's Legal Representative
- (11) Signature of Bidder's Legal Representative

<sup>46</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>47</sup>  
Appendix 2**

**LEGAL SHORT-LISTING REQUIREMENTS:  
JOINT AND SEVERAL COMMITMENT FOR SHORT-LISTING  
Subject: Subpoint 5.2.1 of the Tender Documents**

**SWORN STATEMENT**

We do hereby declare under oath, as follows:

.....(1) have entered into a partnership in the form of a consortium in order to participate in the Tender.

.....(1) are companies duly organized and existing under the laws of their country origin and are currently in good standing.

.....(1) are joint and severally and indivisibly liable before the Republic of Peru, PROINVERSIÓN and the Committee with respect to any and all obligations assumed and sworn statements submitted by the Bidder in relation to this Tender.

.....(2), .....(3) .....(4) .....(5)

**NOTE: This includes the Bidder and all companies comprising the Consortium.**

**Bidder**

.....(6)  
.....(7)  
.....(8)

**Company (1) Consortium Member**

.....(9)  
.....(10)  
.....(11)

**Company (2) Consortium Member**

.....(9)  
.....(10)  
.....(11)

**Company (3) Consortium Member**

.....(9)  
.....(10)  
.....(11)

<sup>47</sup> Amended by Circular Letter 3



**Company (4) Consortium Member**

.....(9)  
.....(10)  
.....(11)

**DESCRIPTION OF INFORMATION REQUIRED**

- (1) Full name of each of the Consortium members
- (2) Place where document is drawn up
- (3) Day when document is drawn up
- (4) Month when document is drawn up
- (5) Year when document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative
- (8) Full name of Bidding Consortium
- (9) Signature of Consortium Member company's Representative
- (10) Name of Consortium Member company's Representative
- (11) Full name of Consortium Member company





**EXHIBIT 4<sup>48</sup>  
Appendix 3**

**LEGAL SHORT-LISTING REQUIREMENTS:  
SWORN STATEMENT OF COMPANY INCORPORATION  
Subject: Subpoint 5.2.1 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that the share percentage share of each of our shareholders, partners or members is as follows:

<b>Full Name of Bidder Shareholder, Partner or Member</b>	<b>Share Percentage in Bidder</b>
<b>Total</b>	<b>100%</b>

In the case of a Consortium, indicate all members in accordance with the following:

<b>Full Name of Consortium Member Company</b>	<b>Share Percentage in Consortium</b>
<b>Total</b>	<b>100%</b>

In addition, for each company which is a shareholder, partner or Consortium Member, a similar table shall be filled in, including the following:

<b>Full Name of Shareholder, Partner or Consortium Member</b>	<b>Share Percentage</b>
<b>Total</b>	<b>100%</b>

<b>Full Name of Shareholder, Partner or Consortium Member</b>	<b>Share Percentage</b>
<b>Total</b>	<b>100%</b>

*OPPOSITE SIDE*

<sup>48</sup> Amended by Circular Letter 3



Full Name of Shareholder, Partner or Consortium Member	Share Percentage
	<b>Total 100%</b>

Full Name of Shareholder, Partner or Consortium Member	Share Percentage
	<b>Total 100%</b>

.....(1), .....(2) .....(3) .....(4)

**Bidder**

.....(5)

.....(6)

.....(7)

**DESCRIPTION OF INFORMATION REQUIRED**

- (1) Place where document is drawn up
- (2) Date when document is drawn up
- (3) Month when document is drawn up
- (4) Year when document is drawn up
- (5) Signature of Bidder's Legal Representative
- (6) Name of Bidder's Legal Representative
- (7) Full name of Bidder



**EXHIBIT 4<sup>49</sup>  
Appendix 4**

**LEGAL SHORT-LISTING REQUIREMENTS: SWORN STATEMENT  
(RELATIONSHIP WITH THE PAYER OF THE PARTICIPATION FEE FOR THE  
SHORT-LISTING STAGE)**

**Subject: Subpoint 5.2.2. of the Tender Documents**

We hereby declare under oath that:

[.....] (name of the Bidder) acquired the right to participate in the Short-Listing Stage, through ..... (name of the legal entity, shareholder, partner or member which paid said fee) who is also ..... (depending on the case, state: one of our shareholders, partners or members, or a company linked to us or to any of our shareholders, partners or members, or which assigned its right to participate in the tender).

.....(1), .....(2) of .....(3), .....(4)

**Bidder**

.....(5)  
.....(6)  
.....(7)

In case of transfer of the participation fee, the following statement should also be signed by the assignor:

**Assignor**

.....(8)  
.....(9)  
.....(10)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Place where document is drawn up
- (2) Date on which document is drawn up
- (3) Month in which document is drawn up
- (4) Year in which document is drawn up
- (5) Signature of Bidder's Legal Representative
- (6) Name of Bidder's Legal Representative
- (7) Bidder's full name
- (8) Signature of Assignor's Legal Representative
- (9) Name of Assignor's Legal Representative
- (10) Assignor's full name

<sup>49</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>50</sup>  
Appendix 5**

**SWORN STATEMENT THAT THE COMPANY IS ELIGIBLE BY LAW  
TO ENTER INTO CONTRACTS WITH THE GOVERNMENT**

**Subject: Subpoints 5.2.4 and 11.2.1.3 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that.....(1) and .....(2), members of the Consortium:

- a. Are not administratively sanctioned with temporary or permanent disqualification in the exercise of their rights to participate in selection processes called by the Republic of Peru and to enter into agreements with the Peruvian government.
- b. Have not lost their condition as Concessionaires due to the breach of the Concession Contract entered into with the Peruvian State within the framework of the process for private investment promotion referred to in the Consolidated Text (TUO) on Concessions approved by Supreme Executive Order (Decreto Supremo) 059-96-PCM or Law 28059, Framework Law on the Promotion of Decentralized Investments.
- c. We are not included within the scope of Article 1366 of the Civil Code and/or within any legal provision which is applicable to the limitations specified in Law 29290.

