

REPÚBLICA DEL PERÚ



Autoridad Portuaria Nacional
(APN)



**DRAFT VERSION OF THE FINAL CONCESSION
CONTRACT**

**COMPREHENSIVE PROJECTS TENDER FOR THE
CONCESSION OF THE NEW CONTAINER TERMINAL AT
EL CALLAO PORT TERMINAL - SOUTHERN ZONE**

April 20, 2006

Users of this translated document shall take into consideration that in case of discrepancies between versions, the Spanish version shall prevail.

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UNOFFICIAL TRANSLATION

CONCESSION CONTRACT

You are hereby requested, in your capacity as Notary Public, to enter in your Notarial Record Book one evidencing the Concession Contract for the Design, Construction, Financing, Conservation and Exploitation of the New Container Terminal at El Callao Port Terminal – Southern Zone, located adjacent to the South Breakwater (hereinafter, the Contract) entered into by and between the State of the Republic of Peru (hereinafter, the GRANTOR), duly represented by the Ministry of Transportation and Communications, which in turn acts by and through the National Port Authority (hereinafter, APN), duly represented by _____, identified by National Identity Card (DNI) No. _____, domiciled at _____, duly authorized through _____ dated _____; and, _____, hereinafter the CONCESSIONAIRE, domiciled at _____, duly represented by _____, identified by No. _____, domiciled at _____, duly authorized through _____.

SECTION I: RECITALS AND DEFINITIONS

RECITALS

- 1.1. On March 1, 2003, Law 27943, National Port System Law (hereinafter, LSPN) was published. The regulations for this law were approved through Supreme Decree 003-2004-MTC, published on February 4, 2004. These regulations rule the terminal activities and services, infrastructure and facilities that make up the National Port System (hereinafter, SPN).
- 1.2. LSPN creates APN as a decentralized public organization in charge of SPN.
- 1.3. LSPN establishes that APN is responsible for fostering private sector participation, preferably through investment in developing port infrastructure and equipment; to that end, it has the support of the Private Investment Promotion Agency (hereinafter, PROINVERSIÓN). In this regard, LSPN regulations provide that APN should lead private investment promotion in national port infrastructure and equipment. To that effect, it should enter into cooperation agreements with PROINVERSIÓN.
- 1.4. On March 10, 2005, a Cooperation Framework Agreement was executed (hereinafter, the FRAMEWORK AGREEMENT) through which APN charged PROINVERSIÓN with developing and executing private investment promotion in State-owned port infrastructure and facilities, which will be carried out according to the promotion plans previously approved by APN following PROINVERSIÓN proposal, as per the National Port Development Plan guidelines (hereinafter, PNDP) prepared by APN.

- 1.5. Pursuant to Section 3.1.2 of the FRAMEWORK AGREEMENT, through Official Letter 252-2005-APN/PD, APN requested PROINVERSIÓN to determine the financial economic feasibility and to prepare Promotion Plans, among others, for the New Container Terminal at El Callao Port Terminal – Southern Zone.
- 1.6. PROINVERSIÓN Steering Council, in its meeting held on June 30, 2005, accepted to take charge of the promotion of private investment in national public port infrastructure and facilities, within the scope of LSPN and Emergency Decree No. 054-2001 and, under the mechanisms and procedures of Supreme Decree 059-96-PCM and Legislative Decree 674, its regulations and supplements.
- 1.7. In said meeting, private investment promotion in State-owned port infrastructure was entrusted to PROINVERSIÓN Committee for Public Infrastructure and Utilities Projects.
- 1.8. On September 29, 2005, APN approved the Promotion Plan for the New Container Terminal at El Callao Port Terminal – Southern Zone.
- 1.9. Through Supreme Resolution 136-2005-EF, published on October 20, 2005, PROINVERSIÓN Steering Council's resolution was ratified. The latter resolution approved the Promotion Plan for the New Container Terminal at El Callao Port Terminal – Southern Zone.
- 1.10. As per the September 29, 2005 agreement, PROINVERSIÓN Committee for Public Infrastructure and Utilities Projects approved the Tender Documents of the Comprehensive Projects for the Concession of the New Container Terminal at El Callao Port Terminal – Southern Zone.
- 1.11. As per the October 26, 2005 resolution, the APN Board issued a favorable opinion regarding the Tender Documents of the Comprehensive Projects for the Concession of the New Container Terminal at El Callao Port Terminal – Southern Zone, which were unanimously approved.
- 1.12. As per the October 31, 2005, agreement, PROINVERSIÓN Committee for Public Infrastructure and Utilities Projects approved the amendment to the Tender Documents of the Comprehensive Projects for the Concession of the New Container Terminal at El Callao Port Terminal – Southern Zone, which include APN's observations and comments.
- 1.13. As per PROINVERSIÓN Steering Council's resolution dated November 3, 2005, the Tender Documents of the Comprehensive Projects for the Concession of the New Container Terminal at El Callao Port Terminal – Southern Zone were approved.

- 1.14. As per APN Board's Resolution dated ____ 2006, the Contract to be entered into by and between the State of the Republic of Peru, represented by the Ministry of Transportation and Communications, which in turn acts by and through APN, and the CONCESSIONAIRE, was approved.
- 1.15. As per PROINVERSIÓN Steering Council's Resolution dated ____ 2006, the Contract to be entered into by and between the State of the Republic of Peru, represented by the Ministry of Transportation and Communications, which in turn acts by and through APN, and the CONCESSIONAIRE was approved.
- 1.16. On _____, PROINVERSIÓN Committee for Public Infrastructure and Utilities Projects awarded the Contract in the Comprehensive Projects Tender for the Concession of the New Container Terminal at El Callao Port Terminal – Southern Zone to _____, which has certified compliance with conditions set forth in the Tender Documents to proceed to the execution hereof.
- 1.17. Through _____ Mr. _____ was authorized to execute this Contract on behalf of APN.

DEFINITIONS

1.18. In this Contract, the following terms shall have the meanings below:

1.18.1 Permitted Creditors

This will be (i) any multilateral credit institution of which the State of the Republic of Peru is a member, (ii) any institution or any governmental agency of any country with which the State of the Republic of Peru maintains diplomatic relations, (iii) any financial institution approved by the State of the Republic of Peru and appointed as First Class Foreign Bank in Circular Letter 011-2004-EF-90 dated June 26, 2004, issued by the Central Reserve Bank of Peru (BCRP) or any other circular letter amending it, and additionally, those that replace them to the extent that they include new institutions, (iv) any other international financial institution approved by the GRANTOR that has a risk rating of no less than "A", assessed by a well-known entity accepted by the Peruvian Securities and Exchange Commission (CONASEV), (v) any domestic or international financial institution approved by the GRANTOR, (vi) all institutional investors thus considered by legal regulations in effect that directly or indirectly acquire any kind of negotiable security issued by the CONCESSIONAIRE; and (vii) any individual or corporation that directly or indirectly acquires any kind of negotiable security issued by the CONCESSIONAIRE through a public offering.

In no circumstance shall the CONCESSIONAIRE shareholders or partners be allowed to become Permitted Creditors, either directly or indirectly.

1.18.2 GRANTOR Assets Handing Over Document

This is the document signed by the GRANTOR and the CONCESSIONAIRE, whereby it is certified that the CONCESSIONAIRE has taken possession of the GRANTOR's Assets handed over by the GRANTOR, as per the listings delivered by the GRANTOR on the Contract Execution Date, which will be aimed at performing the Contract.

1.18.3 Works Reception Certificates

These are documents issued by the GRANTOR and signed by the Parties to certify total and/or partial reception of Works, as well as execution and installation of the Port Equipment, as per the Technical File. The Works Reception Certificates must include the dates on which the agreement with the executed Works and/or with the installation of Port Equipment was expressed.

1.18.4 GRANTOR Assets Reversal Certificate

This is the document signed by the GRANTOR and the CONCESSIONAIRE whereby they certify the handing over of the GRANTOR's Assets in favor of the GRANTOR upon Forfeiture of the Concession.

1.18.5 Successful Bidder

This is the short-listed bidder who was awarded the Contract.

1.18.6 Port Manager

For purposes of this Contract, it is the public or private legal entity charged with the Exploitation of the port infrastructure at the port Terminal under its administration.

1.18.7 Private Investment Promotion Agency– PROINVERSIÓN

It is the body referred to in Supreme Decree No. 027-2002-PCM, amended by Supreme Decree No. 095-2003-EF, which was entrusted by APN with Bid execution and development to promote private investment in public port infrastructure and utilities public works, including the New Container Terminal – Southern Zone.

1.18.8 Berth

Physical space assigned at the Terminal for Ship mooring.

1.18.9 Mooring and Unmooring

Service supplied to Ships at the Berth to receive them and fasten the ties, and to change them from a mooring point to another, as well as to unmoor them.

1.18.10 Concession Year

This is the annual period computed from the Contract Execution Date, counted date to date, and ending on a day equal to the one of the year in which calculation started.

1.18.11 APN

It is the National Port Authority, an entity created by the National Port System Law – Law No. 27943. APN is a Public Decentralized Organization in charge of the National Port System, assigned to the Ministry of Transportation and Communications, with an internal public law legal capacity, own capital and administrative, functional, technical, economic and financial autonomy, as well as regulatory power by delegation of the Ministry of Transportation and Communications. It is in charge of leading promotion of private investment in national state-owned port infrastructure and facilities. Its Organization and Function Regulations have been approved by Supreme Decree 034-2004-MTC.

1.18.12 Concession Area

These are areas described in Exhibit 1 to be granted to the CONCESSIONAIRE for the Concession purposes. The Concession Area may be modified pursuant to the provisions set forth in Article 5.33 of the Contract.

1.18.13 Docking

Operation of leading the Ship from the Port's official anchorage and docking it to the designated Berth.

1.18.14 Competent Environmental Authority.

It is the General Socioenvironmental Affairs Directorate of the Ministry of Transportation and Communications, as the single competent sector authority to approve the Environmental Impact Study referred to in Section XII of the Contract.

1.18.15 Governmental Authority

It is any national, regional, departmental, provincial or municipal government or authority, or any of its departments or agencies, either regulatory or administrative, or any Peruvian entities or agencies that, under the law, exercises executive, legislative or judicial powers, belonging to any of the aforementioned governments, authorities or institutions, with jurisdiction over the people or matters at issue.

1.18.16 Tender Documents

This is the document, including its forms, exhibits, appendixes and circular letters, issued by PROINVERSIÓN Committee for Public Infrastructure and Utilities Projects, that establishes the terms under which the Bid was called, which in its substantial aspects also has APN approval.

1.18.17 Concession Assets

These are the GRANTOR's Assets and the CONCESSIONAIRE's Assets.

1.18.18 GRANTOR's Assets

These are i) all the assets handed over by the GRANTOR; ii) the Concession Area; and iii) the lands, immovables, the assets resulting from the Civil Works, and buildings in general within the Concession Area, which have been acquired and/or built by the CONCESSIONAIRE during the Concession term. Said assets shall be reverted to the GRANTOR.

1.18.19 CONCESSIONAIRE's Assets

These are the assets owned by the Concessionaire allocated to the Contract execution, other than the GRANTOR's Assets, which include the assets mentioned in the third paragraph of Article 53 of the Regulations to the National Port System Law (RLSPN), i.e., transportable or mobile assets, such as cranes, tow trucks or other special equipment.

1.18.20 Forfeiture of the Concession

It is the end of the Concession due to the causes foreseen in this Contract or as per the Applicable Laws and Provisions.

1.18.21 Works Execution Schedule

It is the document which establishes the Works execution programming. It shall form an integral part of the Technical File.

1.18.22 Committee

It is PROINVERSIÓN' Committee for Public Infrastructure and Utilities Projects, created by Supreme Resolution 444-2001-EF, as amended by Supreme Resolution 228-2002-EF and by Supreme Resolution 009-2003-EF.

1.18.23 GRANTOR

It is the State of the Republic of Peru, represented by the Ministry of Transportation and Communications (MTC). For all purposes hereof, the GRANTOR, represented by MTC, will act through APN, who pursuant to Article 24 of LSPN has among its powers the authority to enter into contractual commitments with the private sector, as provided by LSPN.

1.18.24 Concession

It is the legal relationship under Public Law established between the GRANTOR and the CONCESSIONAIRE as from the Contract Execution Date, whereby the GRANTOR grants the CONCESSIONAIRE the right to design, build, finance, conserve and exploit, on an exclusive basis, the New Container Terminal – Southern Zone during the Concession term.

1.18.25 CONCESSIONAIRE

It is the corporation organized by the Successful Bidder who signs the Contract with the GRANTOR.

1.18.26 Tender

It is the procedure regulated by the Tender Documents for granting in concession the New Container Terminal at El Callao Port Terminal – Southern Zone to the private sector.

1.18.27 Conservation

It is the group of activities aimed at preserving, recovering or delaying the loss of the original structural and functional conditions of the New Container Terminal – Southern Zone (those with which it was designed or built) and of the Concession Assets, so that the CONCESSIONAIRE may comply with the Service and Productivity Levels set forth herein. Conservation includes routine maintenance, regular maintenance, and emergency maintenance. The Conservation of the MCI Works shall not be in charge of the CONCESSIONAIRE.

1.18.28 Consignee

Individual or corporation in which name the merchandise is declared or who acquires the merchandise by endorsement.

1.18.29 Construction

It comprises the necessary activities to implement and commence the Exploitation of the New Container Terminal – Southern Zone, as well as to execute the MCI Works. The following are included among these activities: (i) execution of Civil Works; (ii) installation of electric, mechanic or electronic equipment or systems; and (iii) information technology implementation, as the case may be.

1.18.30 Contract or Concession Contract

It is the Contract contained in the document herein, including its exhibits, entered into between the GRANTOR and the CONCESSIONAIRE, which rules the relationship among them.

1.18.31 Technical Dispute

Dispute related to a concrete fact or act, which decision or resolution depends on the exclusive application of rules, criteria, concepts and/or parameters of a strictly technical, scientific and/or artistic nature.

1.18.32 Non Technical Dispute

Any dispute that is not considered a Technical Dispute.

1.18.33 DBFOT (Design, Build, Finance, Operate and Transfer)

It is the modality under which the CONCESSIONAIRE is to design, build, finance, conserve and exploit the New Container Terminal – Southern Zone. The GRANTOR's Assets must be transferred to the GRANTOR at Concession expiration.

- 1.18.34 Undocking
Inverse operation to Docking.
- 1.18.35 Days
Business days, that is, days other than Saturday, Sunday or non-working holiday in the Provinces of Lima and/or El Callao. Holidays are also the days in which the Lima and/or El Callao banks do not have to open to the public by provision of the Governmental Authority.
- 1.18.36 Calendar Days
They are business days, non-business days and holidays.
- 1.18.37 Dollar or US\$
It is the currency or the currency sign of legal tender in the United States of America.
- 1.18.38 Exclusive Execution and/or Supply of Services
It is the right the CONCESSIONAIRE has been granted to exclusively execute and/or supply the Services set forth in the Contract herein for Port Infrastructure that makes up the New Container Terminal – Southern Zone, pursuant to provisions in Article 11.3 of LSPN.
- 1.18.39 Related Companies
They are all the companies related to the CONCESSIONAIRE which have a relationship that implies a linked behavior, whether because, (i) they form part of the same economic group; (ii) a corporation has, directly or indirectly, a share in the capital stock of another corporation which allows it to have presence in their board; (iii) a same guarantee supports both corporations' liabilities, (iv) more than 50% of the liabilities of one corporation are guaranteed by the other; or (v) when more than 50% of the liabilities of one of the corporations constitute credits for the other.
- 1.18.40 Permitted Guaranteed Indebtedness
It is the indebtedness for financing operations, and issue of negotiable securities and/or money borrowed from any Permitted Creditor in any form whatsoever, the funds of which shall be destined to comply with the purpose hereof, including any renewal or refinancing of said debt to be guaranteed as indicated in Section X, which main financial terms or informative prospectus and issuance agreement, including the principal, interest rate or rates, provisions on amortization or other similar terms are approved by the GRANTOR, with the prior opinion of the REGULATOR, when applicable pursuant to the Contract. The approval procedure is pointed out in Article 10.6.

In those cases where the Permitted Guaranteed Indebtedness is incurred with Permitted Creditors other than those referred to in Items (i) and (vi) of Article

1.18.1, the Permitted Guaranteed Indebtedness must be previously approved by the GRANTOR and have the prior opinion of the REGULATOR.

1.18.41 Port Equipment

For purposes of this Contract, they are the mechanic, electric and electronic facilities that form an integral part of the Port Infrastructure of the New Container Terminal – Southern Zone.

1.18.42 Length

The “Length” must be considered as the Maximum Length of the ship as stated in the Ship’s Registration Certificate issued by the Flag State.

1.18.43 Environmental Technical Specifications

They are the group of techniques, procedures and best practices established in the Applicable Laws and Provisions, related to the requirements for protecting and conserving the environment, applicable at every stage of the Concession.

1.18.44 Environmental Impact Study (EIS)

It is the management instrument referred to in Article 25 of Law 28611, Environmental Law, to be submitted by the CONCESSIONAIRE to the Ministry of Transportation and Communications for approval, in accordance with the Applicable Laws and Provisions. The EIS shall form an integral part of this Contract as Exhibit 14.

1.18.45 Referential Study

It is the study referred to in the National Port Development Plan (PNDP), developed as M1 Phase 1 of the Study called “Final Report-Feasibility Study for New Container Terminal at the Port of El Callao-Peru” prepared by Moffatt & Nichol International.

1.18.46 Technical File

It is the document containing necessary and sufficient information to permit the execution and supervision of the Works and the MCI Works, which must be prepared by the CONCESSIONAIRE according to the Technical Proposal and the provisions hereof. Said document must be submitted to APN for approval and is binding for the execution of the above-referred works.

1.18.47 Exploitation

It comprises the following aspects: exclusive operation and administration of the New Container Terminal – Southern Zone; exclusive provision of the Standard Services and Special Services; collection of the Standard Rate Index from Users in exchange for Standard Service supply; and collection of the Price from Users in exchange for Special Services, in the terms set forth in the Contract.

1.18.48 Contract Execution Date

It is the day and hour in which the Contract is executed and which the Tender Documents refer to as Closing Date.

1.18.49 Trust Fund

It is the trust agreement to be entered into by and between a company authorized to act as the trustee, pursuant to the Applicable Laws and Provisions, APN as the trust beneficiary and the CONCESSIONAIRE as the trustor, whereby the CONCESSIONAIRE transfers under possession in trust the Amount corresponding to the Additional Complementary Investment, as set forth in Section IX of the Concession Contract.

1.18.50 Force Majeure

It is the situation that Section XVIII of this Contract regulates.

1.18.51 Concession Contract Performance Bond

It is the banking guarantee granted to ensure compliance with the CONCESSIONAIRE's obligations set forth in this Contract, including those related to the Construction, Exploitation and Conservation of the Works, as well as the penalties established in the Contract.

1.18.52 Economic Group

It is the group of legal entities, whatever their activity or corporate purpose, that are subject to the control of the same individual or group of individuals, according to the definitions contained in CONASEV Resolution 090-2005-EF-94, published on December 28, 2005, or any replacing regulation.

1.18.53 Standard Rate Index

It is the amount denominated in Dollars per TEU, calculated on the basis of the average Rates for the Standard Services rendered to a standard ship, which was offered by the Successful Bidder in its Economic Proposal.

1.18.54 Works Progress Reports

These are documents that the CONCESSIONAIRE will prepare, as per the provisions hereof and those established by the REGULATOR, by means of which it will certify the Works built, restored or improved, and the implementation of the corresponding Equipment. The Works Progress Report shall be subject to approval by the REGULATOR.

1.18.55 Port Infrastructure

These are the Civil Works and the mechanic, electric and electronic facilities, both fixed and floating, built or located at the Ports, to facilitate transportation and modal exchange.

1.18.56 Common Port Infrastructure

It is the one used indistinctly by any port User, the operators and the managers of El Callao Port, to carry out the port activities.

1.18.57 Inventories

They are the initial, Works, Annual and Final Inventories prepared and submitted as per the following terms:

- a) Initial Inventory. It is the list of the Concession Assets that the CONCESSIONAIRE is bound to submit to the REGULATOR and the GRANTOR within thirty (30) Days following the execution of the Concession Assets Handing Over Document, together with a copy for APN. This inventory will also include the movables and/or immovables handed over to the CONCESSIONAIRE that will have to be decommissioned or torn down according to the procedures established in Steering Council's Resolution 006-2006-CD-OSITRAN, its amending and/or replacing regulations, for the proper execution of Works. On the same date, the CONCESSIONAIRE shall return the assets it may deem unnecessary or inappropriate to the Concession. The GRANTOR shall receive said assets and shall place this fact on record in writing. If it were not possible to return the aforementioned assets physically, the CONCESSIONAIRE has the power to decommission and proceed to tear them down, according to the procedure for commissioning and decommissioning assets set forth to that effect by the REGULATOR. The Initial Inventory shall form an integral part of the Concession Assets Handing Over Document.
- b) Works Inventory. It is the list of the assets corresponding to the Works executed during the Concession, which, when completed, shall be presented by the CONCESSIONAIRE to the REGULATOR and the GRANTOR, together with the Works reception request referred to in Article 6.22, delivering a copy of said list to APN.
- c) Annual Inventory: It is the list of the Concession Assets that the CONCESSIONAIRE shall present to the REGULATOR and the GRANTOR, with a copy for APN, between the first fifteen (15) days of April of each calendar year and the Forfeiture of the Concession. This list includes the GRANTOR's Assets and the CONCESSIONAIRE's Assets held on the closing date of said inventory.
- d) Final Inventory. It is the list of the Concession Assets that the CONCESSIONAIRE has on the date of Forfeiture of the Concession. It shall be submitted by the CONCESSIONAIRE to the REGULATOR and the GRANTOR whenever the Forfeiture of the Concession occurs due to any reasons whatsoever, delivering a copy thereof to APN.

1.18.58 Complementary Investment:

It is the obligation assumed by the CONCESSIONAIRE hereunder for the execution of works or services that may help to improve the National Port System, such as: dredging, breakwaters, systems and others. Its priority is the necessary common works derived from the new requirements for implementing the New Container Terminal – Southern Zone. This amount does not include the design, Construction, financing, Conservation and Exploitation costs for the New Container Terminal – Southern Zone.

The Complementary Investment shall not exempt the CONCESSIONAIRE from complying with other payments, compensations or taxes under its charge as established by the Applicable Laws and Provisions, the Tender Documents, the Concession Contract and, in general, the Peruvian legislation.

The Complementary Investment is divided into two parts:

- a. Minimum Complementary Investment (MCI): It is the commitment for executing the common works mentioned in Exhibit 9.
- b. Additional Complementary Investment (ACI): It is the amount that, additionally to the Minimum Complementary Investment, the Successful Bidder offered as a component of its Economic Proposal. The ACI shall be contributed to a trust as per the terms and conditions set forth herein.

1.18.59 Applicable Laws and Provisions

It is the group of Peruvian legal provisions regulating the Contract. They include the Peruvian Constitution, regulations with rank of law, regulations, directives and resolutions that any competent Governmental Authority may issue, which will be binding upon the CONCESSIONAIRE and the GRANTOR.

1.18.60 LIBOR

It is the 180-day “London Interbank Offered Rate” established by the Cable Reuters daily received in Lima at 11 a.m.

1.18.61 Dock

It is the part of the Port infrastructure designed to facilitate Ship loading and unloading as well as the circulation of vehicles.

1.18.62 Ship

Any naval construction intended for navigation, whichever its type, including its core parts and accessory parts, such as rig, spare parts, supplies, machinery, instruments and accessories that, without forming part of the ship structure, are used to service it both at sea and at port.

1.18.63 Service and Productivity Levels

They are minimum service quality indicators the CONCESSIONAIRE must achieve and maintain during the operation of the New Container Terminal - Southern Zone, as specified in Exhibit 3 of this Contract.

1.18.64 Regulatory Standards

These are the regulations, directives and resolutions that the REGULATOR may issue, and which compliance is mandatory for the Parties.

1.18.65 New Container Terminal – Southern Zone

It is the Port Infrastructure and Equipment that make up a business unit devoted to supplying Services, and that the CONCESSIONAIRE shall build, implement and exploit exclusively pursuant to the Contract and the provisions of Article 11.3 of the LSPN.

1.18.66 Works

It is the result of the Port Construction and Equipment works appertaining to the New Container Terminal – Southern Zone that shall be executed during the Concession term. Likewise, it involves the assets to be used, built, exploited and/or maintained by the CONCESSIONAIRE for the operation, exclusive supply of Services and Conservation of the Concession Assets, under the terms of the Contract.

1.18.67 Civil Works

Group of activities developed with the purpose of tearing down, excavating or building an infrastructure upon or around which facilities or equipment and finishes are mounted, that permit utilization thereof for the intended goal. It comprises preparing the land, tearing down, dredging the sea floor, filling, cementing, and building the dock and the backup slab, as well as the offices and shops, among others.