.....(3), .....(4) of .....(5), .....(6)

**Bidder**

.....(7)  
.....(8)  
.....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder Consortium
- (2) Full name of each one of the companies that make up the Consortium
- (3) Place where document is drawn up
- (4) Date on which document is drawn up
- (5) Month in which document is drawn up
- (6) Year in which document is drawn up
- (7) Signature of Bidder's Legal Representative
- (8) Name of Bidder's Legal Representative

<sup>50</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>51</sup>  
Appendix 6**

**LEGAL SHORT-LISTING REQUIREMENTS:  
SWORN STATEMENT THAT NO PRIVILEGE,  
SUCH AS DIPLOMATIC IMMUNITY, SHALL BE RESORTED**

**Subject: Subpoint 5.2.5 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that [.....] (1), as well as its shareholders, members or partners, and the latter's shareholders and partners, as applicable, waive their right to:

1. Call for or exercise any privilege or diplomatic or any other type of immunity
2. File claims by diplomatic means, as well as their right to any compensation or other rights concerning any claims that may be brought against the State, PROINVERSION, the Committee, its members and advisors by virtue of Peruvian law or pursuant to any other law with respect to our obligations arising from the Tender Documents, the Economic Bid, the Technical Bid and the Concession Contract.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

.....(6)  
 .....(7)  
 .....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>51</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>52</sup>  
Appendix 7**

**LEGAL SHORT-LISTING REQUIREMENTS:  
SWORN STATEMENT OF INEXISTENCE OF CONFLICTS OF INTEREST**

**Subject: Subpoint 5.2.6 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that none of our legal and technical advisors have directly provided any services whatsoever to PROINVERSION and/or the Committee with regard to this process during the development of this private investment promotion process, either on a full-time basis, part-time basis or through a temporary employment contract.

.....(1), .....(2) of .....(3), .....(4)

**Bidder**

.....(5)  
.....(6)  
.....(7)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Place where document is drawn up
- (2) Date on which document is drawn up
- (3) Month in which document is drawn up
- (4) Year in which document is drawn up
- (5) Signature of Bidder's Legal Representative
- (6) Name of Bidder's Legal Representative
- (7) Full name of Bidder

<sup>52</sup> Amended by Circular Letter 3





**EXHIBIT 4<sup>53</sup>  
Appendix N°8**

**LEGAL SHORT-LISTING REQUIREMENTS:  
SWORN STATEMENT THAT BIDDER HAS NO INTEREST IN ANY OTHER BIDDER**

**Subject: Subpoint 5.2.7 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that .....(1) (name of Bidder), its shareholders, partners or members, or the partners or shareholders of the Bidder, as applicable, have NO DIRECT OR INDIRECT interest in any other Bidder.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

.....(6)

.....(7)

.....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>53</sup> Amended by Circular Letter 3



**EXHIBIT 4<sup>54</sup>  
Appendix 9**

**LEGAL LISTING REQUIREMENTS:  
SWORN STATEMENT THAT BIDDER HAS NO INTEREST IN ANY OTHER BIDDER**

(Applicable to Stock Exchange Listed Companies)

**Subject: Subpoint 5.2.7 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that .....(1) (name of Bidder), its shareholders, partners or members have no direct or indirect interest in any other Bidder where they exert control of the management or of any of its members, in the case of a Consortium, pursuant to the provisions contained in the Regulations on Indirect Ownership, Relationships and Economic Groups passed by Peruvian Securities and Exchange Commission (CONASEV) Resolution 090-2005-EF-94.10.

If the Bidder is a Consortium, the former paragraph shall be replaced by the following:

We hereby declare under oath that .....(1) (name of Bidder), its shareholders, partners or members thereof have no direct or indirect interest in any other Bidder where they exert control of the administration, or any of its members in the case of a Consortium, pursuant to the provisions contained in the Regulations on Indirect Ownership, Relationships and Economic Groups passed by Peruvian Securities and Exchange Commission (CONASEV) Resolution 090-2005-EF-94.10.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

.....(6)  
.....(7)  
.....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>54</sup> Amended by Circular Letter 3



**EXHIBIT 5<sup>55</sup>  
Appendix 1**

**FINANCIAL SHORT-LISTING REQUIREMENTS:  
SUBMISSION OF FINANCIAL INFORMATION LETTER**

**Subject: Subpoint 5.3.5 of the Tender Documents**

Lima, .....(1) of .....(2), .....(3)

**Messrs.**

**Comité de PROINVERSIÓN en**

**Proyectos de Infraestructura Vial, Infraestructura Ferroviaria e Infraestructura Aeroportuaria – Comité PRO INTEGRACIÓN**

**Agencia para la Promoción de la Inversión Privada- PROINVERSIÓN**

**Lima, Peru**

**Bidder:** .....(4)

**Subject:** Comprehensive Projects Tender for the Concession of the Second Group of Provincial Airports in the Republic of Peru

Pursuant to the provisions of the Tender Documents, we hereby comply with submitting our Financial Information Letter.

**FINANCIAL INFORMATION**

**1.1 Bidder’s net equity, share percentage in Bidder Consortium and prorated net equity of Bidder’s shareholders or members**

Shareholder, Affiliated Company or Bidder Member	Note 1	Net Equity (Note 2)	Share Percentage	Prorated Net Equity
		(I)	(II)	(III = I x II )
<b>TOTAL</b>				<b>US\$</b>

**Note 1:** Mark with an “X” if the figure for the Net Equity belongs to an Affiliated Company and fill in the box in Point 1.3.

**Note 2:** If the net equity of shareholders, affiliated companies or members is in currencies other than US\$, please use Table 1.4.

<sup>55</sup> Amended by Circular Letter 3



**1.2 Conversion for figures expressed in currencies other than US\$, as applicable**

Shareholder, Bidder Member or Affiliated Company	Figure (Original Currency)	Exchange Rate	Figure in US\$

**Note:** The exchange rate to be used shall be that published by the Peruvian Superintendency of Banking and Insurance (SBS)

**1.3 Explanation of the relationship between the Bidder, shareholder or member of the Bidder and its Affiliate**

If the figure of a shareholder or member corresponds to another entity, explain the relationship that makes the company an Affiliate of the Bidder, shareholder or member of the Bidder:

Very truly yours,

.....(5)   .....(7)  
 .....(6)   .....(8)  
 .....(4)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Year in which document is drawn up
- (4) Full name name of Bidder
- (5) Signature of Bidder’s Legal Representative
- (6) Name of Bidder’s Legal Representative
- (7) Signature of the company’s representative
- (8) Name of the company’s representative
- (9) Type and Number of ID



**EXHIBIT 5<sup>56</sup>  
Appendix 2**

**SIMPLIFICATION MECHANISM: SWORN STATEMENT FOR THE ISSUE OF  
CERTIFICATE OF AUTHENTICITY OF THE DOCUMENTS REQUIRED  
FOR SHORT-LISTING STAGE**

**Subject: Subpoint 5.4.2 of the Tender Documents**

.....(1), .....(2) of .....(3), .....(4)

**Messrs.**

**Comité de PROINVERSIÓN en**

**Proyectos de Infraestructura Vial, Infraestructura Ferroviaria e Infraestructura  
Aeroportuaria – Comité PRO INTEGRACIÓN**

**Agencia para la Promoción de la Inversión Privada- PROINVERSIÓN**

**Lima, Peru**

Dear sirs,

We hereby declare under oath that the documentation submitted in .....(5), in order to enter the short-listing process as a Bidder (or as a Member of a Consortium), remains in full force and effect to date and no changes have been made therein.

The documentation in question consists of:

1. ....
2. ....
3. ....
4. ....(6)

Very truly yours,

.....(7)

.....(8)

.....(9)

**DESCRIPTION OF REQUIRED INFORMATION:**

- (1) Place where document is drawn up
- (2) Date on which document is drawn up
- (3) Month in which document is drawn up
- (4) Year in which document is drawn up
- (5) Indicate the process conducted by PROINVERSION between April 2008 and April 2009 in which the Bidder took part
- (6) List of documents that remain in full force and effect
- (7) Signature of Bidder's Legal Representative
- (8) Name of Bidder's Legal Representative
- (9) Full name of Bidder

<sup>56</sup> Amended by Circular Letter 3



**EXHIBIT 5<sup>57</sup>  
Appendix 3**

**SIMPLIFICATION MECHANISM:  
SWORN STATEMENT REGARDING AUTHENTICITY OF THE INFORMATION  
Subject: Subpoint 5.4.3 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that the documentation subject matter of the issue of the Certificate of Authenticity of the Documents Required for the Short-Listing Stage issued by the Committee remains in full force and effect to date and that no changes have been made therein.

.....(1), .....(2) Of .....(3), .....(4)

.....(5)

.....(6)

.....(7)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Place where document is drawn up
- (2) Date on which document is drawn up
- (3) Month in which document is drawn up
- (4) Year in which document is drawn up
- (5) Signature of Bidder's Legal Representative
- (6) Name of Bidder's Legal Representative
- (7) Full name of Bidder

<sup>57</sup> Amended by Circular Letter 3



**EXHIBIT 5<sup>58</sup>  
Appendix 4**

**CONTENTS OF ENVELOPE 2:  
SWORN STATEMENT REGARDING AUTHENTICITY OF THE INFORMATION  
Subject: Subpoint 7.1.1 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that :.....(1), and .....(2), members of the Consortium (if applicable), and the Main Partners thereof:

- The information, representations, certifications and, in general, all documents submitted in Envelope 1 are in full force to date and shall remain so until the Closing Date.
- We have neither a direct or indirect interest in any other Bidder constituted by a legal entity or in any Member of a Consortium.