1.18.68 Offshore Works

It comprises the Civil Works built offshore, such as: sea walls, breakwaters, navigational aids, dredging works, etc.

1.18.69 MCI Works

These are the works to be executed by the CONCESSIONAIRE to comply with its Minimum Complementary Investment: dredging of the access channel to El Callao Port Terminal, dredging of the maneuvering area and Southern breakwater repair. The Conservation of these works is not the responsibility of the CONCESSIONAIRE.

1.18.70 Onshore Works

They comprise the Civil Works located inland from the coast line, such as: docks, piers, warehouses, container yards, etc.

1.18.71 Party

It is the GRANTOR or the CONCESSIONAIRE, as the case may be.

1.18.72 Parties

They are, jointly, the GRANTOR and the CONCESSIONAIRE.

1.18.73 Minimum Interest

It is the Minimum Interest with voting rights that the Strategic Partner must have and maintain in the CONCESSIONAIRE, which, pursuant to this Contract, may not be less than 51%.

1.18.74 Conservation Plan

The program containing the set of actions, measures and other preventive or corrective activities necessary to ensure the physical and operating integrity of the Works, and to reduce, overcome or neutralize any damages that may endanger it, in accordance with Exhibit 7.

1.18.75 Environmental Management Plan

It is made up of the actions, measures and costs to prevent, reduce or neutralize the negative environmental impacts that a Port Infrastructure and its exploitation cause on the environment, and cultural and archaeological heritage, contained in the EIS.

1.18.76 Price

It refers to the considerations the CONCESSIONAIRE charges for supplying Special Services. The price is not subject to regulation.

1.18.77 Works Official Estimated Budget

It is equal to a referential cost of US\$213,500,000 (Two Hundred Thirteen Million and Five Hundred Thousand US Dollars) to implement and commence the Exploitation of the New Container Terminal – Southern Zone and the MCI Works. This budget only applies to the express provisions set forth herein.

1.18.78 Technical Proposal

It is the proposal referring to Document 4, Envelope 2, established in the Tender Documents and submitted by the Successful Bidder.

1.18.79 Port

For the purposes of this Contract, it is the geographic locality and economic unit of a locality where the terminals, infrastructures and facilities, both land and aquatic, natural or artificial, are located, fit for developing logistics and port activities.

1.18.80 Port Grounds

Space extending from the defense works or external line delimiting the aquatic operating area and the land perimeter limit of the area where the port facilities are located.

1.18.81 TUO Regulation

It is Supreme Decree 060-96-PCM, Regulations to the Consolidated Text of the Rules with Rank of Law that regulate the granting in Concession of the public infrastructure and utility Works to the private sector, and their amending regulations.

1.18.82 REGULATOR

It is OSITRAN (Supervisory Body of Investment in Transport Infrastructure for Public Use), pursuant to Law 26917 and its regulatory, complementary and amending rules, which provisions (autonomous regulations, general guidelines, and specific rules, pointed out in Article 27 of the regulation approving Supreme Decree 010-2001-PCM), are mandatory to observe and comply with for the CONCESSIONAIRE.

1.18.83 Compensation

It is the economic consideration which the CONCESSIONAIRE is obliged to pay to the GRANTOR on a monthly basis during the Concession term, pursuant to the terms set forth in Article 8.17 of the Contract.

1.18.84 Services

They are, indistinctly, the Standard and Special Services to be rendered by the CONCESSIONAIRE to the Users.

1.18.85 Standard Services

They are the services that, pursuant to Article 8.12, the CONCESSIONAIRE will supply both to the Ship and the cargo, for which it will charge the corresponding Rates. These services will be supplied on a mandatory basis to any User requesting them.

1.18.86 Special Services

They are services other than the Standard Services that the CONCESSIONAIRE is authorized to supply and for which it will be entitled to charge a consideration called Price. Said services shall be rendered in keeping with the principles established in Article 14.3 of the LSPN, as the case may be. This shall not affect the users' right to demand Standard Services supply as an alternative.

1.18.87 Strategic Partner

It is the shareholder or interest holder of the CONCESSIONAIRE who, independently, complies with the short-listing requirements regarding experience in operation and who holds the Minimum Interest in the

CONCESSIONAIRE. There must be one Strategic Partner during the entire Concession term. The Strategic Partner shall comply, under any circumstance, with each and every requirement pointed out in Section III of this Contract.

1.18.88 Suspension

It is the temporary stoppage of activities related with the Contract performance, as a result of the occurrence of any grounds for suspension, pursuant to this Contract and the Applicable Laws and Provisions.

1.18.89 Rate

Economic consideration charged for the supply of a Standard Service.

1.18.90 Terminal

For the purpose of this Contract, it means the port infrastructure and equipment that make up a business unit engaged in the provision of services to the ships and the cargo.

1.18.91 Terms of Reference

They are the description of the technical conditions and specifications and the scope the CONCESSIONAIRE must consider for preparing the Technical File, and for the execution of the Works and Port Equipment, as detailed in Exhibit 6 to the Contract.

1.18.92 TEU

Twenty Feet Equivalent Unit. Measure unit equivalent to a 20 feet container.

1.18.93 Exchange Rate

It is the financial system's average selling Exchange Rate established by the Superintendency of Banking and Insurance and published in "El Peruano" Official Gazette, for conversion of Nuevos Soles to United States Dollars and vice versa.

1.18.94 GRANTOR Assets Possession Taking

It is the act through which the CONCESSIONAIRE takes possession of the Concession Area and the assets handed over by the GRANTOR, to be used in performing the Contract, placing this fact on record in the GRANTOR Assets Handing Over Document. The GRANTOR Assets Possession Taking shall be verified as established in Section V of the Contract herein.

1.18.95 TUO

It is Supreme Decree 059-96-PCM, Consolidated Text of the rules with the rank of law that regulate the granting in Concession of Public Infrastructure and Utility Works to the private sector, its complementary and amending regulations.

1.18.96 Use of the Berth

Part of the Standard Service that the CONCESSIONAIRE is bound to render to the Users for the use of the Berths by the Ships at the Terminal.

1.18.97 Use of the Port Terminal

Part of the Standard Service that the CONCESSIONAIRE is bound to render to the Users for the use of the Terminal for container handling.

1.18.98 User

It is the individual or corporation that receives the Services supplied by the CONCESSIONAIRE.

1.18.99 Primary Zone

Pursuant to the provisions set forth in the TUO of the Customs Code, the Primary Zone is the part of the customs territory that encompasses, among others, the customs premises, waters or land spaces intended for or authorized for merchandise unloading, loading, mobilization or deposit; the offices, premises or branches intended for the direct service of a customs; airports, properties or accessible roads and any other site where customs operations are usually performed.

SECTION II: LEGAL NATURE, PURPOSE, MODALITY AND CHARACTERS

LEGAL NATURE

- 2.1 The Concession subject-matter of this Contract is granted for the design, Construction, financing, Conservation and Exploitation of a public infrastructure work, the New Container Terminal – Southern Zone, within the private investment promotion process undertaken by the State of the Republic of Peru.
- 2.2 The aforementioned private investment promotion process does not entail the transfer of the ownership rights over the GRANTOR's Assets, which at every point keep their public condition.
- 2.3 Considering that the purpose of the Concession is the design, Construction, financing, Conservation and Exploitation of a public infrastructure work for a specific period of time, the establishment of rights over the Concession must be compatible with this nature and approved by the GRANTOR, as prescribed in the Contract.

PURPOSE

- 2.4 The GRANTOR hereby grants in Concession to the CONCESSIONAIRE the design, Construction, financing, Conservation and Exploitation of the New Container Terminal – Southern Zone.

- 2.5 Both the GRANTOR and APN expressly represent and acknowledge that the granting of the Concession for the design, Construction, financing, Conservation and Exploitation of the New Container Terminal – Southern Zone falls within the scope of Articles 10.3 and 11.3 of the LSPN and, consequently, it is acknowledged that the CONCESSIONAIRE is entitled to the Exclusive Execution and/or Supply of Services that may be rendered within the New Container Terminal - Southern Zone, which is qualified as new port infrastructure.

Without prejudice to the provisions set forth in the foregoing Point, the Parties expressly acknowledge that, for the Exclusive Execution and/or Supply of Services, the CONCESSIONAIRE shall strictly comply with the principles established in Article 14.3 of the LSPN and all other principles foreseen in Articles 2.10 and 2.11 hereof, as applicable.

The Parties acknowledge that, in pursuance of Article 11.3 of the LSPN, the Framework Regulations on Access to the Transport Infrastructure for Public Use, enacted by OSITRAN, approved by Steering Council's Resolution 014-2003-CD/OSITRAN, as amended by Steering Council's Resolution 054-2005-CD/OSITRAN or any replacing regulation, shall not apply to this Contract.

- 2.6 The main Concession activities or services, which are the rights and duties subject matter of this Contract, are the following:
- a) Handing over and reversing the GRANTOR's Assets regulated in Section V of the Contract.
 - b) Building the New Container Terminal – Southern Zone, as detailed in Section VI.
 - c) Executing the MCI Works.
 - d) Conserving the New Container Terminal at El Callao Port Terminal – Southern Zone, pursuant to the terms established in Section VII.
 - e) Exploiting the Concession, pursuant to the conditions established in Section VIII, which comprise Exclusive Execution and/or Supply of Services.
 - f) Paying the Additional Complementary Investment, when applicable, as established in Section IX of the Contract.

MODALITY

- 2.7 The Contract's modality is for valuable consideration, as pointed out in Paragraph "a", Article 14 of the TUO.

CHARACTERS

- 2.8 Notwithstanding the multiplicity of activities and services into which its purpose is divided, as described in the preceding Section, the Contract has a unitary nature and responds to a single cause.
- 2.9 This is a separate and independent Contract of reciprocal considerations.
- 2.10 Considering the public nature of ownership, the Services subject-matter of the Contract are ruled by the continuity, regularity, non-discrimination principles, as provided by LSPN.
- 2.11 Likewise, pursuant to Article 14.3 of LSPN, for exercising the port activities and supplying the Services, the CONCESSIONAIRE shall observe the free competition, neutrality, equality in the eyes of the law, price transfer prohibition, separate accounting and free election principles, as the case may be.

SECTION III: EVENTS ON THE CONTRACT EXECUTION DATE

REPRESENTATIONS BY THE PARTIES

- 3.1 The CONCESSIONAIRE warrants to the GRANTOR, on the Contract Execution Date, the truthfulness of the following representations:
- a) The Strategic Partner's Minimum Interest, the bylaws and incorporation documents of the CONCESSIONAIRE agree with the requirements set forth in the Tender Documents.
 - b) The CONCESSIONAIRE is duly authorized and capable to assume its obligations under the Contract, having complied with all the necessary requirements to formalize the Contract and to comply with the commitments contemplated therein.

The CONCESSIONAIRE does not need to undertake any other act or procedure to authorize the execution and compliance with its obligations under the Contract.

- c) There is no impediment for the CONCESSIONAIRE to enter into contracts under the provisions of Article 1366 of the Civil Code and Article 27 of the TUO on Concessions approved by Supreme Decree 059-96-PCM, and it has not been administratively sanctioned with temporary or permanent disqualification from exercising its rights to enter into contracts with the State.

In the event that, after the execution of the Contract, the foregoing representation is demonstrated to be false, this Contract shall be automatically terminated pursuant to the provisions of Section XV hereof, executing the Concession Contract Performance Bond referred to in Article 10.2.

- d) The CONCESSIONAIRE and its partners irrevocably, unconditionally and expressly waive any diplomatic claim for the controversies or conflicts that may arise from the Contract.
- e) On the Contract Execution Date, all the information, representations, certification and, in general, all the documents submitted in Envelopes 1 and 2 during the Tender process are in full force and effect.

In the event that, after the execution of the Contract, the foregoing representation is demonstrated to be false, this Contract shall be automatically terminated pursuant to the provisions of Section XV hereof, executing the Concession Contract Performance Bond referred to in Article 10.2.

3.2. The State of the Republic of Peru, represented by the Ministry of Transportation and Communications, in turn, warrants to the CONCESSIONAIRE, on the Contract Execution Date, the truthfulness of the following representations:

- a) It is duly authorized as per the Applicable Laws and Provisions to act as the GRANTOR in the Contract. The execution, handing over and compliance by the GRANTOR with the commitments included in the Contract are comprised within its powers, are in accordance with the Applicable Laws and Provisions, and have been duly authorized by all the Governmental Authorities, whose approvals and consents are required for the validity of this Contract. No other action or procedure by the GRANTOR or any other governmental entity is required to authorize or to comply with the GRANTOR's obligations thereunder.
- b) All the administrative acts, requirements, demands and obligations under its charge have been complied with to enter into this Contract and to duly comply with its stipulations.
- c) There are no current laws preventing the GRANTOR from complying with the obligations stemming from this Contract. Similarly, there are no current or imminent actions, trials, investigations, litigations or proceedings before the administrative body, arbitration courts or Governmental Authority, or unexecuted judgments, awards or decisions of any kind whatsoever, that may prohibit, oppose or otherwise impede the execution of the Contract or compliance with the terms thereof by the GRANTOR.

- d) The CONCESSIONAIRE is entitled to exploit the Concession Assets, as set forth in Article 8.10 and until the Contract expiration. This right will be only extinguished under the assumptions of Forfeiture of the Concession foreseen in Section XV of this Contract.
- e) The validity and scope of the Contract provisions have been formulated based upon the Applicable Laws and Provisions.
- f) The GRANTOR's Assets are not subject to encumbrances or liens of any kind, and there is no impediment, either formally or in effect, that may in any way disturb, affect or impede its effective handing over to the CONCESSIONAIRE or the use thereof by the CONCESSIONAIRE.
- g) There are no administrative, labor, tax, judicial, legal or other kind of liabilities, obligations or contingencies that affect or may affect in the future the Concession, the GRANTOR's Assets or the Exploitation right. If any liabilities or contingencies generated prior to the Contract Execution Date should appear, they shall be assumed by the GRANTOR or, alternatively, the GRANTOR shall be responsible for correcting any situation that may affect the Concession rights granted hereunder.
- h) As long as the CONCESSIONAIRE and its investors comply with the Applicable Laws and Provisions, the legal stability agreement referred to in Legislative Decrees 662 and 757, and Law 27342 shall be granted.
- i) The provisions of Article 62 of the Peruvian Constitution, which sets forth the freedom of contract and establishes that contract terms may not be amended by laws or other kind of provisions, shall apply. Furthermore, the provisions of Article 63 of the Peruvian Constitution, which states that foreign and domestic investment is subject to the same conditions and to the principle of non-discrimination based on the origin of the investment.
- j) For contractual effects, the representations, guarantees and obligations assumed by the GRANTOR in this Contract shall not be affected by variations in the Applicable Laws and Provisions. The GRANTOR commits to grant the CONCESSIONAIRE the legal formalities needed to provide due effectiveness to the representations contained in this Point, within the framework established in Law 25570 and its complementary and amending regulations.
- k) By virtue of the execution hereof, the CONCESSIONAIRE is fully authorized to carry out the Construction, Conservation and Exploitation of the Concession, pursuant to the terms and conditions hereof. In this regard, and as the New Container Terminal is a port terminal of public

ownership and use, the authorizations, clearances, and licenses referred to in Articles 8 and 9 of LSPN and Articles 29 to 47 of the Regulations thereto, approved by Supreme Decree 003-2004-MTC, do not apply to the Concession. This representation is also guaranteed by APN.

CERTIFICATIONS ON THE CONTRACT EXECUTION DATE

3.3 On the Contract Execution Date, the CONCESSIONAIRE must have complied with the following:

- a) Deliver the notarial certified copy of the notarially recorded instrument evidencing the articles of incorporation and by-laws of the CONCESSIONAIRE, together with the evidence of registration with the relevant Public Records Office, in order to demonstrate: (i) that it is a new corporation duly organized under the Applicable Laws and Provisions; and (ii) that it has the same partners, shareholders or members, who hold shares in the same proportion as the one they held as members of the Successful Bidder. The requirement in Item (ii) shall not apply if the Successful Bidder is a single corporation, in which case, it shall solely have, as minimum, the Minimum Interest in the CONCESSIONAIRE.

The CONCESSIONAIRE must demonstrate that it has a Minimum Capital Stock equivalent to 20% of the Works Official Estimated Budget, which is to be subscribed and paid-up in at least 25%, in accordance with the provisions of the Business Corporations' Law.

- b) Provide evidence of the registration with the pertinent Public Records Office of the powers of attorney conferred upon the legal representative of the CONCESSIONAIRE who shall execute the Contract on its behalf.
- c) Deliver an authenticated copy of the documents showing that its competent internal bodies have approved the Contract.
- d) Deliver an authenticated copy of the entries of the Share Register or equivalent document showing the shareholding structure of the CONCESSIONAIRE.
- e) Submit the proposal on insurance policies, the list of companies that shall provide them and the hiring schedule, pursuant to the provisions of Section XI, for approval thereof in accordance with the aforementioned Section.
- f) The by-laws referred to in Paragraph a) above must contain at least the following provisions:

- (i) A restriction on the free transfer, disposal or encumbrance of the shares or interests representing the percentage corresponding to the Minimum Interest of the Strategic Partner (51%) in favor of third parties until the fifth year following the date for the commencement of the Exploitation, except as provided for in Section X regarding the possibility to encumber the Minimum Interest as from the Contract Execution Date in order to obtain financing. As from the sixth year after the date for the commencement of the Exploitation, the Strategic Partner may transfer, dispose of or encumber such shares or interests in favor of a new Strategic Partner, subject to the prior approval of the GRANTOR and the favorable opinion of the REGULATOR. This new Strategic Partner shall comply with the same requirements and conditions established for the original Strategic Partner.

The aforesaid restriction does not include the transfer of the Minimum Interest of the Strategic Partner to a company of the same economic group, to the extent that the effective control over both of them is exercised by the same parent company, subject to the prior authorization of the GRANTOR and the favorable opinion of the REGULATOR, and provided that the new Strategic Partner meets the same requirements and conditions set forth for the initial Strategic Partner.

- (ii) A restriction on the free transfer, disposal or encumbrance of the shares or interests, other than the Minimum Interest, in favor of the other bidding corporations or the members of the other consortiums that submitted economic proposals in the Tender, until the fifth year following the date for the commencement of the Exploitation, As from the sixth year of the date for the commencement of the Exploitation, the shareholders or interest holders may freely transfer, dispose of or encumber such shares or interests.

The above restriction also applies to the transfer, disposal or encumbrance of the shares or interests in favor of companies which may have a direct or indirect relationship or which form part of an Economic Group, pursuant to the definitions contained in Resolution 090-2005-EF-94.10 issued by the Peruvian Securities and Exchange Commission, or any replacing rules, as the case may be, related to the bidding companies or the members of the consortia who submitted economic bids during the Tender.

- (iii) Any amendment to the by-laws involving a change in the policy on majority votes, classes of shares and proportions to be held by the partners among them, their management bodies, and any capital increase, capital reduction, merger, spin-off, transformation or

liquidation process of the CONCESSIONAIRE, from the Contract Execution Date to the fifth year following the date for the commencement of the Exploitation, shall be approved by a number of shareholders or partners of the CONCESSIONAIRE jointly representing at least two thirds (2/3) of its capital stock, both in the originally called meeting and the adjourned meeting.

The CONCESSIONAIRE must submit to the GRANTOR and the REGULATOR the draft resolution of the Shareholders' Meeting where either of the processes mentioned above would be approved. The GRANTOR may authorize said draft resolution within a total term of thirty (30) Calendar Days, subject to the opinion of the REGULATOR, which is to be issued within the first fifteen (15) Calendar Days following receipt of the draft resolution. If the GRANTOR fails to do so within the stipulated term, such draft resolution shall be deemed to have been rejected, without prejudice to the fact that the request may be reiterated.

As from the sixth year following the date for the commencement of the Exploitation and during the Concession term, the CONCESSIONAIRE shall inform the REGULATOR on any capital increases and reductions, every time one is made.

In no case may the capital reductions affect the minimum capital stock or the Minimum Interest, as provided for in this Section.

The Strategic Partner shall object any motion filed by a shareholder of the CONCESSIONAIRE who proposes a capital increase in respect of which the Strategic Partner is not in the capacity to exercise its preemptive rights and thus be able to maintain at least the Minimum Interest in the CONCESSIONAIRE.

- (iv) The CONCESSIONAIRE is a corporation whose purpose is to engage in the provision of the Services outlined in the Concession Contract for the design, Construction, financing, Conservation and Exploitation of a public infrastructure work called "New Container Terminal – Southern Zone".
- (v) For purposes of its incorporation, operations and performance, the CONCESSIONAIRE shall comply with the Peruvian body of laws, as well as with the Applicable Laws and Provisions.
- (vi) The term of existence of the CONCESSIONAIRE shall be at least thirty-five (35) years.

- g) Deliver the Concession Contract Performance Bond mentioned in Section X.
- 3.4 On the Contract Execution Date, the GRANTOR shall have complied with the following:
- a) Return to the CONCESSIONAIRE the Bid Bond submitted by the Successful Bidder.
 - b) Make out and deliver to the CONCESSIONAIRE listings of all the GRANTOR's Assets that shall be handed over to it upon the Concession Assets Possession Taking, based on which the CONCESSIONAIRE shall prepare the Initial Inventory.

SECTION IV: CONCESSION TERM

- 4.1 The Concession of the New Container Terminal – Southern Zone is granted for a thirty (30) year term, as from the Contract Execution Date.

TERM SUSPENSION

- 4.2 The Concession term may be suspended upon request of any of the parties in the following cases:
- a) Force Majeure, as per Section XVIII.

Any of the Parties may invoke a Concession Term Suspension due to the grounds referred to in this Paragraph, through communication addressed to the REGULATOR within thirty (30) Days following the occurrence of the event subject-matter of the request. The REGULATOR shall issue an opinion through a duly substantiated resolution within a term of thirty (30) Days as from reception of the Suspension request. If the REGULATOR issues no decision, the Suspension request shall be considered rejected. In case the Party requesting Suspension disagrees with the REGULATOR's decision, it may challenge said resolution as foreseen in the Applicable Laws and Provisions.

As long as the REGULATOR does not issue a decision on the Suspension request, the CONCESSIONAIRE shall fulfill its obligations hereunder. Particularly, if the Concession is in the Exploitation stage, the CONCESSIONAIRE shall continue supplying the Services so that Users may use the Port Infrastructure subject-matter of the Concession herein, as long as this is materially possible and does not place the environment, health or safety of the people at an imminent risk.

- b) Agreement between the Parties, derived from circumstances other than that mentioned in the previous Item, in which case it will be necessary to have the prior favorable opinion of the REGULATOR, which must be issued within a term not to exceed fifteen (15) Calendar Days. Said term shall be counted from the date the REGULATOR receives the document containing such agreement, which may be sent by either of the Parties, indistinctly.
- c) All other cases expressly foreseen in this Concession Contract.

The Suspension of the Contract term, due to the aforementioned causes, will entitle the CONCESSIONAIRE to extend said term, for a period that equals that of the Suspension.

TERM EXTENSION FOR SPECIFIC ACTIVITIES

- 4.3 The CONCESSIONAIRE may submit term extension requests to the REGULATOR as foreseen in this Contract to execute specific activities or comply with individual services or obligations, provided that said requests do not necessarily imply an extension of the Concession term. The CONCESSIONAIRE shall submit duly grounded requests to the REGULATOR, who shall issue a decision on the applicability of the extension within thirty (30) Days. In case the extension request is referred to the execution of specific activities related to the Works or its Conservation, the REGULATOR shall request APN a previous approval of technical aspects. Silence must be interpreted as a refusal of the extension request.

SECTION V: POLICY ON ASSETS

POLICY ON ASSETS

- 5.1 This Section establishes the contractual regulation applicable to the Concession Assets.
- 5.2 All the GRANTOR's Assets, including the Concession Area, that the GRANTOR is obliged to hand over to the CONCESSIONAIRE under this Contract, shall be delivered by the GRANTOR free of liens, encumbrances and/or occupants which may render impossible for the CONCESSIONAIRE to fulfill its obligations.

For purposes of a proper Exploitation and Conservation of the Concession Assets during the Concession term, the Concession Area must have at least an independent land access.

- 5.3 During the Concession term, the GRANTOR shall retain ownership of the GRANTOR's Assets.

Notwithstanding this fact, this Concession constitutes sufficient title for the CONCESSIONAIRE to exercise exclusive Concession Assets Exploitation rights and to assert its rights vis-à-vis third parties.

- 5.4 The CONCESSIONAIRE shall have the exclusive Exploitation of the Concession Assets, exclusive Services supply, the design and execution of the Port Infrastructure, and the exercise of any rights needed to comply with its obligations under this Contract and the Applicable Laws and Provisions.
- 5.5 The GRANTOR's Assets shall be kept, during the Concession term, free of liens and encumbrances, free of physical occupation by third parties not authorized by the CONCESSIONAIRE for the purposes of the Concession.