Furthermore, we hereby declare under oath that :

- Are not administratively sanctioned with temporary or permanent disqualification in the exercise of their right to participate in selection processes called by the Republic of Peru and to enter into agreements with the Peruvian government.
- Have not lost their capacity as Concessionaires due to a breach of the Concession Contract entered into with the Peruvian government within the framework of the process for private investment promotion referred to in the Consolidated Text (TUO) on Concessions approved by Supreme Executive Order (Decreto Supremo) 059-96-PCM or Law 28059, Framework Law on the Promotion of Decentralized Investments.
- Are not included within the scope of Article 1366 of the Civil Code.

.....(3), .....(4) Of .....(5), .....(6)

**Bidder**

.....(7)  
.....(8)  
.....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder Consortium
- (2) Full name of each one of the companies that form part of the Consortium
- (3) Place where document is drawn up
- (4) Date on which document is drawn up
- (5) Month in which document is drawn up
- (6) Year in which document is drawn up
- (7) Signature of Bidder's Legal Representative
- (8) Name of Bidder's Legal Representative

<sup>58</sup> Amended by Circular Letter 3





**EXHIBIT 5<sup>59</sup>  
Appendix 5**

**CONTENTS OF ENVELOPE 2:  
SWORN STATEMENT OF INCORPORATION OF LEGAL ENTITY**

**(Applicable if the Bidder is a Legal Entity)  
Subject: Subpoint 7.1.5.1 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that:

1. ....(1) states its intention to establish a legal entity domiciled in the Republic of Peru, with a capital stock pursuant to the provisions established in the Concession Contract, if the aforesaid legal entity becomes the Successful Bidder.
2. The legal entity to be incorporated shall enter into the Concession Contract.
3. If we become the Successful Bidder, we undertake to submit the Notarially Recorded Instrument evidencing the Articles of Incorporation of the Concessionaire, together with the certificate of registration at the pertinent Public Records Office, in force on the Closing Date.

Accordingly, we acknowledge and accept that our failure to comply with this commitment may be used as grounds to declare the Awarding of the Contract to us null and void.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

.....(6)  
 .....(7)  
 .....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Bidder
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>59</sup> Amended by Circular Letter 3



**EXHIBIT 5<sup>60</sup>  
Appendix 6**

**CONTENTS OF ENVELOPE 2:  
SWORN STATEMENT OF INCORPORATION OF LEGAL ENTITY  
(Applicable if Bidder is a Consortium)  
Subject: Subpoint 7.1.5.1 of the Tender Documents**

**SWORN STATEMENT**

We hereby declare under oath that:

1. .... (1) (each of the members of the Consortium) have joined into a partnership through a Consortium in order to participate in this Tender.
2. We, ..... (1), hereby state our intention to establish a legal entity with principal place of business in the Republic of Peru and with a capital stock fixed pursuant to the provisions set forth in the Concession Contract, if declared the Successful Bidder.
3. The legal entity to be incorporated shall enter into the Concession Contract.
4. If we are awarded the Contract, we undertake to submit the Notarially Recorded Instrument evidencing the Articles of Incorporation of the Concessionaire, together with the certificate of registration at the pertinent Public Records Office, in force on the Closing Date.

Accordingly, we acknowledge and accept that our failure to comply with this commitment may be used as grounds to declare the Awarding of the Contract null and void.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

- .....(6)
- .....(7)
- .....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of each one of the members of the Consortium
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>60</sup> Amended by Circular Letter 3



**EXHIBIT 5<sup>61</sup>  
Appendix 7**

**CONTENTS OF ENVELOPE 2: SWORN STATEMENT OF ACCEPTANCE  
OF TENDER DOCUMENTS AND CONTRACT  
Subject: Subpoint 7.1.7 of the Tender Documents**

**SWORN STATEMENT**

We, ..... (1), hereby declare under oath that:

1. We accept all the provisions pertaining to the Tender and Awarding of the Contract; the provisions set forth in Supreme Executive Order (Decreto Supremo) 059-96-PCM, the Consolidated Text (TUO) of the Legal Regulations with the force or status of Law governing the Awarding in Concession to the Private Sector of Public Infrastructure Works and Public Utilities, and their corresponding regulations pursuant to Supreme Executive Order (Decreto Supremo) 060-96-PCM, the Tender Documents and their Circular Letters.
2. We have examined and agree with the Tender Documents, the Contract and their supporting and related documentation, and expressly accept the obligations derived from the fulfillment of the Tender Documents and other regulations applicable to the Concession Contract, and raise no objection to the documents referred to herein. We, therefore, hold PROINVERSION and its advisors harmless from all responsibility for possible mistakes or omissions that said documents and background may have.
3. If we are awarded the Contract, we undertake to enter into the Concession Contract.

.....(2), .....(3) of .....(4), .....(5)

**Bidder**

.....(6)  
 .....(7)  
 .....(1)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Full name of Short-Listed Bidder, as well as its shareholders, partners or members; and the shareholders, partners or members thereof, if the Bidder is a Consortium
- (2) Place where document is drawn up
- (3) Date on which document is drawn up
- (4) Month in which document is drawn up
- (5) Year in which document is drawn up
- (6) Signature of Bidder's Legal Representative
- (7) Name of Bidder's Legal Representative

<sup>61</sup> Amended through Circular Letter 3



**EXHIBIT 6<sup>62</sup>**  
**Appendix 1**

**LIST OF INTERNATIONAL PRIME BANKS AND  
INTERNATIONAL FINANCIAL INSTITUTIONS AUTHORIZED TO ISSUE THE BONDS AS  
REQUIRED IN THE TENDER DOCUMENTS**  
**Subject: Subpoint 1.2.10 of the Tender Documents**

**1. International Prime Banks:**

International Prime Banks included in the list approved by the Central Reserve Bank of Peru (BCR) through Circular Letter 04725-20086-BCRP, published in the Official Gazette *El Peruano* on November 14, 2008, as substituted, as well as the branches and/or offices of the international banks referred to herein.

**2. International Financial Institutions:**

- Fondo Latinoamericano de Reservas (FLAR) Colombia
- Banco Latinoamericano de Exportaciones S.A. (BLADEX) Panama
- Andean Development Corporation (CAF) Venezuela
- Inter-American Development Bank (IDB) United States of America
- World Bank (IBRD)

3. Any multilateral credit institution of which the Republic of Peru is a member.

4. Any other international financial institution approved by the GRANTOR that holds a risk rating no lower than "AA," evaluated by a prestigious entity accepted by the Peruvian Securities and Exchange Commission (CONASEV).

---

<sup>62</sup> Amended by Circular Letter 3



**EXHIBIT 6<sup>63</sup>**  
**Appendix 2**

**LOCAL BANKS AUTHORIZED TO ISSUE THE BONDS  
AS REQUIRED IN THE TENDER DOCUMENTS**  
**Subject: Subpoints 1.2.11 and 7.1.3.2 of the Tender Documents**

Local Banks authorized to issue letters of guarantee (bonds) shall be those which hold deposits with terms of less than one (1) year that have been rated in the CP-1 category, category 1, CLA-1 or EQL-1 categories for short-term obligations; A for Global Financial Strength; and AA for long-term obligations.

<b>BANKS</b>
BBVA BANCO CONTINENTAL
BANCO DE CRÉDITO DEL PERÚ
BANCO INTERAMERICANO DE FINANZAS – BIF
BANCO INTERNACIONAL DEL PERÚ S.A.A. - INTERBANK
CITIBANK, N.A., SUCURSAL DE LIMA
BANCO SCOTIABANK
BANCO FINANCIERO DEL PERÚ
BANCO HSBC
BANCO SANTANDER PERÚ S.A
DEUTSCHE BANK PERU S.A.
MIBANCO – BANCO DE LA MICROEMPRESA S.A.

<sup>63</sup> Amended by Circular Letter 3



**EXHIBIT 7<sup>64</sup>**

**ECONOMIC BID FORM**

**Subject: Subpoints 1.2.56 and Point 7.2 of the Tender Documents**

.....(1), .....(2) of .....(3), .....(4)

**Messrs.**

**Comité de PROINVERSIÓN en**

**Proyectos de Infraestructura Vial, Infraestructura Ferroviaria e Infraestructura Aeroportuaria – Comité PRO INTEGRACIÓN**

**Agencia para la Promoción de la Inversión Privada- PROINVERSIÓN**

**Lima, Peru**

**Bidder .....(5)**

Pursuant to the provisions set forth in Point 7.2. of the Tender Documents, we are pleased to submit our Economic Bid in accordance with the conditions established for this Tender, under the following terms:

.....  
.....for the amount of .....(6) U.S. DOLLARS (US\$. .....(7)).

We hereby declare that our Economic Bid is irrevocable and shall remain in full force and effect up to sixty (60) days following the Closing Date, undertaking to extend it should the Committee so order.

We agree that this bid may be readjusted according to the terms and conditions set forth in the Concession Contract and that it shall remain in force during the entire term thereof.

.....(8)

.....(9)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Place where document is drawn up
- (2) Date on which document is drawn up
- (3) Month in which document is drawn up
- (4) Year in which document is drawn up
- (5) Full name of Bidder
- (6) Amount of the Economic Bid in letters
- (7) Amount of the Economic Bid in numbers
- (8) Signature of Bidder's Legal Representative
- (9) Name of Bidder's Legal Representative

<sup>64</sup> Amended by Circular Letter 3



**EXHIBIT 8<sup>65</sup>**

**DATA ROOM USERS' GUIDE**

**Subject: Subpoints 1.2.57 and 3.2.1.2 of the Tender Documents**

**AVAILABILITY**

**1. Authorized Users**

Users authorized to access the Data Room are the representatives of the companies that paid the Participation Fee, have been properly introduced and identified to Data Room management, and have submitted the necessary forms.

**2. Capacity and Services**

The Data Room includes two (2) meeting rooms with a maximum capacity of five (5) persons each. In addition to the documents available for the purpose of the bid, the users shall have access to printers, copy machines, fax machines, telephones and other services to facilitate their tasks.

**3. Hours**

The Data Room will open from Monday through Friday from 9 a.m. to 1 p.m. and from 3 p.m. to 6 p.m.

**4. Procedure for Requesting Services**

Bidders wishing to use the Data Room shall sign a Confidentiality Agreement in the form and manner indicated in Appendix 1 of this Exhibit, stating their preferred visiting hours, the amount of time they will stay and the names of visitors. The Data Room Coordinator shall reply to the request according to available space and based on a principle of equitable and fair treatment.

All the documents and services shall be requested using the respective forms, through the Data Room Coordinator.