GRANTOR ASSETS POSSESSION TAKING

- 5.6 The GRANTOR and the CONCESSIONAIRE must sign the GRANTOR Assets Handing Over Document, provided that compliance with the provisions of Article 5.2 has been verified, within a term not to exceed ninety (90) Calendar Days following the Contract Execution Date. Said document shall certify that the CONCESSIONAIRE has taken possession of the land comprised within the Concession Area, as well as of the GRANTOR's Assets that will be aimed at performing the Contract, specifying their characteristics, location, state of repair, operation and performance. In the event that the GRANTOR Assets Handing Over Document is not signed within the stipulated term due to causes attributable to the GRANTOR, the provisions of Article 4.2, Paragraph c) shall apply.
- 5.7 The Initial Inventory will form part of the GRANTOR's Assets Handing Over Document, as well as any other element that helps to identify and interpret the handed over object, its condition and state. To that end, new drawings of the Concession boundaries shall be included, as well as photographs and schemes.
- 5.8 The GRANTOR's Assets Handing Over Document shall be signed in four (4) original copies, which shall be delivered to the REGULATOR, the CONCESSIONAIRE, the GRANTOR and APN, respectively.

INVENTORIES

- 5.9 The CONCESSIONAIRE is obliged to prepare and submit to the GRANTOR and the REGULATOR, with a copy to APN, the Concession Assets Inventories. The Contract requires four kinds of inventories: a) Initial Inventory; b) Works Inventory; c) Annual Inventory; d) Final Inventory. The inventories have the consequences expressly outlined in the Contract. Both the GRANTOR and the REGULATOR may raise observations against those inventories.

The inventories shall have at least a brief description of the Concession Assets, their characteristics, location, state of conservation, notes on their functioning or performance and, if applicable, the brand, model and year of manufacture. Interpretative elements such as photographs, drawings, schemes and third party reports may be included.

ASSETS INTENDED FOR THE CONTRACT PERFORMANCE

- 5.10 The GRANTOR's Assets shall only be intended for the Contract performance.
- 5.11 The GRANTOR's Assets that the GRANTOR has shall be delivered on the date of the GRANTOR's Assets Possession Taking at the place and in the state of conservation in which they are.
- 5.12 The CONCESSIONAIRE shall perform activities aiming to preserve, during the Concession term, the state of conservation and nature of the assets intended for the Contract performance, whether they are the GRANTOR's Assets or the CONCESSIONAIRE's Assets. The CONCESSIONAIRE is also obliged to perform routine, periodic and emergency maintenance activities and, in general, all those works required to maintain the operating capacity of said assets and to prevent a negative environmental impact according to the scope defined in the Environmental Impact Study. The CONCESSIONAIRE is bound to perform the necessary and useful improvements required by the aforementioned assets in accordance with the established Service and Productivity Levels. In all these tasks, the CONCESSIONAIRE shall seek to utilize recognized effective technologies as well as to introduce new technologies, in order to satisfy the minimum required Service and Productivity Levels.

To such end, any significant alteration that causes damage to one or more of the environmental components, provoked by the anthropic action or natural phenomena in the direct area of influence defined in the Environmental Impact Study, shall be considered a negative environmental impact.

- 5.13 The main obligation of the CONCESSIONAIRE is to reinstate, at its own cost, the assets intended for the Contract performance that may be obsolete, lost, technologically outdated or whose state of conservation does not enable to meet and maintain the requirements set forth in Exhibits 3 and 4, or to comply with the Standard Services.
- 5.14 The assets intended for the Contract Performance may not be removed outside the Concession Area or transferred separately from the Concession, mortgaged, pledged or subjected to liens of any kind without the prior approval of the GRANTOR and the prior opinion of the REGULATOR. Said approval is to be issued within thirty (30) Calendar Days after it is requested; if no decision is made known within such term, the approval shall be understood to have been rejected.

- 5.15 The GRANTOR's Assets shall be registered with the respective Public Records Office, if this is possible under the regulations of each Public Records Office, in the name of the GRANTOR, within a maximum period of six (6) months from the completion of their construction, acquisition or execution, except for any unjustified delays by the government administration. For these purposes, the GRANTOR expressly authorizes the CONCESSIONAIRE to carry out all the required administrative proceedings and binds itself to provide its collaboration and best efforts when necessary. In this case, the CONCESSIONAIRE shall maintain a limited-duration intangible assets account derived from the right to use the assets assigned in Concession by the GRANTOR, which it shall amortize as stipulated in the fourth paragraph of Article 22 of the TUO.
- 5.16 The CONCESSIONAIRE shall be held liable for the damages, detriments or losses caused to the GRANTOR's Assets from the Concession Assets Possession Taking, acquisition or Construction thereof until the Forfeiture of the Concession or until the delivery to the GRANTOR.
- 5.17 The CONCESSIONAIRE shall hold the GRANTOR harmless from and against any legal, administrative, arbitration or contractual action or defense, or any kind of claim with respect to the GRANTOR's Assets, provided that this situation arises from acts or omissions occurred during the period between the date of the GRANTOR's Assets Handing Over Document and the date of execution of the GRANTOR's Assets Reversal Certificate, unless there is a cause attributable to the GRANTOR.

The CONCESSIONAIRE shall be responsible to the GRANTOR, APN, the REGULATOR and third parties, as the case may be, for the proper administration and use of the Concession Assets and for the risk inherent thereto.

On its part, the GRANTOR acknowledges that any claim, action or act initiated by third parties in connection with the GRANTOR's Assets handed over by the GRANTOR, due to facts or situations arisen prior to the date of the GRANTOR's Assets Handing Over Document shall be the GRANTOR's responsibility, and the CONCESSIONAIRE shall be released from any responsibility

- 5.18 The CONCESSIONAIRE binds itself to effect an insurance policy for the assets, intended for the Contract performance under the terms established in Section XI.
- 5.19 The CONCESSIONAIRE shall be responsible and under the obligation to pay the taxes, rates and contributions related to the Concession Assets, pursuant to the Applicable Laws and Provisions.

TRANSFER OF THE CONCESSIONAIRE'S ASSETS

- 5.20 The CONCESSIONAIRE hereby grants an irrevocable purchase option in favor of the GRANTOR in respect of the CONCESSIONAIRE's Assets; hence, if the option is exercised by the GRANTOR, the ownership rights over said assets shall be automatically transferred in its favor under the terms and conditions established in Articles 5.21 to 5.30 below.
- 5.21 The option may be exercised at any time as from the last year of the Concession and for a term not to exceed thirty (30) Calendar Days following the Contract forfeiture date. In the event of an early Forfeiture of the Concession due to any of the grounds foreseen herein, the option may be exercised for a term not to exceed six (6) months after Contract forfeiture.
- 5.22 The GRANTOR shall be entitled to exercise the option for one or more of the CONCESSIONAIRE's Assets, at its sole discretion and decision.
- 5.23 The exercise of the option shall take effect on the Contract forfeiture date or on the date following the exercise of the option, whichever occurs last. On such date, the CONCESSIONAIRE's Assets shall be compulsorily and automatically transferred to the GRANTOR.
- 5.24 The option shall be exercised in writing by means of a notarized letter addressed to the CONCESSIONAIRE's domicile, pursuant to the rules set out in Articles 20.1 and 20.2 of this Contract.
- 5.25 The price of the asset or assets subject matter of the option shall be obtained by applying the concept of economic depreciation of the asset or assets.

In order to apply this concept of economic depreciation of the asset or assets, the procedure described below shall be followed:

- i) The acquisition value of each asset is converted into monthly installments according to the useful life of the asset, as per the following formula (or its equivalent, the PAYMENT function in Excel):

$$\text{Installment}_{\text{Asset}} = V_{\text{ADQ}} * \left[\frac{r * (1 + r)^{V_{ut}}}{(1 + r)^{V_{ut}} - 1} \right]$$

Where:

Installment_{asset} = Equivalent installment of each asset
 V ADQ = Acquisition Value of the Asset denominated in Dollars

Vut = Useful life of the asset, expressed in months
 r = Weighted average cost of the various capital sources, according to Article 15.6, Item a).

In the event that the GRANTOR considers that the acquisition value of the asset exceeds the market value, it may request the CONCESSIONAIRE to review it. Should they fail to reach a mutual agreement within a term of fifteen (15) Calendar Days, the dispute shall be settled through a technical expert appraisal to be conducted by an expert elected by mutual agreement between said Parties. The decision issued by the expert shall be final and conclusive, and the court costs and attorney's fees derived from the expert appraisal shall be borne by the losing Party.

If the Parties fail to designate the common expert within a term of fifteen (15) Calendar Days as from the date of notice, the dispute shall be considered a technical dispute and shall be settled as provided for in Paragraph a) of Article 16.12.

- ii) The price of each asset is calculated based on the present Value of the months still to be depreciated, according to the following formula (or its equivalent, the VA function in Excel):

$$Price_{asset} = Installment_{asset} * \left[\frac{(1+r)^n - 1}{r * (1+r)^n} \right]$$

Where:

Price_{asset} = Price of each asset
 Installment_{asset} = Equivalent monthly installment of each asset
 r = Weighted average cost of the various capital sources, according to Paragraph a) of Article 15.6.
 n = Number of months not depreciated; it is the difference between the useful life of the asset and the months elapsed from the acquisition of the asset and the Forfeiture of the Concession.

5.26 The transfer of the ownership rights over the assets subject matter of the option in favor of the GRANTOR shall be free of liens or encumbrances.

5.27 The price is to be paid by the GRANTOR within a term not to exceed sixty (60) Calendar Days as from the date the option takes effect. The GRANTOR binds

itself to obtain the authorizations that may be necessary to enable the full and prompt fulfillment of this obligation.

- 5.28 The assets acquired by the GRANTOR through the exercise of the option shall be made available to the GRANTOR on the date the option takes effect. In any case, the CONCESSIONAIRE commits itself to take care of and maintain the assets until they are effectively delivered to the GRANTOR.
- 5.29 The taxes that may be levied on the option or the transfer of the CONCESSIONAIRE's Assets in favor of the GRANTOR shall be on the account and expense of the CONCESSIONAIRE.
- 5.30 The granting of the option in favor of the GRANTOR is carried out under gratuitous title, without prejudice to the obligation to pay the price of the assets subject matter of the option, as provided for in Article 5.25 above.
- 5.31 Without prejudice to the provisions of the foregoing points, the CONCESSIONAIRE is bound to make the CONCESSIONAIRE's Assets available to the GRANTOR for exploitation thereof by the GRANTOR, from the Contract forfeiture date to the date the option takes effect or the term for exercising it expires. In this case, the GRANTOR shall pay the CONCESSIONAIRE a monthly rental equivalent to 0.5% of the selling value of the CONCESSIONAIRE's Assets, as set forth in Article 5.25 hereof.

CONCESSION AREA

- 5.32 The GRANTOR is obliged to make available to the CONCESSIONAIRE the land and water areas corresponding to the Concession Areas, within the terms established in this Contract. These areas shall be subject to the exclusive Exploitation by the CONCESSIONAIRE.

5.33 MODIFICATION OF THE CONCESSION AREA

If from the Technical File of the CONCESSIONAIRE, duly approved by APN, it is inferred that the CONCESSIONAIRE shall require an area smaller than the Concession Area established in Exhibit 1 to the Contract for the execution of the Works and the Exploitation of the New Container Terminal – Southern Zone, such part thereof that is not contemplated in the Technical File shall automatically revert to the GRANTOR. In such case, for all purposes of this Contract, the area foreseen in the Technical File of the CONCESSIONAIRE shall be considered to be the Concession Area, amending Exhibit 1 in such terms.

The CONCESSIONAIRE may request from the GRANTOR the area that reverted to it, as set out in the preceding paragraph, provided that it shall be useful to comply with the purpose hereof and it is available.

For the purposes of the provisions contained in the foregoing paragraph, the CONCESSIONAIRE shall submit to the GRANTOR a request explaining the reasons why the extension of the Concession area is being requested.

The GRANTOR shall have a term not to exceed sixty (60) Calendar Days to evaluate the request submitted by the CONCESSIONAIRE, a term that shall be counted from receipt of the request. If the GRANTOR fails to issue a decision within the stipulated term, the request submitted by the CONCESSIONAIRE shall be deemed to have been rejected. The GRANTOR's decision is not liable to objection.

Once the request is approved, the CONCESSIONAIRE shall consider the procedures outlined in Sections VI, VII and VIII of the Contract, as well as the regime of the Concession Assets, to the extent applicable.

EASEMENTS

5.34 The GRANTOR shall make every effort to establish the easements the CONCESSIONAIRE may require to comply with its obligations hereunder, following request by the CONCESSIONAIRE, as per the procedure and complying with the requirements foreseen in the Applicable Laws and Provisions.

The easements for occupying assets may include the following, among others:

- a. Temporary occupation of indispensable assets for the Design, Construction, Conservation and Exploitation of the New Container Terminal – Southern Zone.
- b. Transit, for the custody, Conservation and repair of the Works, equipment and facilities.

Once the easements are imposed, they shall be considered to be Concession rights.

5.35 Temporary occupation easements gives the owner of the servient estate the right to receive the payment of the indemnities and compensations established in the Applicable Laws and Provisions, during the time necessary to execute the Works. The negotiation and payment of any applicable indemnities as a result of the establishment of such easements shall be the responsibility of the CONCESSIONAIRE.

5.36 The GRANTOR acknowledges the CONCESSIONAIRE's right to avoid or impede any repair or modification attempted to be made by any public or private entity, whether favored or not with an easement, the exercise of which is incompatible

with the Port Infrastructure. The CONCESSIONAIRE may request the GRANTOR to participate for a proper defense of its right.

- 5.37 In the event that an easement is extinguished by fault of the CONCESSIONAIRE and, consequently, a new easement is necessary, it shall be the responsibility of the CONCESSIONAIRE to obtain it on its own account and expense.

If, due to any reason not attributable to the CONCESSIONAIRE, the CONCESSIONAIRE loses its right to an easement already established, the GRANTOR shall help the CONCESSIONAIRE obtain a new easement to replace the previous one.

POSSESSORY ACTIONS

- 5.38 Following execution of the GRANTOR Assets Handing Over Document, the CONCESSIONAIRE is bound to exercise any of the following forms of possessory action:

- a) Out-of-court possessory action, used to repel the force applied against the CONCESSIONAIRE and be able to recover the asset, with no time intervals, if dispossessed, but always refraining from using non-legal recourses not justified by the circumstances.
- b) Judicial possessory action, such as injunctions and other legal actions. If the Concession is subjected to any encumbrance, dispossession, occupation, appropriation, among others, the CONCESSIONAIRE must notify the REGULATOR and the GRANTOR accordingly and make use of the judicial mechanisms and resources that should enable to safeguard the GRANTOR's right over the Concession Assets.

The exercise of the above-described actions by the CONCESSIONAIRE does not release the GRANTOR from any responsibility and, under any of the assumptions described in the preceding paragraph, the GRANTOR must immediately coordinate with the CONCESSIONAIRE the pertinent legal actions to be filed.

DELIVERY OF THE GRANTOR'S ASSETS

- 5.39 Once the Forfeiture of the Concession takes place due to any cause, the CONCESSIONAIRE shall be bound to deliver to the GRANTOR, within the following thirty (30) Days and in a single act, all the GRANTOR's Assets, which must be in good order and repair and in proper conditions to be used and exploited.

- 5.40 During the act of return, the CONCESSIONAIRE and the GRANTOR shall execute the respective GRANTOR Assets Reversal Certificate, which shall

contain the data of the representatives and a description of the Assets being returned, specifying in general or for each one of its components: characteristics, location, state of conservation, annotations regarding their operation or performance and all other elements of interest.

- 5.41 The Final Inventory and any other element contributing to the identification of the object delivered and its state of conservation, shall form part of the GRANTOR Assets Reversal Certificate; drawings, photographs or schemes may be included.
- 5.42 All the assets listed in the Initial Inventory shall be considered as the GRANTOR's Assets, except for those the CONCESSIONAIRE is authorized to tear down or decommission.

REPLACEMENT OF THE ASSETS INTENDED FOR THE CONTRACT PERFORMANCE

- 5.43 In those cases where it is necessary to replace one or more assets intended for the Contract performance, as provided for in Article 5.13, or where it is convenient to replace one or more of said assets for a better provision of the Services, the CONCESSIONAIRE shall notify the REGULATOR of such situations, with a copy to the GRANTOR. Upon expiry of a term of fifteen (15) Calendar Days following receipt of this notice, the silence of the REGULATOR shall be considered as its irrevocable consent to the replacement.

SECTION VI: PORT INFRASTRUCTURE WORKS

APPROVAL OF THE TECHNICAL FILE

- 6.1 In order to supervise the preparation of the Technical File by the CONCESSIONAIRE, APN shall designate a Design Supervisor within a term not to exceed three (3) months following the Contract Execution Date. Said designation must be communicated to the CONCESSIONAIRE within a term of no more than five (5) Calendar Days after such designation.

Any delay in said designation shall give rise to the Suspension of the term, pursuant to Article 4.2, Paragraph c), upon request of the CONCESSIONAIRE, for a period equal to the delay.

- 6.2 Within ten (10) months as from the notice of the designation of the Design Supervisor, the CONCESSIONAIRE must submit the Technical File to APN for approval, pursuant to Exhibit 6 and its Technical Proposal. The Technical File must contain at least the documents established in said Exhibit. Furthermore, the Conservation Plan forms an integral part of the Technical File, in accordance with the conditions set forth in Articles 7.3 and 7.4.

The Technical File may be submitted by stages, pursuant to its Technical Proposal. To that effect, each stage must be clearly defined so that the necessary and sufficient information is available to facilitate the approval of each stage of the Technical File and the Construction may be eventually started, as provided for in Article 6.18. In addition, the conditions set forth in Exhibit 6 shall be complied with to the extent applicable. Without prejudice to the foregoing, the entire Technical File shall be submitted within the 10-month term mentioned in the preceding paragraph for integral approval thereof.

For purposes of the provisions set forth in the preceding paragraph, the Technical File stages must comprise at least the following Works:

1. Demolition of Dock 9
2. Demolition and preliminary works ashore
3. Pavements, facilities and edifications ashore
4. Dredging works (New Container Terminal – Southern Zone)
5. Backfilling of the storage area
6. Partial construction of the Dock: first Berth
7. Equipment for the operation of the first Berth
8. MCI Works (Dredging of the access channel to El Callao Port Terminal, dredging of the maneuvering area and breakwater repair).
9. Such other works as the CONCESSIONAIRE may deem necessary for the operation of the first Berth, subject to specific approval.

The CONCESSIONAIRE shall assume the risk involved in the execution of the Works by stages and the obligation to correct any anomaly or consequence that may affect the final approval of the Technical File and the term of the Works.

The Technical File shall be prepared in compliance with the national regulations and standards and, on a supplementary basis, by the international regulations and standards.

- 6.3 APN shall have a term not to exceed thirty (30) Calendar Days following receipt of the Technical File or the corresponding stage thereof, as provided for in Article 6.2, to make the relevant observations or approve it. Should APN fail to issue a decision within the stipulated term, the Technical File or the respective stage thereof, if applicable, shall be understood to have been approved.
- 6.4 For purposes of correcting the observations raised by APN, the CONCESSIONAIRE shall have a maximum term of thirty (30) Calendar Days following receipt of such observations.

For purposes of evaluating the corrections made by the CONCESSIONAIRE, APN shall have a term of thirty (30) Calendar Days following receipt thereof. Should APN fail to issue an opinion within the stipulated term, the submitted Technical

File or the respective part thereof, if applicable, shall be understood to have been approved.

- 6.5 Under the assumptions foreseen in Articles 6.3 and 6.4 above, should the CONCESSIONAIRE and APN fail to reach an agreement on the correction of the observations made to the Technical File, either of the aforementioned Parties may request that the dispute be settled through a technical expert appraisal to be conducted by an expert elected by mutual agreement between the Parties. The decision issued by the expert shall be final and conclusive, and the court costs and attorney's fees derived from the expert appraisal shall be borne by the losing Party.

If the Parties fail to designate the common expert within a term of fifteen (15) Calendar Days as from the date of notice, the dispute shall be considered a technical dispute and shall be settled as provided for in Paragraph a) of Article 16.12.

- 6.6 Once the Technical File has been approved, it shall be understood that the CONCESSIONAIRE has obtained the pertinent authorization from APN for the execution of the Works, without prejudice to the other licenses, permits and authorizations that may be required by the CONCESSIONAIRE, pursuant to the Applicable Laws and Provisions. The GRANTOR shall make every effort for the CONCESSIONAIRE to secure said licenses, permits and/or authorizations, according to its competence.

DESIGN SUPERVISION

- 6.7 In preparing the Technical File, the CONCESSIONAIRE must furnish the Design Supervisor designated by APN with all the requested information and facilitate access by him to the activities and studies carried out by the CONCESSIONAIRE for that purpose.

The Design Supervisor may request the CONCESSIONAIRE to provide additional information relating to the documents required by this Section. Said information shall be presented within a term that is in accordance with the type of information requested, which shall not exceed ten (10) Days as from the date on which such supervisor makes the relevant request in writing.

The Design Supervisor shall not be rendering, either directly or indirectly, any type of services to Empresa Nacional de Puertos S.A. and shall have not rendered, either directly or indirectly, any type of services to the CONCESSIONAIRE, its shareholders or Related Companies over the last two (2) years, whether in Peru or abroad, unless otherwise agreed by the Parties. Furthermore, the Design Supervisor must keep confidential all the information to which he has access for the performance of his duties and any other information or communication relating to the Technical File.

DESCRIPTION OF THE WORKS

- 6.8 The CONCESSIONAIRE commits itself to execute the Works corresponding to the New Container Terminal – Southern Zone, in accordance with the Technical File approved by APN, without prejudice to the Conservation activities referred to in Section VII.
- 6.9 The provisions contained in this Section shall prevail over any other contractual provision contrary thereto.

WORK SUPERVISION

- 6.10 It is the responsibility of the REGULATOR, either directly or through the Work Supervisor designated by it, to carry out the supervision actions within its area of competence during the development of the Works. If applicable, the designation of the Work Supervisor shall be notified in writing to the CONCESSIONAIRE within a term not to exceed five (5) Calendar Days as from the aforesaid designation.

The costs incurred by the REGULATOR as a result of the supervision activities for the Works corresponding to the New Container Terminal – Southern Zone, and the MCI Works, shall be borne by the GRANTOR.

- 6.11 The CONCESSIONAIRE shall give the REGULATOR or the Work Supervisor free access to the Concession Area to perform its duties without any problems.

CONSTRUCTION WORKBOOK

- 6.12 As from the commencement of the Construction, the CONCESSIONAIRE binds itself to open and keep a Construction Workbook. The most important facts occurred during the Construction of the Works shall be recorded therein, including among others: list of the sources of materials being used; list of suppliers and subcontractors; copy of the results of the assays or commissioning tests; copy of communications between the CONCESSIONAIRE and the REGULATOR; copy of the Progress Reports; copy of monthly bills of quantities; copy of document evidencing compliance with the work progress schedule; list of events that affected compliance with the work progress schedule; and any other useful information to document the Construction process. Finally, the conditions in which the Work is commissioned shall be recorded.

- 6.13 The Construction Workbook shall be kept as original. In addition, up to three (3) sets of copies shall be kept, in the event that a Work Supervisor has been designated, and shall be distributed as established in the Article below. The pages must be authenticated by a notary and sequentially numbered, with the possibility of adopting the mechanized system of loose sheets.

6.14 The GRANTOR, the REGULATOR and the Work Supervisor, if applicable, shall have free access to the Construction Workbook during the Construction. Once the Exploitation is started, the original shall be delivered to the REGULATOR within a term of thirty (30) Calendar Days as from the commencement of the Exploitation, with a set of copies remaining under the possession of the CONCESSIONAIRE, another under the possession of the GRANTOR and another under the possession of the Work Supervisor, if applicable.

WORKS EXECUTION SCHEDULE AND TERM

6.15 The CONCESSIONAIRE is required to submit a Works Execution Schedule that shall include the execution time of all the Sub-items related to the Works, until their completion. The Works Execution Schedule shall clearly define the activities of the Critical Path, i.e., those activities which, if their execution is delayed, shall defer the maximum term for the completion of the Works stated in Article 6.17, and ensure compliance with the maximum terms for each activity.

6.16 The Works Execution Schedule shall respect the maximum term established herein. Furthermore, it shall be presented in magnetic means and physically, as an integral part of the Technical File.

6.17 The maximum term to complete the Works detailed in Exhibit 4 is thirty-six (36) months as from commencement of the Construction, unless the Concession term is suspended, as set forth in Article 4.12, or an extension of the term is approved, as provided for in Articles 6.19, 6.20 and 6.21, subject to the provisions of said Exhibit.

In the event that the Technical File of the CONCESSIONAIRE contemplates additional Works to those stated in Exhibit 4, the term for the execution of such Works shall be established by the CONCESSIONAIRE in the Works Execution Schedule and the provisions of Articles 6.22 to 6.29 shall be considered upon commencement of the Exploitation.

CONSTRUCTION START-UP

6.18 The Construction of the Works shall commence no later than thirty (30) Calendar Days as from the fulfillment of any and all of the following conditions:

- a) The Concession Area has been delivered under the conditions established in Section V and Exhibit 1;
- b) APN has approved the Technical File or a part thereof, pursuant to the provisions set forth in Section VI; and

- c) The GRANTOR has approved the Environmental Impact Study indicated in Section XII.

WORKS EXECUTION TERM EXTENSION

6.19 The CONCESSIONAIRE may request the REGULATOR to extend or postpone the total term for the execution of the Works, which shall require the prior and duly substantiated opinion of the REGULATOR or Work Supervisor, if applicable. When the CONCESSIONAIRE requests such extension due to causes attributable to the CONCESSIONAIRE, the penalties accrued from the date of non-compliance with the execution schedule until the date the activities in respect of which the term extension was requested are completed shall apply. In the event that the non-compliance with the term by the CONCESSIONAIRE causes an accumulated delay of more than six (6) months of the total term, besides the application of the respective penalties, the Contract may be terminated, unless the REGULATOR issues an opinion to the contrary. The REGULATOR may establish the new parameters.

6.20 The requests for extension of the term referred to in the preceding Article, shall be subject to the following procedure:

The CONCESSIONAIRE shall record in the Construction Workbook the circumstances that, in its criteria, deserve an extension of the term for the total completion of the Works. Said request must be duly substantiated, including the new proposed Works Execution Schedule.

The REGULATOR shall issue a decision on the aforesaid extension within a term not to exceed thirty (30) Days following receipt of the request, subject to the prior report of the Work Supervisor, if applicable. If the REGULATOR issues no decision within the above-referred term, the request shall be considered denied.

Once the extension of the term is approved, the CONCESSIONAIRE shall present to the REGULATOR or the Work Supervisor, if applicable, an updated Works Execution Schedule, within a term of no more than ten (10) Days after approval of said extension.

6.21 In the event that the commencement or progress of the Works is delayed due to a fact attributable to the GRANTOR, the CONCESSIONAIRE, upon its request, shall be entitled to the Suspension of the term, as set forth in Article 4.2, Paragraph c), for a term equal to the delay.

APPROVAL OF WORKS

6.20 As the Works are completed, the CONCESSIONAIRE shall request the GRANTOR, with a copy to the REGULATOR, to receive the Works, enclosing the

respective report wherein it shall establish the completion of the works pursuant to the Technical File approved.

The Works shall meet all the technical standards and parameters with respect to the design and construction indicated in Exhibit 4. Furthermore, they must comply with the Applicable Laws and Provisions and with the internationally accepted port practices and operations.

The procedure established in Articles 6.22 to 6.28 shall also apply to the Works resulting from the partial approvals of the Technical File.

- 6.23 Within a term of forty-five (45) Days following receipt of the Works, the GRANTOR shall determine the acceptance or rejection thereof, with the prior approval of the REGULATOR. Through Works Reception Certificates, the GRANTOR shall certify that the execution of the Works is in accordance with the provisions set forth in the Contract and shall be understood that the authorization for the commencement of the Exploitation has been given, pursuant to the provisions of Article 8.10. If the GRANTOR does not issue a decision within the term established, it shall be understood that the Works have been accepted.

The GRANTOR shall approve the Works with observations in the event that defects are found which rectification does not represent, according to the report submitted by the REGULATOR or the Work Supervisor, more than one percent (1%) of the Work Budget of the Technical File. In that case, the CONCESSIONAIRE shall have thirty (30) Calendar Days extendable up to a maximum of thirty (30) additional Calendar Days, to carry out the rectification of the observations. Once the observations have been rectified, the authorization for the commencement of the Exploitation shall be understood to have been given, as provided for in Article 8.10.

- 6.24 In the event that the Works are rejected by the GRANTOR and without prejudice to the penalties described in Section XIX, the CONCESSIONAIRE shall clear the objections or rectify the irregularities detected, in such a manner that it may lead to the commencement of the Exploitation within the new term fixed by the REGULATOR. This term shall in no case exceed sixty (60) Calendar Days.

- 6.25 In the event that the new term for the respective rectification expires, and the Works have not yet been accepted for reasons attributable to the CONCESSIONAIRE, the GRANTOR may terminate the Contract, subject to the prior opinion of the REGULATOR pursuant to the provisions set forth in Section XV, and shall demand the relevant compensation for damages, without prejudice to the penalties that may have been charged or accrued previously, pursuant to the provisions set forth in this Section.

- 6.26 If the CONCESSIONAIRE does not agree with the decision issued by the GRANTOR with respect to the observations raised, as provided for in Articles 6.23 and 6.24, it may request that the dispute be settled by means of a technical expert appraisal carried out by an expert selected by mutual consent between the GRANTOR and the CONCESSIONAIRE. The Parties must support their position within fifteen (15) Days after such designation.

In the event that fifteen (15) Days have elapsed from the date of the request, and the Parties have not designated a common expert, the dispute shall be considered a technical dispute, and shall be settled pursuant to the procedure set forth in Paragraph a) of Article 16.12.

- 6.27 The decision of the expert shall be issued within a term not to exceed thirty (30) Days as from the date on which both Parties supported their position. It shall be final and may not be challenged. The costs of the appraisal shall be paid in equal parts.
- 6.28 The term indicated for the rectification shall be suspended until the expert issues his decision.
- 6.29 For purposes of the execution and approval of the MCI Works, the provisions contained in the preceding Articles shall apply.

INFORMATION

- 6.30 It is the obligation of the CONCESSIONAIRE to provide the REGULATOR, either directly or through the Work Supervisor, as the case may be, with reports on the development of the execution of the Works. Notwithstanding the obligation to present other reports mentioned in the Contract, the CONCESSIONAIRE shall submit to the REGULATOR a monthly progress report within the first five (5) Days of the month following the month in which the period of the report ends

The cost of preparing the reports shall be borne by the CONCESSIONAIRE.

OFFICES FOR PUBLIC ENTITIES

- 6.31 The CONCESSIONAIRE shall provide to the public entities referred to in Exhibit 8, free of charge, unfurnished offices fitted with the necessary facilities and services for the development of the activities inherent to said entities.
- 6.31 Every public entity shall pay the CONCESSIONAIRE expenses, such as electricity, water, telephone, access to Internet and private networks, which may have been generated for the use of these areas. The CONCESSIONAIRE shall not earn any profit for these concepts.

If necessary, due to their functions, operations, information security policy, privacy in their communications or other aspects stated in the Applicable Laws

and Provisions regarding the confidentiality of their own or third party information, the public entities referred to in Exhibit 8 may implement their own private information technology, telecommunication, security, energy and other networks, at their own cost.

- 6.33 The CONCESSIONAIRE may relocate or reassign said offices, provided that this is due to the operating needs of the New Container Terminal – Southern Zone or that it generates higher profitability for it and does not affect the activities of the entities, previously coordinating with the respective entity. Furthermore, said entities may request the CONCESSIONAIRE to relocate or reassign their offices due to duly supported reasons and provided that the operation of the New Container Terminal – Southern Zone is not affected.

CONSTRUCTION ECONOMIC SYSTEM

- 6.34 The CONCESSIONAIRE shall prove to the GRANTOR, thirty (30) Days before commencement of the Construction, that it has the necessary funds for the fulfillment of the Works Execution Schedule. This certification may be made through a financing plan showing the projected capital contributions and/or the financial closure of activities with the Permitted Creditors. In the latter case, the CONCESSIONAIRE must present a copy of the financing contracts, guarantees, trusts and, in general, any contract text relevant to the agreements reached by the CONCESSIONAIRE and the Permitted Creditors.
- 6.35 In the event that the CONCESSIONAIRE evidences that it has only a part of the funds referred to in the preceding Article, it shall be obliged to submit the financing agreement entered into with third parties for the difference, within a period not to exceed six (6) months from commencement of the Works.
- 6.36 In the event that the CONCESSIONAIRE fails to comply with the provisions set forth in Articles 6.34 and 6.35, the GRANTOR, subject to a prior report issued by the REGULATOR, may declare the termination of the Contract, in accordance with the procedure detailed in Section XV.

SECTION VII: CONSERVATION OF THE CONCESSION

- 7.1 The CONCESSIONAIRE binds itself to undertake the Conservation of the assets intended for the Contract Performance until the date of Forfeiture of the Concession.
- 7.2 The CONCESSIONAIRE shall carry out Conservation works on the Port Infrastructure, as may be necessary to reach and maintain the Service and Productivity Levels established in Exhibit 3 to the Contract.

CONSERVATION PLAN

- 7.3 The obligation undertaken by the CONCESSIONAIRE entails the responsibility to define the techniques, procedures and timing of the Conservation works. To that effect, the CONCESSIONAIRE shall submit to APN a Conservation Plan as an integral part of the Technical File for approval.
- 7.4 Said plan shall include the description and justification of the policies to be employed, the timetable of the activities to be carried out, the measurement of indexes on which the Plan is based and the general technical justification; all pursuant to the provisions set forth in Exhibit 7 to the Contract. Furthermore, the activities scheduled in said Plan shall comprise at least those stated in Appendix 1 to such exhibit. The Conservation works to be carried out by the CONCESSIONAIRE shall be contained in a Conservation Plan which activities are to be updated on a permanent basis to ensure it is in force and to maintain the Service and Productivity Levels required in Exhibit 3. The updates of the Conservation Plan must be approved by the REGULATOR.

EMERGENCY MAINTENANCE

- 7.5 In the event of a situation that requires Emergency Maintenance, the CONCESSIONAIRE shall take the necessary actions, in the shortest possible time, to recover the operation level of the New Container Terminal – Southern Zone, at its cost. The CONCESSIONAIRE, by mutual agreement with the GRANTOR and with the opinion of the REGULATOR, shall determine the term required so that the Port Infrastructure that may have been affected by such a situation may recover the Service and Productivity Levels established in Exhibit 3 to the Contract.

CONSERVATION SUPERVISION

- 7.6 It is the responsibility of the REGULATOR, either directly or through the Conservation Supervisor designated by it, to carry out the technical and operating actions within its competence to supervise the development of the Conservation works detailed in this Section of the Contract.
- 7.7 The CONCESSIONAIRE shall give the REGULATOR free access to the Concession Area to carry out its work without obstacles and with the accuracy required.

INFORMATION

- 7.8 It is the obligation of the CONCESSIONAIRE to provide the REGULATOR with half-yearly reports on the development of the Conservation of the Concession, pursuant to the terms and conditions determined by the REGULATOR, taking into account that it may only request reasonable information exclusively related

to its supervision work. Said reports must be submitted within the first five (5) Days of the month following that in which the period of the report ends.

- 7.9 The REGULATOR shall undertake the control and verification of compliance with the Conservation Plan and shall take the necessary actions in the event that such facts may affect the quality of the services or the useful life of the Concession Assets.

The cost of preparing the reports shall be borne by the CONCESSIONAIRE.

SECTION VIII: CONCESSION EXPLOITATION

CONCESSIONAIRE'S RIGHTS AND DUTIES

- 8.1 Exploitation of the New Container Terminal – Southern Zone by the CONCESSIONAIRE is a right to the extent that it is the mechanism through which the CONCESSIONAIRE recovers its investment in the Works and is a duty to the extent that the CONCESSIONAIRE is obliged to keep said Port Infrastructure operational and supply services to Users within the standards specified in the Technical File and Contract Exhibits.

The CONCESSIONAIRE is entitled to cause Services to be organized within the New Container Terminal – Southern Zone and to adopt such decisions as it may deem most convenient for its proper operation and functioning, respecting the terms and conditions hereof and the Applicable Laws and Provisions. This right comprises the CONCESSIONAIRE's freedom to conduct and manage the business, within the limits set forth in this Contract and in the Applicable Laws and Provisions.

It is the CONCESSIONAIRE's duty, within the Contract limits, to answer for the acts or omissions by the personnel in charge of the operation at the New Container Terminal – Southern Zone or the contractors the CONCESSIONAIRE decides to hire.

SERVICE ORGANIZATION

- 8.2 The CONCESSIONAIRE must design and manage the Services it will provide the Users of the New Container Terminal – Southern Zone, as per the parameters set forth to that effect in the Contract and the Technical File.

EXPLOITATION SUPERVISION

- 8.3 The REGULATOR shall carry out the inspection actions under its jurisdiction to develop the Concession Exploitation works included in this Section of the Contract.

The REGULATOR shall verify compliance with the CONCESSIONAIRE's obligations of supplying the services and observing the quality. Likewise, it shall verify that the supply of Services to Users occurs always within the limits set in Exhibit 3 to the Contract.

- 8.4 To that effect, besides being obliged to provide the necessary cooperation for supervising the Exploitation, the CONCESSIONAIRE is obliged to provide information pursuant to Article 8.5.

INFORMATION

- 8.5 The CONCESSIONAIRE, at its own expense, shall submit the REGULATOR, within the terms established by it, reports concerning the development of the Concession Exploitation, under the terms and conditions set forth by the REGULATOR.

Notwithstanding the reports that the REGULATOR may request as per the Supervision Regulations, approved by Steering Council's Resolution 036-2004-CD-OSITRAN or any regulation replacing it, the CONCESSIONAIRE shall submit to the REGULATOR the documents and information that may be requested.

USER'S RIGHTS AND CLAIMS

- 8.6 The Users of the New Container Terminal – Southern Zone shall enjoy the following rights:

- (i) Have access to all the Services of the Concession, for which the CONCESSIONAIRE shall render them on an ongoing basis and regulate them respecting the principles established in Article 14.3 of the LSPN;
- (ii) Be duly informed about the Standard Rate Index, the Price and the scope of the Services that the CONCESSIONAIRE shall provide, pursuant to this Contract and the provisions issued by the REGULATOR;
- (iii) Receive the Services in the manner, terms and conditions established in the Contract and its Exhibits; and
- (iv) All other rights provided for in the Applicable Laws and Provisions and others that may be established herein.

- 8.7 The CONCESSIONAIRE shall establish a system for the handling of claims, in accordance with the provisions established by the REGULATOR to this effect.

- 8.8 Once a claim has been file, the CONCESSIONAIRE shall issue an opinion within such terms and pursuant to such mechanisms and procedures as established by the REGULATOR for the handling of the claims filed by the interested parties.

In the event that the CONCESSIONAIRE and the Users fail to solve the conflict arisen, it shall be settled by the REGULATOR pursuant to the effective legislation on this matter.

INTERNAL REGULATIONS

8.9 The CONCESSIONAIRE shall inform the REGULATOR about the draft Rate Rules within a term not to exceed ninety (90) Calendar Days from the Contract Execution Date, same which must comply with the Regulatory Provisions. Furthermore, the CONCESSIONAIRE shall submit the following documents within ninety (90) Calendar Days before commencement of the Exploitation for their approval by APN:

- a) Operating regulations
- b) Procedures for quality supervision and control
- c) Port protection and safety regulations
- d) Practices for the prevention of accidents
- e) Environmental protection regulations

The Operating Regulations shall be aimed at establishing the commercial and operating policies of the CONCESSIONAIRE with respect to the Users. Particularly, said Regulations shall define the parameters under which the CONCESSIONAIRE shall render the regular service of reservation of fore and aft mooring spaces for Ships, respecting the principles outlined in Article 2.11 hereof. In this regard, any practice which is discriminatory or which implies an abuse of a dominant position and any other conduct which constitutes an unfair competition are expressly prohibited.

The procedure for the approval of the aforementioned documents by APN shall adhere to the provisions on the subject, and the provisions that may have been issued by APN on the subject shall apply during the process of approval of these documents. In order to approve the above-listed documents, APN shall have sixty (60) Calendar Days following receipt thereof. If APN issues no decision within such term, they shall be deemed approved.

COMMENCEMENT OF THE EXPLOITATION

8.10 The date for the commencement of the Exploitation shall be calculated as from the date the GRANTOR expresses its agreement with the Works, which may apply either to parts of the Work or to the entirety of it, as established in Article 6.22.

In order to commence the Exploitation, the CONCESSIONAIRE must previously obtain the approval of the Works corresponding to at least one Berth and the supplementary Works allowing for its Exploitation, complying with the technical parameters outlined in Exhibit 4 and guaranteeing the service and productivity

levels stated in Exhibit 3. The GRANTOR must place on record in the respective Works Reception Certificate that the received Works may be exploited by the CONCESSIONAIRE.

The provisions set forth in this Section shall prevail over any contractual provision that is contrary to the provisions established herein.

- 8.11 The Exploitation may be only started if the CONCESSIONAIRE maintains in full force and effect the Concession Contract Performance Bond and the insurance policies required by the Contract.

SCOPE OF THE SERVICE

STANDARD SERVICE

- 8.12 They are the services to be compulsorily provided, during the Concession term, by the CONCESSIONAIRE to all Users that request such services, and include, in the case of loading, the services rendered from the time a container enters the Terminal until the Ship onto which the container is loaded is unmoored to set sail. In the case of unloading, these services range from the mooring of the Ship until the container is removed by the User. In both cases, they include the permanence of the container at the Terminal for up to forty-eight (48) hours, free of charge, as well as any administrative, operating or other expenses derived from the rendering of the Standard Service.

The Standard Services are divided into:

- a. Ship Services
- b. Cargo Services

The payment for the above-referred Standard Services shall be the only consideration that the Users are obliged to credit to the CONCESSIONAIRE on that account. The CONCESSIONAIRE may not condition the provision of the Standard Service to the acceptance by the User of any other service or additional payment.

a. SHIP SERVICES:

They comprise the use of the Berth at the Terminal. The Rate for this concept is applied by meter of the Ship Length and by Hour. It is calculated by the total time that the Ship stays moored to the Dock, as from the hour in which the first warp passes during the Docking operation till the hour in which the last warp leaves during the Undocking operation. The Rate includes Vessel Mooring and Unmooring services.

b. CARGO SERVICES:

They comprise the unloading and/or loading of the container, including the use of the Dock gantry crane and the use of the Terminal infrastructure to allow the merchandise transfer operation from the side of the Ship to the storage area of the Terminal or vice versa in the case of loading. The Rate for this item shall be applied per container and includes the container traction and handling service as well as the loading or unloading of the container to the transportation means designated by the shipper or the Consignee, as the case may be, and the weighing service.

The containers may remain stored up to forty-eight (48) hours at the Terminal, at the free disposal of the User. Upon expiry of such term, the CONCESSIONAIRE may charge an amount of money for the warehousing service, in pursuance of the provisions contained in Article 8.13.

The Users may not request the CONCESSIONAIRE to provide one or more of the services making up the Standard Services separately or partially. Nevertheless, the CONCESSIONAIRE may satisfy the Users' request in this regard, in which case, it shall be considered a Special Service.

The CONCESSIONAIRE may offer rate discounts and promotions to the Users, as stipulated in the Regulations on Rates issued by OSITRAN and in Article 2.11 hereof.

SPECIAL SERVICES

8.13 Without prejudice to the aforementioned Standard Services, the CONCESSIONAIRE is entitled to additionally provide Special Services to all the Users upon their request. For the Special Services provided, the CONCESSIONAIRE shall have the right to charge a Price.

SERVICE AND PRODUCTIVITY LEVELS

8.14 The CONCESSIONAIRE shall comply with at least the Service and Productivity Levels outlined in Exhibit 3 for the provision of the Standard Services.

ECONOMIC SYSTEM: RATES AND PRICE

8.15 For the provision of the Standard Services, the CONCESSIONAIRE shall be entitled to charge the Rates contained in Exhibit 5 hereto. Likewise, for the Special Services rendered to the Users upon their request, the CONCESSIONAIRE shall be entitled to charge the Price.

The CONCESSIONAIRE undertakes to inform the Users, through its web page or another means, on the regulations on Rates, Prices and applicable rules for the

activities and Services that it may establish, without prejudice to the applicable Regulatory Provisions.

- 8.16 As from the fifth year following commencement of the Exploitation, the REGULATOR shall make the first review of the Rates for the Standard Services to the Ship and cargo, applying the same regulatory mechanism known as "RPI – X" (inflation less productivity factor).

Where:

- RPI is the average annual variation of the consumer price index of the United States of America.
- X is the average annual variation of the productivity factor. X shall be calculated by the REGULATOR and reviewed every five (5) years.

The rate reviews detailed below shall be carried out every five (5) years.

In order to contribute to increasing the predictability of the regulation on the Concessionaire it has been established that during the Concession term, for calculating X in the specific case of the stock of net fixed assets, the value resulting from adding the following items shall be used:

- The annuity of the value of the referential investment established in the Tender Documents, calculated at the regulatory discount rate to be set by the REGULATOR. In other words, the effects deriving from the initial investment made by the Concessionaire in the construction and equipment shall not be considered.
- The net additional investments of its depreciation, made as from the commissioning of the second berth.

Additionally, each year, after the first review, the corresponding rate adjustment shall be carried out based upon the RPI of the last twelve (12) months and the productivity factor (X) estimated by the REGULATOR for the aforesaid five-year period.

The complementary rules and procedures applicable to the rate review shall be regulated by the Regulations on Rates issued by OSITRAN.

COMPENSATION

- 8.17 The CONCESSIONAIRE shall pay the GRANTOR, through the REGULATOR, a Compensation in consideration for the right that has been granted to it to exploit, on an exclusive basis, the New Container Terminal – Southern Zone. The Compensation amounts to:

Three percent (3%) of the net invoicing (excluding VAT) from the date of commencement of the Exploitation to the expiry date of the Concession.

The Compensation shall be paid on a monthly basis. The CONCESSIONAIRE shall pay the Compensation within the first seven (7) Calendar Days of the month following the month subject matter of the payment.

Within fifteen (15) Calendar Days following its reception, the REGULATOR shall transfer the respective percentages to the entities referred to in the Third Supplementary Provision of Law 27783 and the Fifteenth Temporary and Final Provision of the LSPN, which shall be deducted from the Compensation.

ECONOMIC AND FINANCIAL BALANCE

8.18 The Parties hereby undertake to maintain, as from the Contract Execution Date and throughout the contract term, the economic and financial balance of the Contract, to which effect, it is indicated that it has a balanced economic and financial status in terms of rights, responsibility and risks assigned to the Parties.

8.19 This Contract stipulates a mechanism to restore the economic and financial balance, to which the CONCESSIONAIRE and the GRANTOR will be entitled in the event that the Concession is affected exclusively and expressly by (i) changes in the Applicable Laws and Provisions, and (ii) actions taken by the government, to the extent that any of them is exclusively related to economic and financial aspects, regarding:

- a) The investment, ownership or operation of the New Container Terminal – Southern Zone; or
- b) This Contract, with the exception of the provisions related to the Standard Rate Index.

and, if the annual gross income of the CONCESSIONAIRE were to vary by five percent (5%) or more in the same year, or accumulatively over a maximum period of four (4) consecutive years, with respect to the average income of the two (2) immediately previous years following the commencement of the Exploitation, or, alternatively, the annual costs and/or expenses of the CONCESSIONAIRE were to vary by five percent (5%) or more in the in the same year, or accumulatively over a maximum period of four (4) consecutive years, with respect to the average costs and/or expenses of the two (2) immediately previous years following the commencement of the Exploitation, or the compound effect of the variation of the annual gross income of the CONCESSIONAIRE and of the variation in the annual costs and/or expenses of the CONCESSIONAIRE were to produce a net result, with a variation equal to or greater than any of the two (2) aforementioned alternatives, will be construed that the economic and financial balance of this Contract has been significantly

affected. If the above-referred period of two (2) years following the commencement of the Exploitation has not elapsed yet, the monthly average of the period elapsed from the commencement of the Exploitation.

In such a case, the affected Party may forward a written proposal to the REGULATOR, with the necessary supporting documents, solutions and procedures to be followed to restore the economic and financial balance.

Upon receipt, by the REGULATOR, of a request for amendment, from either of the Parties, with the corresponding justification, the REGULATOR shall issue its technical opinion, within a period of forty-five (45) Days following receipt thereof.

The Parties undertake to make every effort to reach an agreement on the amendments that will facilitate the restoration of the economic and financial balance within a period of ninety (90) Days.

Any discrepancy regarding the existence of a disruption in the economic and financial balance shall be resolved pursuant to the mechanisms for the settlement of disputes regulated in Section XVI of this Contract. In the event of any discrepancy regarding the proposed measure, three independent expert appraisers, appointed in the same way and manner as the arbitrators in Section XVI herein, will determine the dispute. The remaining provisions of this article, to the extent pertinent, shall continue to have full force and effect, unless the proposed solutions refer to the amendment of the tariff system in force, in which case the request shall be settled by the REGULATOR, in accordance with the procedure to be established by its Steering Council, since the regulation of the rate system is a legal function of said institution.