**AVAILABLE SERVICES**

There are no charges for using the Data Room. However, photocopying, printing, binding, floppy disc recording and CD burning, telephone, fax, refreshments and other services are subject to charge. Additional services, including blueprint copying, scanning, Internet access and others may be available if requested in advance. The corresponding fees shall be determined based on their cost and notified by the Data Room Coordinator.

**APPENDIXES AND FORMS FOR USE OF DATA ROOM AND RELATED SERVICES**

This exhibit includes five (05) Appendixes. In order to obtain access to the Data Room, it is essential to submit the Confidentiality Agreement (in the form and manner included in

---

<sup>65</sup> Amended by Circular Letter 3





Appendix 1 hereof) and the Form for Identification of Persons Authorized for Data Room Use with its respective General Data Chart from Appendix 2, which shall be submitted by the first day of use of the Data Room by fax or e-mail from the representatives of the Bidder. This is an essential requirement to access information available in the Data Room. The information provided in these forms shall be used to prepare visiting schedules and reservations for the Data Room.

This Exhibit also includes the following appendices:

- a. Appendix 3 (MULTIPLE SERVICE REQUEST) to be used by Bidders to request services.
- b. Appendix 4 (REQUEST FOR VISIT TO FACILITIES) with which Bidders may have access to restricted-access areas.
- c. Appendix 5 (TECHNICAL CONSULTATION REQUEST) to be used by Bidders to make their written requests to the technical personnel in charge of the various project issues.



**EXHIBIT 8<sup>66</sup>  
Appendix 1**

**CONFIDENTIALITY AGREEMENT  
Subject: Subpoints 1.2.2 and 3.2.2 of the Tender Documents**

Lima, .....(1) of .....(2), 2008

**Messrs.  
Comité de PROINVERSIÓN en  
Proyectos de Infraestructura y de Servicios Públicos  
Agencia para la Promoción de la Inversión Privada- PROINVERSIÓN  
Lima, Peru**

Bidder: .....(3)

.....(3), acting by and through its  
.....(4), Mr./Ms. ....(5),  
identified by ..... (6), with principal place of business at  
.....(7), hereby express our interest in having access to the Data  
Room made available by the Committee pursuant to the Tender Documents related to the  
Comprehensive Projects Tender for the Concession of the Second Group of Provincial  
Airports in the Republic of Peru.

We undertake to maintain confidentiality regarding all the information obtained from the Data  
Room, not to disclose any material or information to third parties without the prior written  
authorization of the Committee, not to use the information therein for any purpose unrelated  
to the Tender process, and not to use such information in any manner that may create any  
conflict with the interests of the government, its officials or agencies, PROINVERSION and  
the Committee.

The materials obtained from the Data Room shall be made available only to our staff,  
executives and consultants for reasons related to the Tender process. Said staff shall be  
made aware of this agreement and shall be bound to maintain confidentiality regarding the  
information referred to herein. We shall take every reasonable measure to prevent the  
disclosure of this information to any person without the prior written consent of the  
Committee.

No license or right has been or shall be granted to our advisors concerning the use of any  
information included in this Agreement.

We hereby agree that neither the government, its officials or agencies, PROINVERSION, the  
Committee or the Advisors and members thereof declare or guarantee, expressly or  
implicitly, the accuracy, reliability or integrity of the information made available to us, and that  
none of these parties or their respective directors, officials, employees or representatives  
shall be liable before us and/or anyone else as a consequence of the use of such information

<sup>66</sup> Amended by Circular Letter 3



and materials. We accept that we shall make our own independent decisions regarding the information made available to us and recognize that we shall not rely on or be influenced by such information when deciding on our intention to participate in the Tender process.

We accept that no information supplied, nor any material, debate, negotiation or related issue, constitutes an offer made by the Committee or on its behalf, and that this shall not constitute grounds or be taken into consideration in relation to any agreement, unless expressly agreed to in writing with the Committee.

At the request of the Committee, we agree to immediately return all copies of the documents made available to us, our representatives or advisors.

We also accept that the Committee does not undertake and is not bound to provide access to additional information or to update the available information and materials or to correct any possible inaccuracy therein.

This agreement shall not apply to information that: (i) was in the public domain at the time it was provided to us or advisors or became of public knowledge at any time thereafter (with the exception of information that was made public in breach of this agreement by us or our advisors); or (ii) is already legally in our possession on the date hereof and is therefore not subject to this confidentiality agreement.

The rights and obligations provided for in this document shall be governed and construed in accordance with Peruvian law and the parties hereto agree to irrevocably submit to the jurisdiction and competence of the judges and courts in and for Lima, Peru.

**IN WITNESS WHEREOF**, this Confidentiality Agreement is signed and a copy thereof is delivered to the Committee this .....(1) day of .....(2) 2008.

.....(8)  
.....(9)  
.....(3)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Full name of BIDDER
- (4) Position of the person signing the document
- (5) Full name of the person signing the document
- (6) Type and number of ID of person signing the document
- (7) Domicile
- (8) Authenticated signature of Legal Representative
- (9) Name of Bidder's Legal Representative



**EXHIBIT 8<sup>67</sup>  
Appendix 2**

**AUTHORIZED DATA ROOM USERS IDENTIFICATION FORM**

**Subject: Subpoints 1.2.2 and 3.2.2 of the Tender Documents**

Lima, .....(1) of .....(2), .....(3)

**Messrs.  
Comité de PROINVERSIÓN en  
Proyectos de Infraestructura y de Servicios Públicos  
Agencia para la Promoción de la Inversión Privada- PROINVERSIÓN  
Lima, Peru**

I, .....(4), hereby request, on behalf of .....(5), to use the Data Room within the visiting schedule proposed and for the persons listed in the chart on the reverse hereof.