The provisions set forth in this article shall not be deemed to apply to changes produced as a result of provisions issued by the REGULATOR establishing penalties or sanctions contemplated in the Contract or resulting from acts, attributable facts or the performance of the CONCESSIONAIRE.

TAX SYSTEM GOVERNING THE CONCESSION

8.20 The CONCESSIONAIRE shall be subject to the national, regional and municipal tax legislation that may be applicable, and must comply with all the tax obligations related to its activities. The CONCESSIONAIRE shall be obliged, in the terms set forth in the Applicable Laws and Provisions, to pay all the taxes, contributions and rates, applicable, among others, to the assets delivered by the GRANTOR or those that are built or incorporated in the Concession, whether such taxes are administered by the National, Regional or Municipal Government.

Any tax variation, including the provisions of the Income Tax System, produced after the Contract Execution Date, the impossibility of accessing and/or exercising the system for the Anticipated Recovery of the Value Added Tax (IGV), for reasons not imputable to the CONCESSIONAIRE, as well as any modification in the tax, customs aliquots or social charges that may be transferred to the end-consumer, shall be taken into consideration for the purposes of the provisions contained in Article 8.19 – Economic-Financial Balance; in which case, if relevant and according to the Applicable Laws and Provisions, a compensation of said variations must be established or as a result of the impossibility of accessing and/or exercising the referred system.

- 8.21 The CONCESSIONAIRE will be entitled to enter into a legal stability agreement, with the Peruvian State, which according to the applicable law is considered a legal agreement, pursuant to the provisions of Legislative Decrees 662, 757 and the Consolidated Text thereof, prior fulfillment of the conditions and requirements established in said laws.

Furthermore, the CONCESSIONAIRE will be entitled to request the Anticipated Recovery of the corresponding Value Added Tax (IGV), prior fulfillment of the terms and conditions set forth in the Applicable Laws and Provisions.

Similarly, and if requested by the CONCESSIONAIRE, the GRANTOR shall enter into an investment contract and the applicable legal stability agreements to the investment, provided the CONCESSIONAIRE has fulfilled the terms and conditions established in the Applicable Laws and Provisions.

SECTION IX: ADDITIONAL COMPLEMENTARY INVESTMENT

- 9.1 The amount of the Additional Complementary Investment mentioned in Article 1.18.58.b of the Concession Contract must be transferred by the CONCESSIONAIRE, under possession in trust, to a trust estate created exclusively to administer the Additional Complementary Investment, so that it is destined to the execution of the activities referred to in Article 9.2 below. APN and the CONCESSIONAIRE bind themselves to respect the minimum contents of the trust agreement mentioned in Exhibit (XXXX).

- 9.2 In application of the foregoing Article, the amount of the Additional Complementary Investment shall be firstly used to cover the costs of managing and maintaining the trust estate, including but not limited to the payment of taxes related to the trust estate, the expenses incurred by the trustee in connection with the trust estate (including the expenses for the supervision services that the trustee may hire) and the compensation of the trustee. Secondly, the amount of the Additional Complementary Investment shall be used for investments in the items listed below, according to the priority established by APN to that effect and in line with the mechanisms to be set in the respective trust agreement:

- Navigational aids for common areas.
 - Implementation of Protection and Security Systems in common areas.
 - Improvement of road accesses.
 - Implementation of Community Information Systems (SIC).
 - Extension of the access intake to El Callao Port.
 - Additional deepening of the access channel and maneuvering area.
 - Development of Logistic Activity Zones (ZAL).
- 9.3 The trust agreement to be entered into in compliance with the provisions of this section shall be entered into within a term not to exceed ninety (90) Calendar Days from the Contract Execution Date. To that effect, APN must have obtained all the authorizations that may be necessary for the valid execution of the trust agreement by its duly authorized representatives.
- 9.4 The transfer in trust of the amount of the Additional Complementary Investment shall be made on the following occasions:
- 9.4.1 If the amount of the Additional Complementary Investment is equal to or lower than US\$10,000,000 (Ten Million US Dollars), the total Additional Complementary Investment shall be transferred within a term not to exceed ninety (90) Calendar Days as from the Contract Execution Date.
- 9.4.2 If the amount of the Additional Complementary Investment is higher than US\$10,000,000 (Ten Million US Dollars) and lower than or equal to US\$20,000,000 (Twenty Million US Dollars), the first US\$10,000,000 (Ten Million US Dollars) shall be transferred within a term not to exceed ninety (90) Calendar Days as from the Contract Execution Date and the balance shall be transferred in two equal installments, payable within six (6) and twelve (12) months, respectively, from the date for the commencement of the Exploitation with two Berths.
- 9.4.3 If the amount of the Additional Complementary Investment is higher than US\$20,000,000 (Twenty Million US Dollars), the first US\$10,000,000 (Ten Million US Dollars) shall be transferred within a term not to exceed ninety (90) Calendar Days as from the Contract Execution Date. The remaining US\$10,000,000 (Ten Million US Dollars) shall be transferred and the balance shall be transferred in two equal installments within six (6) and twelve (12) months, respectively, from the date for the commencement of the Exploitation with two Berths, and the balance in eight equal semiannual installments, counted from the due date of the last installment corresponding to the second US\$10,000,000 (Ten Million US Dollars).

- 9.5 The entity that shall act as trustee shall be designated by APN within a term not to exceed thirty (30) Calendar Days from the Contract Execution Date.
- 9.6 The costs and expenses deriving from the structuring of the trust agreement and the establishment of the trust estate, other than those expenses related to internal or external advisory incurred and borne by APN, shall be paid by the CONCESSIONAIRE.

SECTION X: GUARANTEES

GRANTOR'S GUARANTEE

- 10.1 The GRANTOR shall carry out all the pertinent procedures and arrangements so that, based on the provisions established in Article 4 of Law 26885 – Law of Incentives to the Concessions of Infrastructure Works and Public Utilities - the Executive Branch may issue the Supreme Decree referred to in Article 2 of Decree Law 25570, replaced by Article 6 of Law 26438, whereby the State's guarantee shall be granted in support of the obligations, statements and guarantees of the GRANTOR established in the Contract.

The GRANTOR will provide the CONCESSIONAIRE the necessary support to ensure the due protection of the port infrastructure and the assets delivered in Concession, with the aim of guaranteeing the uninterrupted provision of the Services.

GUARANTEE IN FAVOR OF THE GRANTOR

- 10.2 Concession Contract Performance Bonds:

In order to guarantee each and every one of the obligations established in the Contract, including those related to the Construction, Exploitation and Conservation of the Works, as well as the payment of penalties, the CONCESSIONAIRE shall deliver to the GRANTOR a Concession Contract Performance Bond for a percentage of the Works Official Estimated Budget, as detailed below:

20%, from the Closing Date to the approval of the Works corresponding to a Berth.

15%, from the approval of the Works corresponding to a Berth to the approval of the initial minimum Works referred to in Appendix 1 to Exhibit 11 to the Tender Documents.

10%, from the approval of the initial minimum Works referred to in Appendix 1 to Exhibit 11 to the Tender Documents to two (2) years after the expiration of the Contract term.

EXECUTION OF THE GUARANTEE

- 10.3 The guarantee mentioned in the preceding Article may be executed by the REGULATOR, in whole or in part, once the failure to comply each or all of the obligations to the Contract has been identified, including those related or not to the execution of the Works and provided such a failure has not been corrected by the CONCESSIONAIRE within the terms granted to this effect.

In the event of the partial or total execution of the Guarantee, the CONCESSIONAIRE must reinstate, or cause the reinstatement of the established amount. Failure by the CONCESSIONAIRE to reinstate the Concession Contract Performance Bond corresponding to the amount established in Article 10.2, within a term of thirty (30) Calendar Days counted as from the date on which it was executed, the REGULATOR, by a written communication to that effect, shall declare the termination of the Contract and the expiration of the Concession on the date of the notice.

Without prejudice to the provisions of this Article, for purposes of executing the Guarantee as a result of the application of the penalties foreseen in Exhibit 17, the provisions set forth in Section XIX shall apply.

- 10.4 The Concession Contract Performance Bond must be issued or confirmed, in substantially similar terms to those contained in Exhibit 10.

GUARANTEES IN FAVOR OF THE PERMITTED CREDITORS

- 10.5 With the purpose of financing the design, Construction, Conservation and/or Exploitation of the Works, the CONCESSIONAIRE may, with the prior authorization of the GRANTOR and the favorable opinion of the REGULATOR, grant the following guarantees in favor of the Permitted Creditors, to back the Permitted Guaranteed Indebtedness:

- (i) The Concession right, pursuant to the provisions set forth in Article 3 of Law 26885.
- (ii) The income of the Concession, net from the Compensation, the Regulation Rate referred to in Article 14, Paragraph a) of the Law 26917 and any other amount committed to state institutions.
- (iii) The shares or interests of the CONCESSIONAIRE.

The CONCESSIONAIRE hereby accepts and acknowledges that any of such guarantees or fund allocations will not release it from its obligations or from the Contract. The GRANTOR accepts and acknowledges that neither the Permitted Creditors nor any other person acting on behalf of them shall be responsible for

the fulfillment of the Contract by the CONCESSIONAIRE until such a time, in which the Permitted Creditors exercise the rights referred to in Articles 10.7 and 10.8 related to the execution of the mortgage, in which case, whoever is the holder of it as a result of its execution, will assume in its capacity as the new concessionaire the obligations and rights set forth in this Contract.

The GRANTOR and the CONCESSIONAIRE guarantee that the rights stipulated in favor of the Permitted Creditors in this Contract cannot be waived or revoked; unless the prior and express consent of such Permitted Creditors is otherwise granted. It is understood that the acceptance of the respective Permitted Creditor referred in Article 1458 of the Civil Code shall be considered executed with the sole communication of the Permitted Creditors addressed to the GRANTOR and the CONCESSIONAIRE, informing them that they will be exercising such rights.

For the purpose of the authorization to establish the guarantees referred to in this Section, the CONCESSIONAIRE must deliver to the GRANTOR and to the REGULATOR, a copy of the draft contracts and other documents related to the operation, as well as a statement from the potential Permitted Creditor in similar terms to those contained in Exhibit 11 herewith.

AUTHORIZATION OF PERMITTED GUARANTEED INDEBTEDNESS

- 10.6 If the Permitted Creditor is included in categories (i) or (vi) described in the definition of Permitted Creditors, the submittal in writing to the REGULATOR and to the GRANTOR, of the terms of the Permitted Guaranteed Indebtedness will suffice without requiring any further approval. In this case, the approval of the GRANTOR will only be required to amend the originally convened main financial terms. Approval may only be denied based on the economic damages that such an amendment may cause the GRANTOR.

In all other cases, the CONCESSIONAIRE must submit in writing the application for approval simultaneously to both the GRANTOR and the REGULATOR, attaching the information related to the Permitted Guaranteed Indebtedness, as well as the information mentioned in the last paragraph of Article 10.5.

The GRANTOR must issue its opinion in a maximum term of twenty (20) days counted as from the day following the expiry date of the term established for the issue, by the REGULATOR, of the technical opinion. The REGULATOR shall have twenty (20) Days counted as from the date of receipt of the application to issue its technical opinion.

For evaluation purposes, the REGULATOR may request additional information, within a period of fifteen (15) Days following the receipt of the application, in which case the maximum term of twenty (20) Days of the issue, by the REGULATOR, of the technical opinion, will begin to be computed once again

from the date of presentation of the requested additional information, provided it has been submitted in full and with no defects. The referred information must be submitted simultaneously to the REGULATOR and the GRANTOR.

For its part, the GRANTOR may request additional information within a term of fifteen (15) days following the receipt of the technical opinion of the REGULATOR, in which case, the maximum term of twenty (20) Days to issue its opinion, shall start to be computed once again from the date of presentation of the requested additional information.

Failure by the GRANTOR to issue its opinion within the terms referred to in the preceding paragraphs, the Permitted Guaranteed Indebtedness will be understood as having been approved by the GRANTOR.

Exhibit 12 to this Contract contains the communication terms that the GRANTOR irrevocably agrees to grant in favor of the Permitted Creditors, approving the creation of a package of guarantees as well their execution, as required by the Permitted Creditors.

The indebtedness incurred by the CONCESSIONAIRE for purposes of the design, Construction, Conservation and/or Exploitation of the Concession shall not be backed by any guarantee furnished by the GRANTOR.

CONCESSION MORTGAGE

10.7 The CONCESSIONAIRE has the right to mortgage its Concession rights pursuant to the provisions established in the Applicable Laws and Provisions, in guarantee of all the obligations, which it may assume before the Permitted Creditors. The request for authority to establish, the establishment of the guarantee and extra-judicial execution thereof shall be governed by the following rules:

10.7.1 Authority to Establish a Mortgage

The CONCESSIONAIRE may establish a mortgage on its Concession right, provided it has the prior authority of the GRANTOR, with the favorable opinion of the REGULATOR.

In order to amend the mortgage on the Concession, if necessary, the Parties agree to follow the same procedure foreseen in Article 10.6.

10.7.2 Out-of-Court Execution of the Mortgage

The mortgage shall be executed following the principles and mechanisms similar to those established in Article 10.8 for the execution of the pledge,

execution procedure that shall be established in the relevant mortgage agreement, respecting the provisions stipulated in Article 3 of Law 26885.

PROCEDURE FOR THE EXECUTION OF THE PLEDGE ON STOCK OR SHARES CORRESPONDING TO THE MINIMUM INTEREST

- 10.8 The procedure to execute the pledge of stock or shares corresponding to the Minimum Interest that, under the direction of the Permitted Creditor(s) and with the participation of the GRANTOR, shall obligatorily be governed by the following rules:

The decision of the Permitted Creditor(s), consistent in exercising their right to pledge the stock or shares issued in their favor, must be communicated in writing to the GRANTOR and the CONCESSIONAIRE.

As from that moment, (a) the GRANTOR shall be prevented from terminating the Contract and shall be obliged to immediately initiate the relevant arrangements with the Permitted Creditor(s) to designate the company that, pursuant to the same terms established in the Concession Contract and subject to a payment to be convened with the Permitted Creditor(s), shall act as Intervener and shall be temporarily in charge of operating the Concession during the time required to replace the Strategic Partner referred to in the following points; and (b) no act of the CONCESSIONAIRE may suspend the procedure to execute the pledge, being prevented from fulfilling the obligations that gave rise to the execution of the referred guarantee.

To that effect, the Permitted Creditor(s) may propose to the GRANTOR, the qualified operators that meet the requirements established in the Tender Documents, which must necessarily be accepted by the GRANTOR, who will elect one of them to temporarily operate the concession. The designation of the company that will act as an Intervener must be communicated in writing to the CONCESSIONAIRE. As from that moment, the CONCESSIONAIRE shall be obliged to make the relevant arrangements, for the transfer stage to be carried out as efficiently as possible.

The temporary operation of the Concession, by the Intervener, must be implemented within a term of no more than sixty (60) Days counted as from the date on which the CONCESSIONAIRE became aware of the referred designation, the CONCESSIONAIRE assuming responsibility if the aforesaid temporary operation is not perfected due to causes attributable to it.

As soon as the Concession is being temporarily operated by the Intervener, the Permitted Creditor(s) must coordinate with the GRANTOR, to prepare the full text of the notice and tender documents of the private competitive bidding of the Minimum Interest, which must meet the substantive guidelines contained in the Tender Documents, particularly in the section related to the general

characteristics of the Concession and the Technical File respectively, insofar as they do not contradict the nature of the new competitive bidding to be carried out.

Having submitted the text of the notice and the tender documents of the private auction of the Minimum Interest to the consideration of the GRANTOR, it must issue its observations on such documents in an announcement to be issued within a period of ten (10) Days counted as from the date in which the referred text was submitted. Failure, by the GRANTOR, to issue its opinion, upon the expiry of said term, the referred text will be considered approved.

As soon as the Permitted Creditor(s) become aware of the observations made by the GRANTOR, they will have a term of no more than ten (10) Days to correct or reject them and to submit the text of the notice and tender documents of the private competitive bidding of the Minimum Interest, a second time. Next, the GRANTOR must grant its approval of the referred text within a period of ten (10) Days counted as from the date on which it was communicated. Nonetheless, failure by the GRANTOR to grant the approval, upon expiry of the referred term, the referred text will be considered approved.

Having approved the text of the notice and the tender documents, the Permitted Creditor(s) must follow the procedure established therein within a period not to exceed the following ten (10) Days, until said Creditor(s) award the contract, which may not occur on a date later than one hundred and eighty (180) Days counted as from the moment in which the GRANTOR was informed of the decision to execute the pledge, unless, pursuant to the circumstances of the case, such a procedure requires a greater term, in which case the extension established by the GRANTOR shall apply.

Having awarded the Minimum Interest Agreement, pursuant to the provisions established in the text of the tender documents approved by the GRANTOR, as well as to the provisions contained in this Section, such an act must be communicated in writing both to the GRANTOR and to the Intervener Company. As from said moment, the Intervener will be obliged to begin the relevant arrangements, to make sure that the temporary operation of the Concession is carried out as efficiently as possible. The final replacement of the Strategic Partner in favor of the Successful Bidder must be implemented within a period of no more than thirty (30) Days counted as from the date on which the contract was awarded, under the exclusive responsibility of the Successful Bidder.

In accordance with the previously established procedure, the Successful Bidder who was awarded the contract shall be acknowledged by the GRANTOR as the new Strategic Partner. To this effect, said Strategic Partner shall fully replace the original Strategic Partner, and shall be subject to the terms of this Concession Contract.

RIGHT OF THE PERMITTED CREDITORS TO CURE A BREACH

- 10.9 The REGULATOR shall notify the Permitted Creditors simultaneously with the notice submitted to the CONCESSIONAIRE, of the occurrence of any breach in the obligations of the CONCESSIONAIRE established in Section XV to this Contract, so that the Permitted Creditors may carry out the necessary actions to contribute towards the fulfillment of the obligations of the CONCESSIONAIRE.
- 10.10 The GRANTOR acknowledges that the Contract may not be terminated nor may the Forfeiture of the Concession be declared without previously notifying the Permitted Creditors of such an intention, and without having granted the Permitted Creditors the right to correct any cause that may have originated the entitlement of the GRANTOR to terminate the Contract, pursuant to the provisions set forth in this Section and following the procedure outlined below:
- a) In the event of the occurrence of any of the causes indicated in Section XV of the Contract and should the term of the CONCESSIONAIRE to correct such an occurrence have expired and the GRANTOR wishes to exercise its right to terminate the Contract, it must first forward a written notice to the Permitted Creditors. In said notice, the GRANTOR must expressly stipulate the cause or causes for termination. For said notice to be considered valid, its receipt must be acknowledged or it must be forwarded by mail, e-mail or fax, requiring the verification of receipt thereof.
 - b) The Permitted Creditors shall have a term of sixty (60) Days counted as from the date of receipt of the notice referred to in the preceding Paragraph a), to cure the cause or causes for termination notified to them. Failure by the Permitted Creditors to cure the produced cause for termination, within the referred term, the GRANTOR may exercise its right to terminate the Contract, assuming the obligations before the Permitted Creditors pursuant to Section XV.
Failure by the Permitted Creditors to exercise their right to correct the breach, does not affect or shall not affect the benefits and/or rights established in favor of the Permitted Creditors in this Contract.
 - c) The intention of the Permitted Creditors to correct or the correction of the cause produced shall in no case be understood as the assumption, by the Permitted Creditors, of any of the agreements, conventions or obligations of the CONCESSIONAIRE herein.

Should the CONCESSIONAIRE correct the cause for termination during the sixty (60) Day period referred to in the preceding Paragraph b), the GRANTOR undertakes to notify such a fact to the Permitted Creditors, within a maximum

period of seventy-two (72) hours of the occurrence of the fact, communicating the non-existence of the cause for termination.

SECTION XI: INSURANCE SYSTEM

APPROVAL

11.1 For purposes of the Contract, the CONCESSIONAIRE must hold the insurance policies required by this Section, illustratively but not restrictively, considering them in any case as the minimum requirements that may be extended and improved by the CONCESSIONAIRE and which final proposal has been duly approved by the REGULATOR, according to the following terms:

Upon the presentation of the proposed insurance policies, referred to in Paragraph e), Article 3.3, the REGULATOR has a term of twenty (20) Calendar Days for approval thereof. This also applies to those cases where the CONCESSIONAIRE must submit the renewals pursuant to the provisions of Article 11.7.

The REGULATOR must raise its observations, if applicable, and the CONCESSIONAIRE shall have ten (10) Calendar Days to correct the observations.

As regards the insurance policy mentioned in Article 11.5, the CONCESSIONAIRE may hire the services of an internationally renowned specialized company to perform a risk analysis enabling to determine, as the sum insured, the probable maximum loss from Natural Risks, including earthquakes and/or tidal waves, Political Risks and Operating Risks. Said analysis must be embodied in a report to be submitted to the REGULATOR at least ninety (90) Days prior to the Commencement of the Exploitation.

The company that shall perform the risk analysis, referred to in the foregoing paragraph, must be proposed together with the proposed insurance policies, as established in Article 3.3, Paragraph e).

Copies of the final policies effected must be delivered to the GRANTOR and the REGULATOR, according to the following deadlines and conditions:

1. The insurance policies referred to in Article 11.3, within a term not to exceed thirty (30) Days following approval of the proposed policies.
2. The insurance policies referred to in Articles 11.4 and 11.6, at least forty-five (45) days prior to the Construction start-up.
3. The insurance policies referred to in Article 11.5, at least forty-five (45) days prior to the Commencement of the Exploitation.

If the Insurance Company or Underwriting Syndicate does not operate in the Republic of Peru, the CONCESSIONAIRE must certify, for approval by the REGULATOR, that the Insurance Company or Underwriting Syndicate:

1. Is validly organized in its country of origin and is in the position to insure risks originated abroad.
2. Is authorized, under the laws of its country of origin, to issue the policies required in Articles 11.3 and 11.6, inclusive, of this Contract.
3. Has a stockholders' equity of no less than US\$100,000,000 or its equivalent in other currencies.
4. Has an international rating equal to or greater than AA+ (or equivalent rating). Said rating shall be assigned by an internationally renowned Risk Rating Agency.
5. Shall pay the indemnities directly to the Insured and, when applicable, to the CONCESSIONAIRE within a term not to exceed thirty (30) Calendar Days after the loss is acknowledged.

TYPES OF INSURANCE POLICIES

11.2 During the validity of this Contract, the CONCESSIONAIRE shall hold and maintain effective the following insurance policies to cover the New Container Terminal – Southern Zone, its workers, users, contractors and subcontractors, establishing the GRANTOR and/or whoever it may designate as an additional insured party in the respective hired policies, to use, as relevant, the product of the indemnity of the insurance in the reinstatement, replacement and repair of the damaged assets. The policies will consign the CONCESSIONAIRE as the insured party, who must use the amounts resulting from the indemnity for any loss to repair the damages caused by such loss. Only in those cases when the reinstatement, replacement or repair of the damaged assets are materially impossible, the indemnity shall be delivered to the GRANTOR and/or whoever it has designated as an additional insured party, without being obliged to reimburse any amount to the CONCESSIONAIRE.

The insurance coverage listed below are illustrative and not limitative, and understood as minimum requirements:

11.3 Personal Insurance for Employees.

The CONCESSIONAIRE must hold and present all the insurance policies required by the laws and regulations of the Peruvian Government, in force and/or to be decreed, for employees in Peru, covering and protecting the life and the health of all the employees directly or indirectly related to the purpose of the Contract, such as Mandatory Life Insurance (Decree Law 688) and Occupational Life and Disability Insurance (Health and Pension Fund). The foregoing insurance policies must be effected considering as a minimum the coverage and requirements established in the Applicable Laws and Provisions.

11.4 Construction and Assembly All-risk Insurance.

The CONCESSIONAIRE must hold the referred policy, covering the risk of the construction and assembly of the civil, electromechanical works and all the assets that may suffer material damages of any kind and description, as well as the building equipment and machinery, in any place and condition in which they may be found, including self-owned and/or third party establishments, permanent and/or temporary camps, outdoors, embedded and at sea.

Among the risks covered by this policy, Political Risks such as strikes, civil riots, sabotage, vandalism and terrorism. The Risks of Nature such as earthquakes, and tsunamis, must also be covered. Furthermore, the Risks due to the Impact of Ships, Aircraft and Vehicles must be expressly included.

The coverage of the risks referred to in the preceding paragraph must cover the direct, indirect and circumstantial damages, throughout the Construction and Assembly period including the test period.

The referred All-risk Insurance must also cover the damages due to the design errors or failures of the final project, hidden defects.

The Sum Insured of this policy must be the total sum of the construction and assembly, both of the Civil Works, electromechanical works, their facilities, machinery, equipment and stocks of any kind and description at the new replacement value.

The term of this policy shall start from the commencement of the construction and assembly works and shall expire upon completion of said construction and assembly works, including the testing period.

If the Construction and assembly works are carried out by perfectly determinable stages and form part of the port operation stage, these Works may be removed from the Construction and Assembly policy after the testing period, provided that they are simultaneously included in the All-Risk Insurance of Finished Civil Works.

- 11.5 All-risk Insurance of Finished Civil Works**, including equipment, machinery and all their facilities, on and below ground, pipes and underwater installations, at sea and underground port operating facilities. The CONCESSIONAIRE must hold the referred policy, covering the ownership risk of the finished and operating port works, beginning at the end of the Construction and Assembly All-risk Insurance coverage, and kept in force throughout the period of the concession.

All the finished Civil Works and the facilities thereof, machinery, equipment of any kind and description, on and below ground, pipes and underwater installations, facilities at sea, in lakes and rivers and underground facilities of port operations, must be insured against all the material damages that a property of any kind and description may suffer.

The referred All-risk Insurance must also cover the damages due to design errors or failures in the final project and hidden defects.

Among the risks covered by this policy, the Political Risks such as strikes, civil commotion, malicious damage, vandalism and terrorism. Natural Risks such as earthquakes and tidal waves, must also be covered. Furthermore, the Risks due to the Impact of Ships, Aircraft and Vehicles must be expressly included.

This coverage must also include Loss of Profit, direct, indirect and circumstantial losses due to any type of event, including demolition, cleaning costs, additional expenses and non-recurring expenses.

The CONCESSIONAIRE must provide the Insurance Company with the total replacement value of the works, including all of its facilities, machinery, equipment and stocks, as the total risk exposure value. However, The sums insured shall amount, as minimum, to the Probable Maximum Loss for each risk.

The sum insured must at all times include the New Replacement Value Clause.

11.6 General, Contractual, Tort, Employer's Liability Insurance

The CONCESSIONAIRE must effect a Liability Insurance with the following clauses, throughout the validity of this Contract:

- a) General Tort Liability
- b) Employer's Liability
- c) Port Operator's Liability
- d) Contractual Liability
- e) Joint Liability between the Concessionaire, Contractors, Subcontractors and Users.

Even though the risk of the Liability insurance during the Construction and Assembly Phase is different to that of the Port Operator, the characteristics of said coverage are similar and must respond to the following particularities:

For all purposes, Public Institutions, in particular ENAPU S.A. and with the exception of the GRANTOR or whoever he may designate, shall be considered Third Parties for any claim filed for direct, indirect and other economic damages that they may suffer as a result of the construction and subsequent operation of the new Container Terminal – Southern Zone. Consequently, any Public

Institution shall be entitled to make its legal claim, as Third Parties for any direct, indirect or consequential losses of the works and operations subject matter of this Contract and that may be legally attributed to the CONCESSIONAIRE, its contractors, subcontractors and/or any other related or designated company of the CONCESSIONAIRE.

The Sum Insured to cover Liability for personal and/or material damages both during the Construction and Assembly period and the Port Operation period shall be determined by the CONCESSIONAIRE, sufficient to cover such damages. However, the CONCESSIONAIRE fully assumes responsibility for the balance not covered in those cases in which the loss exceeds said amount. Failure to assume this responsibility with due diligence and in a timely manner shall constitute grounds for Contract termination.

11.7 Communications

The policies hired according to the provisions established in this Contract must contain a stipulation obliging the respective insurance company to notify the REGULATOR and the GRANTOR of any breach incurred by the CONCESSIONAIRE in the payment of the premiums, at least twenty-five (25) Calendar Days prior to the date on which said default may result in the partial or total suspension of the coverage and/or cancellation of the policy.

The obligation to serve notice established in this Section will also be required in the event of the cancellation or failure to renew any insurance policy, in which case the prior notice must be given ten (10) Days in advance. At the same time, the respective policy must establish that its expiry shall only occur if the insurance company has complied with the obligation referred to in the first part of this Article.

The CONCESSIONAIRE must notify the REGULATOR, ten (10) Days in advance of the expiration of the corresponding policies, of the dates on which it shall renew them, forwarding them so that the REGULATOR can review and issue its opinion regarding the conditions under which these shall be issued.

When the insurance policy renewals do not imply an amendment to their terms and conditions, it shall only be necessary to notify this fact to the REGULATOR, without its opinion being required.

11.8 Warranty of the GRANTOR

If the CONCESSIONAIRE fails to maintain the insurance policies in force, as required according to this Section, the GRANTOR may hire them and pay the premiums on the account and expense of the CONCESSIONAIRE. The amount of such premiums plus interest, from their payment by the GRANTOR up to their reimbursement, at an annual interest rate (based on a year of 360 days

and of actually elapsed days) equal to the highest interest rate during said period, fixed by the Peruvian financial system for active operations in US Dollars, must be reimbursed by the CONCESSIONAIRE to the GRANTOR within a maximum term of five (5) Days counted as from the date of notification thereof, by the GRANTOR, notwithstanding the execution of the Concession Contract Performance Bond.

11.9 Unencumbered Obligations.

The hiring of insurance policies does not reduce or alter the remaining obligations assumed by the CONCESSIONAIRE under this Contract.

11.10 Fulfillment of Policies.

The CONCESSIONAIRE is obliged before the GRANTOR to fulfill the terms and conditions of all the insurance policies hired pursuant to the provisions set forth in this Contract. In the event of a loss, the CONCESSIONAIRE must report it, without delay, to the insurance company and notify the GRANTOR of said loss. If the insurance coverage is cancelled due to the untimely notification of the loss, the CONCESSIONAIRE will be held responsible and will hold harmless the GRANTOR, from the payment of the equivalent of the amount it would have had to indemnify the insured party if it had promptly notified the loss. The deductible amounts shall be borne by the CONCESSIONAIRE.

11.11 Coverage Report.

The CONCESSIONAIRE shall furnish the REGULATOR with the following documents, within the first thirty (30) Calendar Days of each Concession Year:

- a) A list of the insurance policies to be held and/or maintained by the CONCESSIONAIRE during the year in question, consigning at least the coverage, the insurance company, the claims filed during the previous year and their current status; and
- b) A certificate issued by the authorized representative of the insurance company listing the policies and coverage that the CONCESSIONAIRE has hired during the preceding year, to demonstrate the fulfillment of the terms of this Section.

11.12 Without prejudice to the foregoing, during the course of the Contract and as required by the REGULATOR, the CONCESSIONAIRE must produce conclusive evidence before the REGULATOR and the GRANTOR, that the insurance policies continue to have full force and effect and have been duly paid.

11.13 Should the failure to meet the obligation of keeping the policies in force be verified, the GRANTOR will immediately proceed to execute the performance

bond related to the Contract, regardless of the actions that may arise as a result of such default, among them, the Termination of the Contract, pursuant to the provisions established in Section XV of this Contract.

11.14 Events Not Covered.

The losses and/or damages not covered by the referred insurance policies, or due to any deficiency or lack of coverage, shall be borne by the CONCESSIONAIRE, and it will be the sole party responsible before the GRANTOR for any loss and/or damage caused.

LIABILITY OF THE CONCESSIONAIRE

11.15 The hiring of insurance policies, by the CONCESSIONAIRE does not curtail its liability, which is the direct responsible party for all the obligations established in the Contract beyond any insured liability and undertakes to hold harmless the GRANTOR the event of any claim, delay or complaint related to its operation.

11.16 Regardless of the provisions set forth in this Section and the obligations established therein, the CONCESSIONAIRE must pay all the sums due to any person according to the Applicable Laws and Provisions. This implies that, in the event of a loss due to fraud or gross negligence on its part and which is not covered by the referred insurance policies, the CONCESSIONAIRE shall be the sole party responsible for any possible damages caused.

11.17 In no case will the CONCESSIONAIRE be responsible for the acts or facts committed or produced by the GRANTOR, who, according to the Applicable Laws and Provisions, must assume the responsibility.

SECTION XII: ENVIRONMENTAL CONSIDERATIONS

ENVIRONMENTAL RESPONSIBILITY

12.1 The CONCESSIONAIRE hereby represents that it is aware of the legislation in force, including the international laws referred to in the Second Temporary, Supplementary and Final Provision of the Environmental Law, and the obligations established in this Contract on environmental issues, insofar as they are applicable to the activities regulated by this Contract. The CONCESSIONAIRE undertakes to comply with such regulations as an essential component of its environmental management, by implementing the necessary measures to ensure appropriate management in the Terminal and the mechanisms that will enable a suitable participation and communication with the citizenry.

12.2 In order to minimize the negative impacts that may be produced on the environment in the Concession Area, the CONCESSIONAIRE undertakes to

meet, during the Construction and Exploitation Stages, the commitments assumed in the Environmental Impact Study of the Terminal, which must be approved by the Competent Environmental Authority and which will form an integral part of the Contract, as Exhibit 14.

- 12.3 The responsibility and cost of implementing the conditions and/or measures established in the Environmental Impact Study shall be borne by the CONCESSIONAIRE according to the activities for which it is responsible.
- 12.4 The CONCESSIONAIRE shall be responsible jointly and severally with the subcontractors in the event of any environmental damage caused to the area of influence of the Concession, as long as such environmental damage is directly attributable to any of them. According to the provisions established in Article 11.16 of the Contract, the hiring of insurance policies does not curtail the responsibility of the CONCESSIONAIRE.

ENVIRONMENTAL LIABILITIES

- 12.5 In no case shall the CONCESSIONAIRE be held responsible for the contamination or environmental impacts that may have been produced in or out of the area of influence of the Concession, as well as in any other areas used for the installation, use or operation of warehouses, offices, workshops, machine yard, prior to the Date of GRANTOR Assets Possession Taking, even when the effects of the contamination were produced after said date. Regarding the contamination or environmental impacts that may be produced outside the area of influence of the Concession, as from the Date of GRANTOR Assets Possession Taking, the CONCESSIONAIRE shall only be held responsible in those cases where there is evidence that the cause of the damage originated in the area of influence of the Concession, as long as such environmental damage is directly or indirectly attributable to it.
- 12.6 The CONCESSIONAIRE shall identify and assess the Environmental Liabilities during the preparation of the Environmental Impact Study, which will form part of its environmental baseline study. In order to identify the Environmental Liabilities, the CONCESSIONAIRE may take into account the study "Environmental Audit. Port Terminal of El Callao" prepared by the consulting company Dames & Moore, on the instructions of the National Port Authority (Empresa Nacional de Puertos S.A. – ENAPU) on April 7, 2000.

ENVIRONMENTAL IMPACT STUDY

- 12.7 In compliance with the Environmental Law and the Law of the National Environmental Impact Assessment System, the CONCESSIONAIRE must submit an Environmental Impact Study containing the Construction and Exploitation activities, to the Competent Environmental Authority, for approval thereof.

- 12.8 The Environmental Impact Study must be submitted to the Competent Environmental Authority, for approval thereof, within a term of no more than one hundred and twenty (120) Calendar Days, counted as from the Contract Execution Date. This term may be extended on two occasions for periods of sixty (60) Calendar Days each. To that effect, the CONCESSIONAIRE shall submit a supported request to APN at least ten (10) Calendar Days in advance of the expiry of each term. If APN does not issue a decision within a term of five (5) Days following receipt of the request, it shall be understood to have been accepted.
- 12.9 The content of the Environmental Impact Study is that established by the Applicable Laws and Provisions and those that may have been approved by the Competent Environmental Authority on the date of its preparation by the CONCESSIONAIRE.

Without prejudice to the provisions established in the Applicable Laws and Provisions, the Environmental Impact Study (EIS) must at least, include the contents indicated in Exhibit 13.

ENVIRONMENTAL MANAGEMENT

- 12.10 As part of its environmental management, the CONCESSIONAIRE must comply with the legal regulations related to the management of solid waste and hazardous solid waste, the management of hazardous materials, the use of water, the discharge of water and liquid waste, noise, water quality, air quality, consumption of hydrocarbons, zoning, among other environmental issues regulated by the Applicable Laws and Provisions.
- 12.11 In addition to the provisions consigned in the preceding Article, with regard to the protection of the Cultural Heritage of the Nation, the CONCESSIONAIRE must comply with the following legal provisions:
- a) All new construction works, expansion, demolition, restoration, repair or any other activities involving a real estate property that is part of the Cultural Heritage of the Nation, require the prior authority of the National Institute of Culture (INC) for their execution.
 - b) If any archaeological or historical remains are found during the development of the Construction Works, the CONCESSIONAIRE shall be responsible for suspending all activities in the area of the findings and for immediately notifying the INC.
 - c) In no case may the CONCESSIONAIRE acquire the property or right over the archaeological or historical remains or material found.

The obligations described in this Article may be invoked by the CONCESSIONAIRE as a cause for the suspension of the term to conclude the execution of the works, provided the circumstances described above, are duly accredited by the CONCESSIONAIRE.

- 12.12 The CONCESSIONAIRE may incorporate additional measures, which in its criterion, contribute to the fulfillment of the Construction and Exploitation conditions established in this Contract, related to Environmental protection. If relevant, such measures must be based on the provisions established in the Environmental Impact Study.
- 12.13 The start of the Construction Works and the subsequent commencement of the Exploitation activities must be authorized by the APN, and their development must strictly meet the provisions established in the Environmental Management Plan included in the approved Environmental Impact Study. The amendment of the Environmental Management Plan included in the Environmental Impact Study must follow the administrative procedure established by the Competent Environmental Authority.
- 12.14 Once the Exploitation has begun, the CONCESSIONAIRE must implement the internationally recognized environmental management system that can be subject to an audit and certification by an entity other than the CONCESSIONAIRE. The term for the implementation and certification of the environmental management system is two (2) years after the date for the commencement of the exploitation.

ENVIRONMENTAL REPORTS

- 12.15 During the Construction, within the first fifteen (15) Calendar Days following the end of each trimester, the CONCESSIONAIRE shall deliver to the APN, an environmental report giving an account of the condition of the Concession Area, with the respective environmental components that may have been impacted by the activities. In these Reports, the CONCESSIONAIRE must consign information on the activities carried out, give an account of the application of the Technical Environmental Specifications referred to in the Environmental Management Plan contained in the Environmental Impact Study; with an indication of the environmental problems found; and propose additional necessary measures to solve and correct them.
- 12.16 During the first year of Exploitation, the CONCESSIONAIRE must prepare a half-yearly environmental report, giving an account of the efficacy of the implementation of each one of the measures established in the General Social and Environmental Considerations Article of this Contract, to be delivered to the APN during the first fifteen (15) Calendar Days at the end of each semester.

- 12.17 As from year two of the Exploitation and up to two (2) years prior to the fulfillment of the maximum Concession term, the Environmental Report shall be delivered to the APN once a year. During the last two (2) years, the CONCESSIONAIRE must deliver the Environmental Report on a semiannual basis.
- 12.18 The CONCESSIONAIRE must prepare the environmental reports taking into account at least the contents indicated in Exhibit 13.

SECTION XIII: RELATIONS WITH PARTNERS, THIRD PARTIES AND PERSONNEL

RELATIONS WITH THE STRATEGIC PARTNER

- 13.1 The Strategic Partner must own and maintain a Minimum Interest, which in no case can be less than 51%. The Strategic Partner must object to any motion filed by a shareholder of the CONCESSIONAIRE that proposes a capital increase with respect to which the Strategic Partner is unable to exercise its preemptive subscription rights that at least, enables it to continue maintaining the Minimum Interest in the CONCESSIONAIRE.

As from the sixth year following the date for the commencement of the Exploitation, a new Strategic Partner may start to participate, but solely if has the approval of the GRANTOR, who must issue an opinion within a term not to exceed fifteen (15) Days after receiving the prior opinion of the REGULATOR, which shall be made known no later than thirty (30) Days following receipt of the request from the CONCESSIONAIRE. If the GRANTOR fails to provide an answer, it shall be understood that the operation has not been approved. This new Strategic Partner must satisfy the same requirements and conditions set forth for the initial Strategic Partner.

- 13.2 All those acts, business ventures, contracts and agreements that may affect the percentage of the Minimum Interest of the Strategic Partner, as from Year Six of the Concession following the date for the commencement of the Exploitation, such as the issue of shares – including its fruits and products – in the CONCESSIONAIRE, as a result of mergers, capital increases and others, must be previously authorized in writing by the GRANTOR for purposes of verifying that the percentage stated in the preceding Article is always maintained. In turn, such authorization must have the prior technical opinion of the REGULATOR.

For the purposes of this authorization, the Strategic Partner must inform the GRANTOR and the REGULATOR of its decision to participate in an operation such as those described in the preceding paragraph. Said approval shall adhere to the procedure described in the foregoing Article.

RELATIONS WITH THIRD PARTIES

- 13.3 The CONCESSIONAIRE may not transfer its right to the Concession, nor assign its interest in the Contract without the prior authorization of the GRANTOR, who must take into consideration the technical opinion previously issued by the REGULATOR.

In order to obtain authority, the CONCESSIONAIRE must communicate its intention to transfer its Concession or assign its interest in the Contract, attaching the following:

- a) Preliminary Agreement or Letter of Intent to transfer or assign, duly signed by the acquirer or assignee.
- b) Documentation accrediting the legal status of the third person.
- c) Documentation evidencing that it satisfies the same short-listing requirements as those previously satisfied by the Successful Bidder.
- d) Contract whereby the third party undertakes to assume any damage and pay any other sum due and payable by the CONCESSIONAIRE.
- e) Contract whereby the Strategic Partner is replaced by one of the shareholders or partners of the third party in the contractual position held by the former in the CONCESSIONAIRE and with the same Minimum Interest percentage.

The GRANTOR must issue its opinion on the operation within a maximum term of thirty (30) Days counted as from the presentation of the request with all the documentation required in this Section. The consent of the GRANTOR will not release the company transferring its right to the Concession or assigning its contractual position for up to a maximum term of three (3) years as from the date of approval of the assignment, from its responsibility.

CONTRACT CLAUSES

- 13.4 All the contracts that the CONCESSIONAIRE may enter into with its partners, third parties and staff, must include clauses that contemplate the following:

- a) Include a Section, which stipulates that the Forfeiture of the Concession will entail the termination of the respective contracts, since they are accessories to the initial agreement.
- b) Restrict its validity term so that it will not exceed the term of the Concession.

- c) The waiver to file civil liability actions against the GRANTOR, the REGULATOR and their officials.

In no case shall the CONCESSIONAIRE be exempt from responsibility before the GRANTOR, for acts arising from the execution of the contracts entered into with third persons, which may have any incidence on the Concession.

PERSONNEL RELATIONS

- 13.5 In its relations with the personnel, the CONCESSIONAIRE must adjust to labor regulations in force in the Republic of Peru.
- 13.6 The employment contracts of the local and foreign personnel of the CONCESSIONAIRE, their execution and termination are subject to the regulations governing the labor relations of the private sector personnel. Furthermore, the special labor systems shall apply.

The CONCESSIONAIRE must strictly comply with the Applicable Laws and Provisions in Labor issues, referred to the formal obligations of the employer (payroll registers, pay slips and others), the payment and withholding of pension fund benefits, as well as the contractual and legal obligations related to occupational safety and health.

Furthermore, as established in Article 12, paragraph i) of the LSPN, the CONCESSIONAIRE guarantees the provision of constant training and safety of the employees hired by it, who perform work at the New Container Terminal – Southern Zone.

- 13.7 To this effect, the REGULATOR is entitled to periodically request the necessary information from the CONCESSIONAIRE to verify the normal development of the Concession.
- 13.8 In the event of the Forfeiture of the Concession, the CONCESSIONAIRE is exclusively responsible for the payment of all employee benefits, such as remunerations, working conditions and other conventional or unilateral benefits due to its employees to the date in which the Concession was Forfeited, pursuant to the provisions set forth in Section XV, the GRANTOR shall in no case be responsible for said debts.

In the event that the GRANTOR is judicially ordered to pay any labor debt generated during the validity of the Concession, it may file an appeal against the CONCESSIONAIRE.

- 13.9 The CONCESSIONAIRE shall freely determine the number of employees it requires to hire for the Construction, Conservation and Exploitation of the New Container Terminal – Southern Zone.

- 13.10 Without prejudice to the provisions of the foregoing Article, the CONCESSIONAIRE shall hire, within the three (3) first years counted from the commencement of the Exploitation, fifteen (15) workers from Empresa Nacional de Puertos S.A. that may be declared redundant by the Labor Administrative Authority, provided that they so request.

SECTION XIV: ADMINISTRATIVE COMPETENCES

COMMON PROVISIONS

- 14.1 The functions, which, under this Contract and the pertinent legal provisions, the GRANTOR, APN and the REGULATOR must exercise, shall in no case be subject to authorizations, permits or any other manifestation of the CONCESSIONAIRE's will. The CONCESSIONAIRE must provide its full collaboration to facilitate the fulfillment of these functions; otherwise, the Regulations on Violations and Sanctions issued by OSITRAN, approved by Steering Council's Resolution 023-2003-CD-OSITRAN or any replacing provisions, shall apply. The GRANTOR, APN and the REGULATOR shall carry out inspections, reviews and similar actions, trying not to disturb or hinder the provision of the Services.

In the cases established in this Contract in which the functions to be exercised by the GRANTOR, APN or the REGULATOR require a prior opinion, of a binding nature or not, by any of the aforementioned entities, and if no terms have been expressly established to this effect in the relevant Articles, the following rules must be met: I) in those cases in which one of the entities is responsible for issuing an opinion, the term which the other will have to issue its opinion shall be half the term established for the competent entity to issue its opinion pursuant to the provisions contained in this Contract, otherwise, the latter may refrain from issuing said opinion in order to issue its opinion within the terms fixed in the Contract; and ii) in those cases in which said entities are responsible for issuing an opinion, the CONCESSIONAIRE must deliver the reports and in general any analogous document required to issue the opinion to the GRANTOR, APN or the REGULATOR on the same date, as the case may be; iii) the term to issue the opinion shall be counted as from the day following the date of presentation of the request to the corresponding entities; should the same application be submitted on different dates, the term shall be counted as from the notification of the last application; iv) should further information be required to issue an opinion, APN, the REGULATOR and the GRANTOR may opt to suspend the term while the CONCESSIONAIRE delivers the information or request extensions to the fixed term.

Upon informing the CONCESSIONAIRE of any opinion or approval issued by the GRANTOR, APN or the REGULATOR, it must be delivered with a copy to the other entity, as the case may be.

- 14.2 The CONCESSIONAIRE shall meet all the information requirements and procedures established in this Contract or to be set forth by the GRANTOR, APN and the REGULATOR, in issues within its competence, pursuant to the Applicable Laws and Provisions.

The CONCESSIONAIRE must submit the periodic reports, statistics and any other information related to its activities and operations, in the conditions and terms established in the Contract or, in any case, by the GRANTOR, APN and the REGULATOR, as the case may be, in the respective requirement.

The CONCESSIONAIRE must facilitate the review of its documentation, archives and other data required by the GRANTOR, APN and the REGULATOR, to supervise and enforce the terms of this Contract.

POWERS OF THE REGULATOR

- 14.3 The REGULATOR is empowered to exercise all the powers and functions conferred upon it by the Contract and the Applicable Laws and Provisions, pursuant to Law 26917 and other regulations of the legislation in force.

INSPECTION RIGHTS

- 14.4 The costs derived from the supervision activities, incurred by the REGULATOR, shall be paid by the CONCESSIONAIRE in accordance with Article 6.10.

Failure by the CONCESSIONAIRE to pay the amount stated in Article 6.10 shall entitle the GRANTOR to execute the Concession Contract Performance Bond for up to the referred amount.

- 14.5 The REGULATOR may designate a work supervisor, who shall have the duties assigned to him by the REGULATOR.

The duties of the work supervisor, if designated, shall be exercised pursuant to the powers conferred by the REGULATOR.

- 14.6 The REGULATOR may designate a Conservation Supervisor and an Exploitation Supervisor, who shall perform the duties assigned to them by the REGULATOR.

The duties of the Conservation Supervisor and the Exploitation Supervisor, if designated, shall be exercised pursuant to the powers conferred by the REGULATOR.

- 14.7 The identification of any failure to comply with the obligations of the CONCESSIONAIRE, the REGULATOR may require the necessary corrections.

- 14.8 The supervisors designated by the REGULATOR, if applicable, must not be rendering any type of services to Empresa Nacional de Puertos S.A. and must have not rendered any type of services to the CONCESSIONAIRE, its shareholders or Related Companies, in both cases either directly or indirectly, over the past two (2) years in Peru or abroad, unless otherwise agreed by the Parties.
- 14.9 The CONCESSIONAIRE must provide the REGULATOR with the information requested by it pursuant to the powers conferred upon it by the Applicable Laws and Provisions.
- 14.10 Among other activities, the REGULATOR will be responsible for supervising the fulfillment, by the CONCESSIONAIRE, of the following obligations:
- a) Control the fulfillment of the delivery of the financial statements of the CONCESSIONAIRE.
 - b) Report on the fulfillment of the Applicable Laws and Provisions.
 - c) Carry out the pertinent analysis of the information to be delivered by the CONCESSIONAIRE.
 - d) Control the fulfillment of the provisions established in Exhibit 3 to the Contract.
 - e) Review the statistical information delivered by the CONCESSIONAIRE.
 - f) Control the fulfillment of the payment of the Compensation.