With respect to the procedures for the use of the Data Room, we hereby confirm that we are familiar with the procedures as shown in the Data Room Users' Guide attached to the Tender Documents as Exhibit 8.

We are also aware that the information available in the Data Room is of a strictly confidential nature.

Yours very truly,

.....(6) .....(8)  
.....(4) .....(9)  
.....(7)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Year in which document is drawn up
- (4) Name of Bidder's Legal Representative
- (5) Full name of Bidder
- (6) Signature of Bidder's Legal Representative
- (7) Type and number of ID
- (8) Signature of Committee's Representative
- (9) Full name of the Committee's Representative

<sup>67</sup> Amended by Circular Letter 3



**GENERAL DATA CHART**

<b>N°</b>	<b>First and Last Names</b>	<b>Type and Number of Identity Document</b>	<b>Nationality</b>	<b>Visiting Period (Indicate Date)</b>
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				



**EXHIBIT 8<sup>68</sup>  
Appendix 3**

**MULTIPLE SERVICE REQUEST FORM**

**Subject: Subpoint 1.2.57 of the Tender Documents**

<b>Date of Request</b>	
------------------------	--

<b>Requested by</b>	
---------------------	--

<b>User</b>	
-------------	--

	<b>Ref. Number</b>	<b>Service Description</b>	<b>Units</b>	<b>Amount</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				

<b>Delivery Date</b>	
----------------------	--

<sup>68</sup> Amended by Circular Letter 3



**EXHIBIT 8<sup>69</sup>**  
**Appendix 4**

**REQUEST FOR VISIT TO THE FACILITIES FORM**  
**Subject: Subpoints 1.2.57 of the Tender Documents**

<b>Date:</b>	
--------------	--

**Requester Information**

<b>Company:</b>	
<b>Name of Requester:</b>	
<b>Position:</b>	
<b>Number of Persons:</b>	

**Purpose of the Visit:**


---

<sup>69</sup> Amended by Circular Letter 3





**EXHIBIT 8<sup>70</sup>  
Appendix 5**

**TECHNICAL INQUIRY REQUEST  
Subject: Subpoint 1.2.57 of the Tender Documents**

<b>Date:</b>	
--------------	--

**Requester Information**

<b>Company:</b>	
<b>Name of Requester:</b>	
<b>Position:</b>	

**Inquiry Description:**


<sup>70</sup> Amended by Circular Letter 3



**EXHIBIT 9<sup>71</sup>  
Appendix 1**

**SPECIMEN OF BID BOND  
(VALIDITY, EFFECTIVENESS AND SERIOUSNESS OF THE PROPOSAL)  
Subject: Subpoints 1.2.40 and 7.1.3 of the Tender Documents**

Lima, .....(1) of .....(2), 2009

**Messrs.  
Agencia para la Promoción de la Inversión Privada - PROINVERSIÓN  
Lima, Peru**

Subject: Bid Bond: .....(3)  
Expiration: .....(4)

This is to certify that at the request of our clients, .....(5), we have established this joint and several, irrevocable, unconditional bid bond of immediate execution, without benefit of excussio or division, for up to the amount of .....(6) U.S. Dollars (US\$ .....(7)) in favor of PROINVERSIÓN to guarantee the Validity, Effectiveness and Seriousness of the Proposals submitted by our client in connection with the terms and conditions set forth in the Tender Documents related to the Comprehensive Projects Tender for the Concession of the Second Group of Provincial Airports in the Republic of Peru.

We further certify that we will honor this bid bond if our client is awarded the contract by the PROINVERSIÓN Committee but fails to meet its obligations as of the Closing Date of the Tender process.

To honor this Bid Bond in your favor, a request in writing sent to us to our offices located at .....(8) by the Executive Director of PROINVERSIÓN or any other person duly authorized by said organization shall suffice.

We undertake to honor this Bid Bond in your favor within a term of no more than twenty-four (24) hours, for which a request sent to us by the Executive Director of PROINVERSIÓN or any other person duly authorized by said organization shall suffice, and any delay on our side to honor this bond shall accrue interest at the maximum LIBOR rate at one (1) year plus a 3% spread.

The LIBOR rate shall be established by the daily Reuters cable received in Lima at 11 a.m. Interest shall accrue starting on the date when the request to honor the bond is made.

Our obligations under this Bid Bond shall not be affected by any dispute that may arise between you and our clients.

<sup>71</sup> Amended by Circular Letter 3



This Bid Bond shall remain in force as from .....(9) up until and including .....(10).

The terms used in this Bid Bond have the same meaning as the terms defined in the Tender Documents.