SANCTIONING POWER

- 14.11 The REGULATOR shall be empowered to apply sanctions upon the CONCESSIONAIRE in the event of a breach of its obligations, pursuant to Law 26917 and the regulations it may dictate on the subject. The CONCESSIONAIRE must pay the fines within the term established by the Applicable Laws and Provisions.
- 14.12 The provisions set forth in the Regulations on Violations and Sanctions approved by the REGULATOR referred to the assumptions established in this Contract, shall prevail over the latter. In this regard, the contractual penalties will not apply to the cases regulated in the referred regulations.
- 14.13 The administrative sanctions other than those regulated in the Regulations on Penalties and Sanctions, of OSITRAN (imposed by the Tax Administration, the Ministry of Labor, among other administrative authorities, arising from the execution of this Contract shall be enforced upon the CONCESSIONAIRE

independently from the contractual penalties established therein and regardless of the obligation to answer for the damages and losses resulting from its default.

REGULATION RATE

14.14 The REGULATOR shall be empowered to charge the CONCESSIONAIRE the regulation rate referred to in Article 14 of Law 26917 or amending or replacement law. The referred rate shall be calculated and collected in the terms and amounts established in said legal provision and the respective regulations thereof.

14.15 The fees and expenses derived from the supervision activities, incurred by the Conservation Supervisor and the Exploitation Supervisor shall be paid by the REGULATOR against the regulation rate mentioned in the foregoing Article. The contracting of supervising companies shall be carried out pursuant to Supreme Decree 035-2001-PCM and the Supervision Regulations enacted by OSITRAN, approved by Steering Council's Resolution 036-2004-CD/OSITRAN or any replacing regulations.

SECTION XV: FORFEITURE OF THE CONCESSION

GROUNDS FOR FORFEITURE

15.1 This Contract may be declared terminated only if one of the following grounds occurs:

15.1.1 Termination Due to Term Expiration

The Concession shall terminate when the term expires as per Section IV, except as provided for in Article 4.2 of the Contract.

15.1.2 Termination by Mutual Agreement

The Contract shall terminate at any time following written agreement between the CONCESSIONAIRE and the GRANTOR, with the REGULATOR's prior technical opinion. Before the agreement is adopted, the Parties must notify this fact to the Permitted Creditors, as prescribed in Article 15.11 hereof.

15.1.3 Termination due to CONCESSIONAIRE's Breach or Abandonment

The Contract shall terminate in advance in case the CONCESSIONAIRE incurs in serious breach of its contractual obligations. Without prejudice to the corresponding penalties, the following, among which are causes expressly pointed out in the Contract, shall be considered as causes for serious obligation breach:

- a) The declaration of insolvency, dissolution, liquidation, bankruptcy or the appointment of an intervener of the CONCESSIONAIRE, pursuant to the provisions established in the legal regulations on the subject. In these cases, the termination of the Contract shall occur when the REGULATOR becomes aware and serves notice to that effect, provided the insolvency, dissolution and liquidation, bankruptcy or any other contained in this article, has not been corrected, pursuant to law, within the sixty (60) Calendar Days following its notification, or within an extended term that the REGULATOR may have fixed in writing, which will be granted based on reasonable causes, unless it is otherwise evidenced that the declaration of insolvency, dissolution, liquidation, bankruptcy or the appointment of an intervener is fraudulent.
- b) Failure to Take Possession of the Concession Assets within the term and in the form and manner established to that effect, due to causes attributable to the CONCESSIONAIRE.
- c) The serious alteration of the environment, of the Historical Heritage and/or of the natural resources, as a result of the intentional or culpable violation of the recommendations of the Environmental Impact Study, which shall be determined by APN.
- d) The commission of any act or omission representing an intentional default by the CONCESSIONAIRE, leading to the perpetration of a crime of public action to the detriment of the User, the GRANTOR and/or the REGULATOR.
- e) The transfer of the rights of the CONCESSIONAIRE derived herefrom, as well as the assignment of its interest in the Contract without the prior written consent of the GRANTOR.
- f) The promotion, on the initiative of the CONCESSIONAIRE, of a corporate, administrative or legal proceeding for its dissolution or liquidation.
- g) The failure by the CONCESSIONAIRE to grant or renew the Concession Contract Performance Bond or the insurance policies required in this Contract or if any of them are issued in terms and conditions other than those convened in the Contract.
- h) The disposal of the GRANTOR's Assets in a form and manner other than that established in the Contract, without the prior written authorization of the GRANTOR.

- i) The issue of a judicial order, either consented or executed, for reasons imputable to the CONCESSIONAIRE that prevent it from executing a substantial part of its business or if it establishes an attachment, lien or sequestration that affects the GRANTOR's Assets, in whole or in substantial part, and if any of these measures is enforced for more than sixty (60) Calendar Days.
- j) The commission by the CONCESSIONAIRE, of three (3) or more serious violations, in accordance with the regulations approved by the REGULATOR, over a period of twelve (12) months, or six (6) or more serious violations over a period of thirty-six (36) months.
- k) The partial, belated or faulty fulfillment, by the CONCESSIONAIRE, not justified to the satisfaction of the REGULATOR, of the Construction and Exploitation of the Port Infrastructure, that exceed the maximum terms established for the application of penalties due to delays or based on a specific agreement.
- l) The failure to render the Standard Service, due to causes attributable to the CONCESSIONAIRE, during three (3) consecutive Days and/or six (6) non-consecutive days over a period of one (1) month.
- m) The violation of the rules for the participation of the Strategic Partner established in Section III of the Contract.
- n) Three (3) consecutive violations in the monthly advance payment of the Compensation or five (5) non-consecutive violations, over a period of one (1) year.
- o) Failure to correct the observations, within the terms established in Articles 6.23 and 6.24.
- p) The financial structure was not completed due to the responsibility of the CONCESSIONAIRE, pursuant to the provisions established in the Economic System of the Construction Works, in Section VI herein.

The application of the grounds referred to in the last three paragraphs can be optionally exercised by the GRANTOR, subject to the prior opinion of the REGULATOR, which must be issued within a term of no more than thirty (30) Days following the request.

Under the other assumptions, the Forfeiture of the Contract shall operate automatically, unless the CONCESSIONAIRE and/or the Permitted Creditors, as the case may be, have cured the breaches that gave rise to the termination thereof within the stipulated term.

15.1.4 Termination due to the Default of the GRANTOR

The CONCESSIONAIRE may terminate the Contract in advance if the GRANTOR incurs in the gross breach of its obligations, outlined below:

- a) Unjustified breach, by the GRANTOR, of the procedure established for the reinstatement of the economic-financial balance contained in Section VIII of this Contract.
- b) Unjustified breach, by the GRANTOR, to maintain the common works of El Callao Port, so as to produce a drastic reduction in efficiency and operation, to the detriment of the CONCESSIONAIRE.

15.1.5 Unilateral Decision of the Grantor

Due to reasons of duly justified, reasons of public interest, the GRANTOR has the power to terminate the Concession Contract, by a prior and written notice to the CONCESSIONAIRE forwarded within a period of no less than six (6) months in advance of the fixed term for termination thereof. Within an equal term, it must notify the Permitted Creditors of such a decision.

The aforementioned communication must also be signed by the Government Institution of the Republic of Peru legally authorized to address such a problem of public interest.

During these six (6) months, the CONCESSIONAIRE will not be obliged to fulfill those obligations that imply making additional investments other than those established in the Contract, except those for Routine Maintenance purposes.

15.1.6 Force Majeure or Acts of God – Unilateral Exit of the CONCESSIONAIRE

The CONCESSIONAIRE will have the option to unilaterally exit the Contract due to events of force majeure or acts of God, provided it is verified that it is one of the events mentioned below, which must have produced a specific, present and determinable damage, duly justified and accredited, as a result of an event beyond the reasonable control of the CONCESSIONAIRE, who, despite all its efforts to prevent or mitigate its effects, it is unable to prevent the configuration of a noncompliance, as a direct and necessary consequence of said event:

A force majeure event or act of God shall exist, provided a special, unforeseeable and unmanageable event, condition or circumstance, not imputable to the Parties, is produced, that: (i) prevents either Party from fulfilling its obligations or that may cause their partial, belated or inadequate fulfillment over a period of more than six (6) consecutive months; and (ii) provided it prevents the relevant Party from attending more than 50% (fifty

percent) of the TEU registered in the last twelve (12) months prior to the occurrence of the event. The damage must be certain and present, duly grounded and accredited, produced by an event beyond the reasonable control of the Party invoking the cause, who, despite all its efforts to prevent or mitigate its effects, is unable to prevent the configuration of a default, as a direct and necessary consequence of said event. In the event of the occurrence of a force majeure event or act of God, the Parties agree that, unless they otherwise agree in writing, to grant a term to cure the event, the Contract shall be automatically terminated.

In addition, for the purposes of this Article, the following specific cases of force majeure or acts of God shall be considered:

- a) Any external act of war (declared or not), invasion, armed conflict, revolution, blockade, riot, civil commotion, acts of terrorism or civil war, that prevent the fulfillment of the Contract.
- b) The destruction of the Port Infrastructure or the Works, either in whole or in a substantial part, due to natural phenomena such as earthquakes, earth tremors, volcanic eruption, tidal waves, tsunamis, hurricanes, tornados, landslides or other natural phenomena or atmospheric disturbance of these characteristics.
- c) The eventual destruction of the Port Infrastructure or the Works, either in whole or in a substantial part, or damages to the assets that produce their total destruction and prevent their recovery, caused by the instructions of any government authority, for reasons not imputable to the CONCESSIONAIRE.
- d) The discovery of archaeological remains of such a magnitude that prevent the CONCESSIONAIRE from fulfilling its obligations.
- e) Any stoppage or strikes of workers who do not have any labor relation with the CONCESSIONAIRE, having a direct effect on the CONCESSIONAIRE, for unforeseeable causes or causes beyond its reasonable control.

15.1.7 Other Causes Not Imputable to the Parties

The failure to execute the obligations or the partial, belated or faulty fulfillment for reasons not imputable to the Parties, other than Force Majeure events, will produce the termination of the Contract only if its execution becomes impossible, the damaged Party loses interest in it or is no longer useful to it and after having discarded the direct negotiation referred to in Article 16.11.

15.1.8 After the Forfeiture of the Concession occurs due to any cause, the CONCESSIONAIRE may not remove the assets intended for the Contract performance from the Concession Area and/or dispose of them until the GRANTOR has exercised its purchase option over all or part of said assets, as stipulated in Article 5.21.

CURING PROCEDURES

15.2 Non-compliance due to cause attributable to one of the Parties shall entitle the affected Party to terminate the Contract and request compensation for damages, as per the liquidation procedure described in this Section. The breaching Party shall have a thirty (30) Calendar Day term that can be extended for thirty (30) additional Calendar Days counted from the reception date of the request to cure said breach, unless a different term is established in the Contract or a longer term is expressly granted in writing by the Party that exercises its termination rights.

PROCEDURE TO DEFINE THE MAXIMUM APPROVED BUDGET FOR FORFEITURE OF THE CONCESSION

15.3 To determine the Base Maximum Approved Budget for forfeiture (PMAB, in Spanish), the following shall be considered:

- a) For Works, Port Equipment and Minimum Complementary Investment, the lowest amount between the Works Official Estimated Budget and the actual executed budget shall be considered.
- b) One hundred percent (100%) of the Additional Complementary Investment (ACI) actually paid by the CONCESSIONAIRE shall be added.
- c) One hundred percent (100%) of the process expenses effectively paid by the CONCESSIONAIRE shall be added.

15.4 If the Forfeiture of the Concession occurs before Construction start-up, the amount resulting from Paragraphs b) and c) of the preceding article shall be considered as the Maximum Approved Budget for forfeiture (PMA).

15.5 If forfeiture occurs at the Construction stage, the lowest amount resulting from applying the works progress percentage to the Works Official Estimated Budget and the actual executed budget, adding thereto the amounts established in Paragraphs b) and c) of the same Article, shall be considered as the Maximum Approved Budget for forfeiture (PMA).

To define the works progress percentage, the following procedure shall be applied:

Within the thirty (30) Days after forfeiture is notified to the CONCESSIONAIRE, it shall certify before the GRANTOR the broken down amount of the investments made in the Works.

To define the amount of investments made up to the date of Forfeiture of the Concession, the following procedure shall be applied:

- a) The CONCESSIONAIRE shall submit the corresponding settlement statements, duly verified by the REGULATOR;
- b) The REGULATOR shall have a fifteen (15) Day term to submit any observation. Once said term elapses, the settlement statement shall be understood to have been approved.
- c) The CONCESSIONAIRE shall have (15) Days to correct any observations made by the REGULATOR or to modify the settlement statement.
- d) The REGULATOR shall calculate the works progress percentage obtained by the amount of the investment made within the Works Budget submitted by the CONCESSIONAIRE in its Technical File.

15.6 If forfeiture occurs once the construction stage is completed, the Maximum Approved Budget for forfeiture (PMA) shall be calculated as follows:

- a) The following shall be considered as the weighted average cost of the different capital sources (r):

r = 0.986% per month, in the event that the Forfeiture occurs due to the grounds foreseen in Articles 15.1.1, 15.1.4, 15.1.5, 15.1.6 and 15.1.7

r = Monthly rate equivalent to the LIBOR rate plus 3%, in the event that the Forfeiture occurs due to the grounds foreseen in Article 15.1.3

- b) Based upon the Works Budget submitted by the CONCESSIONAIRE in its Technical File, the percentage composition represented by both infrastructure works and equipment is calculated.

- c) Applying the percentages obtained in the former Paragraph to the Works, Equipment and Minimum Complementary Investment accepted budget of Paragraph a) in Article 15.3, the Budgetary Limits per type of Investment in Infrastructure and Equipment are obtained. The investment in infrastructure shall be sub-divided as per the percentages of the work progress made during construction with a frequency of no more than six (6) months by means of a procedure similar to the one established in Article 15.5. If the cash investments specified in Paragraphs b) and c) of Article 15.3 are added, the Budgetary Limits per type of Investment (Li) will be obtained.

- d) Each Budgetary Limit (Li) shall become monthly installments according to the following formula (or its equivalent, the function PAYMENT in Excel):

$$C_{Li} = Li * \left[\frac{r * (1 + r)^n}{(1 + r)^n - 1} \right]$$

Where:

- C_{Li} = Equivalent monthly installment of each Budgetary Limit
 Li = Budgetary Limit of each type of investment obtained in the former Point
 R = Weighted average cost of the different capital sources as per Paragraph a) of this article
 N = Number of months between the investment and the asset economic life:
- i. For infrastructure: Number of months between the calculation date for works progress and total concession term.
 - ii. For Machinery, Furniture and Equipment: Number of months between investment and equipment useful life.
 - iii. For other assets: Number of months between investment and total concession term.

- e) Once forfeiture occurs, the present value of the installments required to cover C_{Li} from forfeiture to the expiry of the initially stipulated term, shall be calculated according to the following formula (or its equivalent, VA functions in Excel).

$$VA_{CLi} = C_{Li} * \left[\frac{(1 + r)^{n1} - 1}{r * (1 + r)^{n1}} \right]$$

Where:

- VA_{CLi} = Present Value of the installments C_{Li} still to be covered
 C_{Li} = Equivalent monthly installment of each Budgetary Limit
 R = Weighted average cost of the different capital sources as per Paragraph a) of this article
 $n1$ = Number of months between forfeiture and the final term with which n was calculated in the abovementioned Point

- f) The amount resulting from adding each Li Present Values of each Li (VA_{CLi}) shall be considered as Maximum Approved Budget for forfeiture (PMA).

In case of future expansion, the same logic proposed in this Point shall be followed.

Any delay in payment shall give rise to the payment of interest at a rate equivalent to LIBOR plus a 3% spread.

FORFEITURE EFFECTS

- 15.7 The Forfeiture of the Concession results in the CONCESSIONAIRE's obligation to return to the GRANTOR all the areas comprised within the Concession Area, as well as to deliver the GRANTOR's Assets to the GRANTOR, as per the terms set forth in Articles 5.39 to 5.42.

Sixty (60) Calendar Days before Concession Term expiration, the Final Inventory of assets shall be started, with the participation of the REGULATOR, and it must be completed ten (10) Calendar Days before Concession expiration.

In case of a mutually agreed forfeiture, the final inventory shall form part of this Contract as an Exhibit to the agreement to be entered into to that effect.

In cases of termination due to non-compliance, the Final Inventory of assets, which shall be performed with the REGULATOR's participation, is to be completed ten (10) Days before the curing term expires.

In case curing occurs before the respective term elapses, the inventory shall be automatically suspended. If it has been completed, it will have no effect.

- 15.8 Once the Forfeiture of the Concession occurs, the CONCESSIONAIRE's activity shall cease and its right to exploit the Port Infrastructure shall extinguish. This right is reassumed by the GRANTOR notwithstanding acknowledgment of rights corresponding to the Permitted Creditors as established by Section X of this Contract.

Likewise, all agreements referred to in Section XIII hereof shall extinguish, except for those the GRANTOR has expressly decided to keep current and about which he has assumed the CONCESSIONAIRE's interest in the Contract.

- 15.9 Once the Forfeiture of the Concession occurs, the GRANTOR or the new concessionaire appointed by it shall be charged with the operation and the REGULATOR shall be in charge of carrying out the final liquidation pursuant to the terms of this Section.

PROCEDURES FOR FORFEITURE

- 15.10 The Contract shall be terminated and the Concession shall be forfeited as a matter of law provided that the Parties, as applicable, have previously complied with all their obligations and procedures foreseen in this Contract concerning Contract termination or Concession forfeiture, including, but not limited to, the notification obligations and the right of curing by the Permitted Creditors referred to in Section X.
- 15.11 Any warning, requirement and/or decision to terminate the Contract that the Parties may file, shall be reported to the REGULATOR and the Permitted Creditors at the same time, so that they can take any measure they deem necessary to protect their interests and/or to profit from the Concession's continuity and clearance. This notification shall be made sixty (60) Calendar Days in advance of the date foreseen for early termination.
- 15.12 The Forfeiture of the Concession, as a matter of law, shall occur on the sole initiative of the Party or the REGULATOR, as the case may be:
- (i) Upon expiration of the term fixed in Article 15.2 and the infringing Party has cured non-compliance to the satisfaction of the damaged Party; or
 - (ii) Upon reception by the CONCESSIONAIRE of a written communication in which the GRANTOR informs it of its decision of revoking the Concession as per Article 15.1.5, unless otherwise provided in the Section herein or a special term is granted in the communication.
 - (iii) All other cases of Forfeiture of the Concession.

CONTRACT LIQUIDATION

LIQUIDATION DUE TO CONTRACT EXPIRATION

- 15.13 When the Forfeiture of the Concession occurs, because the agreed term has expired, the liquidation shall not include any consideration or compensation for the investments and the Works and facilities in the land comprised within the Concession Area, as well as for the GRANTOR's Assets, or any indemnity amount for the eventual damages that the Forfeiture of the Concession may generate for any of the Parties.

LIQUIDATION BY MUTUAL AGREEMENT

- 15.14 If the Contract terminates due to mutual agreement between the Parties, this agreement shall contain the Concession liquidation mechanisms. To that effect, the time elapsed since the execution of the Contract, the investment amount not amortized, the Works and facilities in the land areas comprised in the Concession Area, the Concession Assets value, still to be depreciated, and the existing circumstances on the date in which the Parties make this decision, shall

be considered as criteria to determine the liquidation mechanism. No indemnity amount shall be considered for the damages that may be caused by the Forfeiture of the Concession to the Parties.

For this procedure, the REGULATOR shall take into account the opinion of the Permitted Creditors who are effectively financing the Concession when the Forfeiture of the Contract occurs.

LIQUIDATION DUE TO CONCESSIONAIRE'S NONCOMPLIANCE

15.15 If the Contract termination or Forfeiture of the Concession occurs due to the CONCESSIONAIRE's responsibility, the GRANTOR shall execute the corresponding Performance Bond. It is understood that the GRANTOR is expressly authorized to charge and retain the guarantee amount with no right to any reimbursement to the CONCESSIONAIRE.

The GRANTOR will acknowledge the CONCESSIONAIRE at most the Maximum Approved Budget for forfeiture purposes (PMA), less the amount obtained by the CONCESSIONAIRE from the liquidation or replacement.

In a term no longer than one (1) year, payment shall be made according to the aforementioned order for the case of replacement and Article 15.18. If any balance remains for the CONCESSIONAIRE (SC, in Spanish), it shall be converted into monthly installments according to the following formula (or its equivalent, the PAYMENT function in Excel):

$$C_A = SC * \left[\frac{r * (1 + r)^{n1}}{(1 + r)^{n1} - 1} \right]$$

Where:

C_A = monthly installment to be paid to the CONCESSIONAIRE.
 SC = Balance in favor of the CONCESSIONAIRE
 r = Monthly Effective Rate used in Paragraph a), Article 15.6.
 $n1$ = Number of months between Concession forfeiture and Concession term.

Notwithstanding the corresponding sanctions, the monthly payment referred to in the preceding Paragraph may be suspended or cancelled if serious irregularities are found in infrastructure construction

LIQUIDATION DUE TO GRANTOR'S NONCOMPLIANCE OR UNILATERAL DECISION

15.16 If the Forfeiture of the Concession occurs due to replacement, revocation or causes attributable to the GRANTOR, it shall pay the CONCESSIONAIRE directly and for a single time, within no more than one (1) year counted from the date in which the Contract termination occurred, an indemnity equivalent to the Maximum Approved Budget for forfeiture (PMA), less the amount obtained by the CONCESSIONAIRE from the liquidation or replacement.

LIQUIDATION BY FORCE MAJEURE OR ACTS OF GOD OR OTHER CAUSES NOT ATTRIBUTABLE TO THE PARTIES

15.17 To exercise the power contemplated in the clause herein, the CONCESSIONAIRE must observe the following procedure:

- a) The CONCESSIONAIRE shall report, through an official report, to the GRANTOR and the REGULATOR the occurrence of some of the aforementioned circumstances within thirty (30) Calendar Days following occurrence of same. Such report shall contain:
 - o A grounded description of the cause invoked and its economic or juridical effects.
 - o A proposal of the procedure to be followed to terminate the Contract.
- b) Such proposal must be submitted to the GRANTOR, the REGULATOR and the Permitted Creditors, who will have a twenty (20) Day term to make their observations.
- c) In case there are discrepancies related to the procedure proposed by the CONCESSIONAIRE, they shall be submitted to an Arbitrator established in Section XVI hereof.

In case the CONCESSIONAIRE exercises the option herein, he shall receive compensation as payment for the works and services supplied similar to that obtained in case of noncompliance by the GRANTOR, explained in the aforementioned article.

PROCEDURE FOR REPLACEMENT IN CASE OF CONTRACT TERMINATION

15.18 The procedure below shall be followed if the GRANTOR invokes the termination of the Concession Contract for any reason, except those foreseen in the cases of termination due to term expiration and termination by mutual agreement:

- a) The REGULATOR shall name a corporation to act as administrator, who will be in charge of the Exploitation of the Concession and shall comply with the CONCESSIONAIRE's obligation while its replacement by a new concessionaire occurs. The REGULATOR will be obliged to transfer the Concession, the CONCESSIONAIRE's rights, as well as all the Concession

Assets and liabilities committed in it, including the Permitted Guaranteed Indebtedness.

- b) The CONCESSIONAIRE shall be replaced by a new concessionaire through a public tender called by the GRANTOR, according to the following:
- i) The public tender and Concession award to the new concessionaire shall take place within a term not to exceed one (1) year counted from Contract termination or Concession forfeiture.
 - ii) The successful bidder shall be the one submitting the best economic proposal for the economic use of the Concession Assets according to a competition factor determined by the GRANTOR on a timely basis.
 - iii) The new concessionaire shall enter into an agreement with the GRANTOR under the same terms of this Contract, due to which it shall unconditionally assume all rights and obligations of the CONCESSIONAIRE as per this Contract.
 - iv) The Concession shall be transferred to the new concessionaire as a whole and establishing an economic unit, so that the Concession Assets may continue being used by the new concessionaire to supply the corresponding Concession Services uninterruptedly.
- c) The GRANTOR binds itself to pay, with the resources referred to in Item ii), Paragraph b) above, following the public tender for choosing the new concessionaire, the following obligations in the order herein:
- i) The CONCESSIONAIRE's labor liabilities;
 - ii) The amounts of money that shall be paid to the entities that had granted qualified credit as Permitted Guarantee Indebtedness;
 - iii) Taxes, except for those guaranteed by Applicable Laws and Provisions;
 - iv) Any fine or other penalty not satisfied by the CONCESSIONAIRE.
 - v) Any other CONCESSIONAIRE liability in favor of the GRANTOR;
 - vi) Expenses derived from calling and executing the public tender referred to in this Article;
 - vii) Any other liability the CONCESSIONAIRE may have vis-à-vis third parties in connection with the Concession, provided that said liabilities do not derive from obligations undertaken with Related Companies of the CONCESSIONAIRE.