Yours very truly,

.....(11)

.....(12)

.....(13)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Bid bond number
- (4) Bid bond expiration date (date, month, year)
- (5) Name of Bidder
- (6) Bid bond amount expressed in letters
- (7) Bid bond amount expressed in numbers
- (8) Entity's address where Bid Bond shall be paid
- (9) Bid Bond effective date (date, month, year)
- (10) Bid Bond expiration date (date, month, year)
- (11) Bank Officer's Signature and Seal
- (12) Bank Officer's name
- (13) Full name of the Bank



**EXHIBIT 9<sup>72</sup>  
Appendix 2**

**SPECIMEN OF PERFORMANCE BOND  
Subject: Subpoints 1.2.41 and 11.2.1.9 of the Tender Documents**

Lima, .....(1) of .....(2), 2009

**Messrs.  
Agencia para la Promoción de la Inversión Privada - PROINVERSIÓN  
Lima, Peru**

Subject: Performance Bond:.....(3)  
Expiration:.....(4)

Dear sirs,

At the request of our clients .....(5) (hereinafter, the "Concessionaire") we have issued this joint and several, irrevocable and unconditional Performance Bond, of automatic execution, without the benefit of excussio or division, for up to the amount of .....(6) U.S. DOLLARS (US\$. .....(7)) in favor of PROINVERSION to guarantee the appropriate and timely performance of each and every obligation assigned to the Concessionaire arising from the execution of the Concession Contract for the implementation, operation and exploitation of the Contract (hereinafter the "Contract").

This Performance Bond shall also guarantee the appropriate and timely compliance of the Concessionaire with the obligations set forth pursuant to the provisions of the Consolidated Text of the regulations with the force or status of Law that regulate the awarding in concession of public infrastructure works and public utilities to the private sector, enacted by Supreme Executive Order (Decreto Supremo) 059-96-PCM.

We undertake to honor the total amount of the bond within a maximum term of twenty-four (24) hours, commencing on the date the notarial letter regarding the payment request is received.

Any and all delay on our part in honoring the bond in question shall accrue a compensatory interest equivalent to the maximum LIBOR rate at one year plus a spread of 3.0%.

The LIBOR rate shall be established by the daily Reuters cable received in Lima at 11 a.m., and shall accrue interest starting on the date when the request to honor the bond is made.

Our obligations under this Bond shall not be affected by any dispute that may arise between you and our clients.

<sup>72</sup> Amended by Circular Letter 3



This Performance Bond shall be effective from .....(8) up until and including .....(9).

Yours very truly,

.....(10)

.....(11)

Name of the Bank issuing the Bond: .....(12)

Bank address: .....(13)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Performance Bond number
- (4) Performance Bond expiration date (date, month, year)
- (5) Name of Concessionaire Bidder (Successful Bidder)
- (6) Performance Bond amount expressed in letters
- (7) Performance Bond amount expressed in numbers
- (8) Performance Bond effective date (date, month, year)
- (9) Performance Bond Expiration Date (date, month, year)
- (10) Bank officer's signature and seal
- (11) Bank officer's name
- (12) Full name of the Bank
- (13) Address of the Bank



**EXHIBIT 9<sup>73</sup>  
Appendix 3**

**LETTER OF GUARANTEE TO CHALLENGE THE AWARD (CHALLENGE BOND)  
Subject: Point 10.2 of the Tender Documents**

Lima, .....(1) of .....(2), 2009

Messrs.

**Agencia para la Promoción de la Inversión Privada - PROINVERSIÓN**

Lima, Peru

Subject: Letter of Guarantee (Challenge Bond): .....(3)

Expiration: .....(4)

Dear sirs,

At the request of our clients, .....(5), we have issued this joint and several, irrevocable and unconditional Challenge Bond, of automatic execution, without the benefit of excussio or division, for up to the amount of .....(6) U.S. DOLLARS (US\$ .....(7)) in favor of PROINVERSION to endorse our secured clients in the payment of the amount referred to herein in any of the cases described in the fourth paragraph below.

This guarantee shall remain in force as from the date of filing of the challenge up to sixty (60) days following the Closing Date of the Tender process and shall be made effective if the challenge filed is declared groundless or inadmissible in a final decision by the Board of Directors of PROINVERSION.

It is hereby expressly agreed that this guarantee may be executed by PROINVERSION pursuant to the provisions set forth in Section 1898 of the Peruvian Civil Code.

It is also hereby expressly agreed that in order for us to honor this guarantee, an uncertified request to be sent to our office by notarial means at the address indicated below shall suffice, wherein notice is given that the challenge has been declared groundless or inadmissible by the Board of Directors of PROINVERSION, or, after the Committee has decided so, such decision is not objected to.

We undertake to honor the total amount of the Challenge Bond within twenty-four (24) hours as from the date when said notarized request letter is received.

Any and all delay on our part in honoring the bond in question shall accrue a compensatory interest equivalent to the maximum LIBOR rate at one year plus a spread of 3.0%.

The LIBOR rate shall be established by the daily Reuters cable received in Lima at 11 a.m., and shall accrue interest as from the date when the request to honor the bond is made.

<sup>73</sup> Amended by Circular Letter 3



Yours very truly,

.....(8)

Name of the Bank issuing the Bond: .....(9)

Bank's address: .....(10)

**DESCRIPTION OF REQUIRED INFORMATION**

- (1) Date on which document is drawn up
- (2) Month in which document is drawn up
- (3) Bond number
- (4) Bond expiration date (date, month, year)
- (5) Name of Bidder challenging the award
- (6) Bond amount expressed in letters
- (7) Bond Amount expressed in numbers
- (8) Bank Officer's signature and seal
- (9) Full name of the Bank
- (10) Address of the Bank

-----  
LRL-GC-CM/GV-LRL-MCP-gme  
331732K9.157