In case the preceding amounts have been paid in full with funds coming from the payment of the new concessionaire, the balance, if any, shall be given to the CONCESSIONAIRE without exceeding the Maximum Approved Budget for forfeiture (PMA).

- 15.19 The payment obligations established in the preceding Article shall not be enforceable in case the new concessionaire has entered into an obligation assumption agreement with the creditors, including the Permitted Creditors.

In exceptional cases where a suspension of the Concession or the Forfeiture of the Concession occurs, in order to prevent total or partial stoppage of service, the REGULATOR may temporarily hire the services of specialized individuals or corporations to totally or partially operate the Concession for no more than one (1) calendar year until a new Concession Contract is executed.

SECTION XVI: SETTLEMENT OF DISPUTES

APPLICABLE LAW

16.1 The Contract shall be governed and interpreted according to the Applicable Laws and Provisions. Therefore, it expresses that the content, execution, conflicts and other consequences derived from it shall be governed by said legislation, same which the CONCESSIONAIRE declares to know.

APPLICATION SCOPE

16.2 This section regulates the settlement of disputes generated between the Parties during the Concession and those related to the Contract termination and Forfeiture of the Concession.

INTERPRETATION CRITERIA

16.3 In case there is divergence in interpreting this Contract, the Parties shall follow the order below to settle that situation:

- a) The Contract;
- b) The Circular Letters referred to in the Tender Documents; and,
- c) The tender documents.

16.4 The Contract is solely executed in Spanish. If there is any difference between the Contract translation and it, the Spanish text of the Contract shall prevail. The translations of this Contract shall not be considered for the purpose of its interpretation.

16.5 The established terms shall be computed in days, months or years, as applicable.

The headings contained in the Contract have the sole purpose of identification and shall not be considered as part of the Contract to limit or expand its contents or to determine the Parties' rights and duties.

16.6 The terms in singular include the same terms in plural and vice versa. The terms in masculine include the terms in feminine and vice versa.

- 16.7 The use of the disjunction "or" in an enumeration shall be understood as comprising exclusively some of the elements of such enumeration.
- 16.8 The use of the conjunction "and" in an enumeration shall be understood as comprising all the elements of such enumeration or list.
- 16.9 All the revenues, costs, expenses and the like the CONCESSIONAIRE might be entitled to for supplying the Services shall be charged in the corresponding currency pursuant to the Applicable Laws and Provisions and to the terms hereof.

WAIVER OF DIPLOMATIC CLAIMS

- 16.10 The CONCESSIONAIRE and its partners expressly, unconditionally and irrevocably waive any diplomatic claim for controversies or conflicts that may arise from the Contract.

DIRECT DEALING

- 16.11 The Parties declare that it is their will that any conflict or any uncertainty that has juridical relevance and may arise regarding the interpretation, performance, compliance and any aspect related to the existence, validity or effectiveness of the Contract or Concession forfeiture (except in relation to the system applicable to the Standard Rate Index, regulated by the REGULATOR, which shall be solved through the administrative channel or other decisions issued by this body while exercising its administrative functions) shall be settled by direct dealing between the Parties within fifteen (15) Days counted from the day in which one of the Parties communicates the other in writing the existence of a dispute or an uncertainty that has juridical relevance.

The term referred to in the preceding paragraph can be extended by joint decision of the Parties, an agreement that shall be made in writing, provided there are real possibilities that, if there were this additional term, the dispute would be settled through direct dealing.

In case the Parties, within the direct dealing term, did not settle the dispute or uncertainty arisen, they will define it as a technical or non-technical dispute or uncertainty, as the case may be. The technical disputes or uncertainties (each one "Technical Dispute") shall be solved pursuant to the procedure stipulated in Article 16.12, Paragraph a). The disputes or uncertainties which do not have a technical character (each one "Non-Technical Dispute") shall be solved pursuant to the procedure stipulated in Article 16.12, Paragraph b). In case the Parties fail to reach an agreement, within the direct dealing term, as to whether the dispute or controversy arisen is a technical dispute or non-technical dispute, then said dispute or uncertainty shall be considered as a non-technical dispute and will be solved according to the respective procedure foreseen in Article 16.12, Paragraph b).

ARBITRATION

16.12. Arbitration procedure modalities:

- a) **Equitable Arbitration:** Each and every one of the Technical Disputes that may not be directly resolved by the Parties within the direct dealing term shall be submitted to equitable arbitration as per Article 3 of the Peruvian Arbitration Law, in which the arbitrators shall settle the dispute to the best of their knowledge and belief. Arbitrators may be domestic or foreign experts, but in all cases, they shall have broad experience in the subject matter of the Technical Dispute and must not have any conflict of interests with any of the Parties at the time they are appointed as arbitrators and afterwards.

The Arbitration Court may request the Parties to provide the information it deems necessary to settle the Technical Dispute it is hearing and, as a result, it may submit to the Parties a conciliation proposal which may or may not be accepted by them. The Arbitration Court may produce all the means of proof and request from the Parties or third parties any proof it considers necessary to settle the formulated claims. The Arbitration Court shall prepare a preliminary decision that it will notify to the Parties within the thirty (30) Days following its installation, and the Parties will have a five (05) day term to prepare and submit their comments to the court concerning said preliminary decision. The Arbitration Court shall issue its final decision on the Technical Dispute arisen within ten (10) Days following reception of comments of the Parties to its preliminary decision or upon expiration of the term to submit such comments, whichever occurs first. The procedure for settling a Technical Dispute shall take place in the city of Lima, Peru. Exceptionally, and due to the nature of the specific case, the arbitration court shall be transferred to another locality solely with the aim of producing means of proof such as an expert's appraisal, and eye inspection and any other proof necessary to be produced in another locality, for a term not to exceed ten (10) Days.

Court members shall keep absolute reserve and maintain confidentiality on all the information they learned because of their participation in settling a Technical Dispute.

- b) **De Jure Arbitration:** Non-Technical Disputes shall be settled through de jure arbitration, pursuant to Article 3 of the Peruvian Arbitration Law, procedure by which the arbitrator shall settle that dispute in accordance

with the applicable Peruvian law. De jure arbitration may be local or international, as detailed below:

- (i) When Non-Technical Disputes involve an amount exceeding Five Million Dollars of the United States of America (US\$ 5,000,000) or its equivalent in domestic currency, or the Parties do not agree on the amount of the matter in controversy, disputes may be settled by international de jure arbitration, through a procedure followed in accordance with the Settlement and Arbitration Rules of the International Center for Settlement of Investment Disputes ("ICSID"), established in the Convention on the Settlement of Investment Disputes between States and Nationals of other States, approved by Peru through Legislative Resolution N° 26210, to which Regulations the Parties submit unconditionally.

In order to initiate international de jure arbitration proceedings, as per ICSID arbitration rules, the GRANTOR, on behalf of the State of the Republic of Peru, declares that the CONCESSIONAIRE be considered as a "national from another State Party" in view that it is subject to foreign control, as per Paragraph b), Point 2, Article 25 of the Convention on the Settlement of Investment Disputes between States and Nationals of other States, and the CONCESSIONAIRE accepts to be considered as such.

The arbitration shall take place in the city of Washington D.C., United States of America and shall be conducted in Spanish. The arbitration award must be issued pursuant to the arbitration rules of the arbitration institutions.

If for any reason, ICSID decided not be competent or declines assuming the arbitration submitted to them by virtue of this Section, the Parties accept beforehand to subject to UNCITRAL Arbitration Rules any Non Technical Dispute which (a) amounts to more than Five Million Dollars of the United States of America (US\$5,000,000) or its equivalent in domestic currency, or (b) the Parties do not agree on the disputed amount. In that case, arbitration will take place in Lima Peru.

Otherwise, the Parties may agree to submit the dispute to a different jurisdiction than ICSID if they so deem convenient.

The Parties express their anticipated and irrevocable consent to submit any dispute of this nature to any of the arbitration courts mentioned in the preceding paragraph.

- (ii) The Non-Technical Disputes involving an amount equal to or lower than Five Million Dollars of the United States of America (US\$5,000,000) or its equivalent in domestic currency and those purely de jure disputes that are not measurable in money, shall be settled through de jure arbitration by means of a procedure conforming with the Settlement and Arbitration Rules of the National and International Arbitration Center of the Lima Chamber of Commerce, to which regulations the Parties unconditionally submit, and first the Peruvian Arbitration Law and then the Civil Procedural Code of Peru can be applied on a supplementary basis.

Arbitration shall take place in the city of Lima, Peru and shall be conducted in Spanish. The corresponding arbitration award must be issued within one hundred twenty (120) Calendar Days following the Arbitration Court installation. Exceptionally, the decision may be issued outside this term when the Arbitration Court considers indispensable to produce means of proof such as expert's appraisal or eye inspection outside the city where the arbitration procedure takes place, within a term not to exceed thirty (30) Calendar Days.

COMMON PROCEDURAL RULES

16.14 Both for the Equitable Arbitration referred to in Article 16.12, Paragraph a) and for the De Jure Arbitration referred to in Article 16.12, Paragraph b) whether in its international or domestic modality, the following general provisions shall equally apply:

- a) The Arbitration Court shall be made up of three (03) members. Each Party shall appoint an arbitrator and the third one shall be appointed by agreement between the arbitrators appointed by the Parties who in turn shall act as President of the Arbitration Court. If the two arbitrators do not reach an agreement on the appointment of the third arbitrator within ten (10) Days following the second arbitrator appointment date, the third arbitrator shall be appointed, following request of any of the Parties, by the Lima Chamber of Commerce, in the case of the equitable and domestic de jure arbitration or by ICSID in the case of international de jure arbitration. If one of the Parties fails to appoint its respective arbitrator within ten (10) Days counted from the date the respective appointment request is received, it shall be considered that the Party has waived its right and the arbitrator shall be appointed, upon request of the other Party, by the Lima Chamber of Commerce or by ICSID, as the case may be.

- b) Arbitrators may solve any difference or gap in the legislation or in the Contract in their discretion, by applying the law's general principles.
- c) The Parties agree that the award issued by the Arbitration Court shall be final and conclusive. In this regard, the Parties shall consider it as a last instance decision, with the authority of *res judicata*. Consequently, the Parties waive every reconsideration, appeal, annulment, cassation or any other challenging means against the arbitration award, declaring that it shall be mandatory, of definitive compliance and immediate execution, except in the case specifically foreseen in Articles 73 and 123 of the Peruvian Arbitration Law, when applicable.
- d) During the arbitration, the Parties shall continue performing their contractual obligations to the extent possible, including those that are the subject matter of the arbitration. If the arbitration matter were the breach of obligations guaranteed by the Performance Bond, if applicable, the respective term will be suspended and such guarantee may not be executed for the reason that caused the arbitration and shall be kept in effect during the arbitration proceeding.
- e) All the expenses arising out of the settlement of a Technical or Non-technical Dispute, including the fees of the arbitrators taking part in the settlement of a dispute, shall be covered by the losing Party. The same rule applies in case the defendant or counterclaim defendant yields to or acknowledges the claim of the plaintiff or counterclaimant. The plaintiff or counterclaimant shall assume all the expenses if it abandons its claim. In case the procedure ends without a decision on the content of the claims due to settlement or conciliation, the referred expenses shall be covered in equal parts by the plaintiff and the defendant. Furthermore, in the event that the award is partially favorable to the Parties' positions, the Arbitration Court shall decide on the distribution of said expenses.

Costs and expenses such as advisor's fees, internal costs or others attributable to an individual Party are excluded from the provisions of this Section.

SECTION XVII: AMENDMENTS TO THE CONTRACT

- 17.1 Every amendment, addition or modification request concerning this Contract shall be submitted to the REGULATOR with a copy to the other Party, including due justification. The GRANTOR or the CONCESSIONAIRE shall solve the request taking into account the REGULATOR's opinion. The amendment agreement shall be binding upon the Parties only if made in writing and signed by the duly authorized representatives of the Parties.

Pursuant to the provisions of Article 33 of the TUO Regulation, the GRANTOR may amend this Contract, following agreement with the CONCESSIONAIRE, when necessary, respecting to the extent possible its nature, the economic and technical conditions contractually agreed to and the economic and financial balance of the services to be rendered by the Parties.

Considering the preceding paragraph, the Parties expressly agree that the GRANTOR may amend this Contract following agreement with the CONCESSIONAIRE and with the prior opinion of the REGULATOR, provided it is necessary and duly grounded, so as to:

- i) Allow the CONCESSIONAIRE to obtain the Permitted Guaranteed Indebtedness; or
- ii) Relate the Contract with the nature of the guarantee granted to the Permitted Creditors pursuant to Section X herein; or
- iii) Adapt the Contract to technological changes or new circumstances that may occur during the Concession term or its extensions and that the Parties may not have reasonably known or foreseen on the Contract Execution Date.
- iv) Restore the economic and financial balance, as prescribed in Article 8.19.

SECTION XVIII: FORCE MAJEURE

FORCE MAJEURE EVENTS

18.1 For the purposes hereof, there shall be a Force Majeure or Act of God situation when there is an event, condition or circumstance that cannot be attributed to the Parties, preventing any of them from complying with the obligations under their charge or causing total or partial noncompliance, or delayed or defective compliance. The event shall be beyond reasonable control of the Parties invoking said cause, who in spite of all the reasonable efforts to prevent it or to mitigate its effects, cannot prevent total, or partial noncompliance or defective compliance.

Force Majeure includes but is not limited to the following:

- (i) Any external, internal or civil acts of war (declared or not declared), invasion, armed conflict, blockage, revolution, riot, insurrection, civil commotion or terrorist acts.
- (ii) Any work stoppage or worker strike directly affecting the CONCESSIONAIRE for causes beyond its reasonable control or which are unforeseeable.

- (iii) Any earthquake, flood, hurricane, tornado, electric storm, fire, explosion or similar event provided it directly affects the Concession Assets and/or the Common Port Infrastructure, totally or partially.
 - (iv) Partial destruction of the Common Port infrastructure and/or the New Container Terminal – Southern Zone, due to an external event that cannot be attributed to the CONCESSIONAIRE, which repair would demand an investment higher than ten percent (10%) of the Work Official Estimated Budget.
- 18.2 At the request of any of the Parties, the REGULATOR shall qualify an event or fact as Force Majeure and decide on the term of suspension of the Concession. The REGULATOR must issue a decision within a term of no more than thirty (30) Calendar Days counted from the date the qualification request was submitted. If the REGULATOR issues no decision on the request within the prescribed term, it shall be understood to have been rejected.
- 18.3 The obligations affected by a Force Majeure fact, as well as the Contract term shall be automatically suspended as from the occurrence of the Force Majeure event and while this event lasts, and the Contract term shall be extended for a term that equals that of the suspension.
- 18.4 The Force Majeure shall not free the Parties from complying with obligations that are not suspended due to such events.
- 18.5 The Party affected by a Force Majeure event shall report the other Party on:
- i) The facts that make up such Force Majeure event, seventy-two (72) hours after the event occurred or the party learned about it, as the case may be; and
 - ii) The estimated period of total or partial restriction to its activities and the foreseen degree of impact. Additionally, it shall keep the other Party informed about the development of such events.
- 18.6 The Parties shall make every effort to ensure resumption of obligation compliance in the least possible time after the occurrence of such events.
- 18.7 In case the Contract herein is terminated due to a Force Majeure event, the Contract liquidation shall be governed by Section XV.
- 18.8 For a Force Majeure to be considered as grounds for termination, it shall be necessary to comply with the provisions set forth in Article 15.1.6 of the Contract.
- 18.9 In case one of the Parties did not agree with the event qualification as Force Majeure, he can have recourse to the dispute settlement as per Section XVI.

SECTION XIX: PENALTIES

19.1 The REGULATOR, in exercising the sanctioning power conferred by this Contract, is authorized to apply the contract penalties outlined therein. In this regard, in the event of non-compliance by the CONCESSIONAIRE of the obligations detailed in this Contract, the REGULATOR shall notify it of the detected violation and, at its discretion, may suggest curing mechanisms to solve the discrepancies that give rise to the violation and/or impose the penalties set forth in Exhibit 17. The CONCESSIONAIRE shall not be exempted from responsibility, even in those cases where non-compliance results from contracts entered into with subcontractors.

19.2 The amount of the penalties shall be credited by the CONCESSIONAIRE to the REGULATOR, to the account designated by it, within a term of ten (10) Days from the date the notice is received from the REGULATOR.

The term established in the preceding paragraph for payment of the penalties shall be suspended in the case that the imposition of the penalty is contested by the CONCESSIONAIRE, and calculation of said term shall be resumed if the imposition of the penalty is confirmed by the REGULATOR.

19.3 The CONCESSIONAIRE may object the imposition of the penalty if it submits to the REGULATOR the written objection, duly substantiated, within a term not to exceed ten (10) days after the day following the date the penalty is notified.

For its part, the REGULATOR shall have a term of ten (10) days to issue its duly reasoned decision. If said term expires without the REGULATOR having issued any decision, the objection filed shall be deemed to have been rejected. The decision issued by the REGULATOR shall be final and shall not be subject to any claims by the CONCESSIONAIRE.

19.4 In the event that the CONCESSIONAIRE fails to comply with the payment of the aforesaid penalties within the stipulated term, the REGULATOR may execute the Concession Contract Performance Bond, up to the amount of the penalty imposed, and the CONCESSIONAIRE shall refund it as provided for in Section X of this Contract.

19.5 The payment of the applicable penalties may not be considered as affecting the financial flow of the Concession nor can the rupture of the economical-financial balance be invoked.

- 19.6 As provided for in Article 14.12, under the assumption that it is verified that a breach of contract is contemplated as a violation liable to sanction in OSITRAN Regulations on Violations and Sanctions, or any replacing provisions, only the respective sanction shall be imposed, and the penalties foreseen in Exhibit 17 shall not apply to the CONCESSIONAIRE. The sanctioning procedure shall be governed by the administrative legislation in force at that time.

SECTION XX: Domiciles

FIXING

- 20.1 Except as otherwise expressly agreed in the Contract, all notices, summons, petitions, demands, and other communications related to the Contract shall be made in writing and shall be considered as validly made when they have a respective proof of receipt or when sent by courier, by telex or by fax, once their reception has been verified, to the following addresses:

If it is addressed to the GRANTOR:

Name: —
Address: Av. Zorritos 1203 – Cercado de Lima
Attention: —

If it is addressed to the CONCESSIONAIRE

Name: —
Address: —
Attention: —

If it is addressed to APN:

Name: Autoridad Portuaria Nacional
Address:
Attention:

If it is addressed to the REGULATOR:

Name: Organismo Supervisor de la Inversión en Infraestructura de
Transporte de Uso Público – OSITRAN
Address: Torre del Centro Cívico, Av. Bolivia 144, Piso 19, Lima, 1
Attention: General Manager

CHANGE OF ADDRESS

- 20.2 Every change of address shall be communicated in writing to the other party hereto and to the REGULATOR at least fifteen (15) Calendar Days in advance

within Lima or El Callao. This new address shall be fixed complying with the requirements set forth in the preceding Section.

In witness whereof, the parties hereto have signed this Contract in four (4) identical counterparts in the city of Lima this ____ day of the month of _____ 2006, by the CONCESSIONAIRE and APN, acting on behalf of the GRANTOR.

UNOFFICIAL TRANSLATION

EXHIBIT 1

CONCESSION AREA

DESCRIPTION OF THE CONCESSION AREA

The Concession Area comprises a water area and a land area which enable the Construction of the New Container Terminal – Southern Zone, as well as auxiliary facilities and the accesses for entry and exit of containerized cargo.

I. TOTAL CONCESSION AREA

BOUNDARIES AND PERIMETER MEASUREMENTS

- To the North:

With the Pacific Ocean and El Callao Port Terminal, in a broken line of 7 sections: A-B= 1,050 lm, B-C=60 lm, C-D= 257.64 lm, D-E= 2.88 lm., E-F= 7.73 lm., F-G=3.33 lm., and G-H= 41.65 lm.

- To the East:

With Av. Manco Capac and INFOCAP, in a broken line of 18 sections: H-I= 1.82 lm., I-J= 52.77 lm., J-K=24.06 lm., K-L=71.80 lm., L-M=16.47 lm., M-N=99.79 lm., N-O=46.48 lm., O-P=8.94 lm., P-Q=6.38 lm., Q-R=8.94 lm., R-S=67.26 lm., S-T=20.76 lm., T-U=24.59 lm., U-V=3.91 lm., V-W=5.83 lm., W-X=5.95 ml., X-Y=11.46 lm. and Y-Z=83.64 lm.

- To the South:

With Plaza Grau and the Pacific Ocean, in a broken line of 17 sections: Z-A1= 9.82 lm., A1-B1= 11.94 lm., B1-C1=7.94 lm., C1-D1=17.95 lm., D1-E1=58.55 lm., E1-F1=12.84 lm., F1-G1=15.85 lm., G1-H1=17.36 lm., H1-I1=40.68 lm., I1-J1=18.91 lm., J1-K1=29.43 lm., K1-L1=8.88 lm., L1-M1=0.32 lm., M1-N1=21.63 lm., N1-O1=100.00 lm., O1-P1=317.43 lm. and P1-Q1=932.17 lm.

- To the West:

With the Pacific Ocean, in a straight line of one section: Q1-A= 660 lm.

TOTAL CONCESSION AREA

An area of 738,898.59 m² is encompassed within the boundaries and perimeter measurements described above.

PERIMETER

The perimeter length of the land is 4,265.78 Im.

II. LAND AREA

BOUNDARIES AND PERIMETER MEASUREMENTS

- To the North:

With Lands of El Callao Port Terminal, in a broken line of 5 sections:

C-D= 257.64 Im., D-E= 2.88 Im., E-F= 7.73 Im., F-G=3.33 Im., and G-H= 41.65 Im.

- To the East:

With Av. Manco Capac and INFOCAP, in a broken line of 18 sections: H-I= 1.82 Im., I-J= 52.77 Im., J-K=24.06 Im., K-L=71.80 Im., L-M=16.47 Im., M-N=99.79 Im., N-O=46.48 Im., O-P=8.94 Im., P-Q=6.38 Im., Q-R=8.94 Im., R-S=67.26 Im., S-T=20.76 Im., T-U=24.59 Im., U-V=3.91 Im., V-W=5.83 Im., W-X=5.95 Im., X-Y=11.46 Im. and Y-Z=83.64 Im.

- To the South:

With Plaza Grau and the Pacific Ocean, in a broken line of 12 sections: Z-A1= 9.82 Im., A1-B1= 11.94 Im., B1-C1=7.94 Im., C1-D1=17.95 Im., D1-E1=58.55 Im., E1-F1=12.84 Im., F1-G1=15.85 Im., G1-H1=17.36 Im., H1-I1=40.68 Im., I1-J1=18.91 Im., J1-K1=29.43 Im. and K1-L1=8.88 Im.

- To the West:

With the Pacific Ocean, in a straight line of one section: L1-C= 294.76 Im.

LAND AREA

An area of 83,214 m² is encompassed within the boundaries and perimeter measurements described above.

PERIMETER

The perimeter length of the land is 1,419 Im.

III. WATER AREA

BOUNDARIES AND PERIMETER MEASUREMENTS

- To the North:

With the Pacific Ocean, in a straight line of one section: A-B=1050 lm.

- To the East:

With Lands of El Callao Port Terminal and the Land Concession Area, in a straight line of one section: B-M1=354.44 lm.

- To the South:

With the Pacific Ocean, in a broken line of 4 sections: M1-N1= 21.63 lm., N1-O1=100.00 lm., O1-P1=317.43 lm. and P1-Q1=932.17 lm.

- To the West:

With the Pacific Ocean, in a straight line of one section: Q1-A=660 lm.

WATER AREA

An area of 655,684.53 m² is encompassed within the boundaries and perimeter measurements described above.

PERIMETER

The perimeter length of the land is 3,435.67 lm.

EXHIBIT 1

Appendix 2: LIST OF CONCESSION ASSETS COMPRISED WITHIN THE LAND AREA

Typical toilet services
Floating equipment shop
Building of former Yatch Club
Pilot's room and terminal supervision
Office facing Plaza Grau
Former warehouse of Gyoren Agency
Well TM-3
Topmen Offices
Electric substation # 7
Office and toilet services: Zone 2
Office, toilet services and dressing rooms: Zone 2A
Offices, toilet services and dressing rooms: Zone 2B
Headquarters of Scales, Review and Documentation of scales

UNOFFICIAL TRANSLATION

EXHIBIT 2

**NOTARIAL CERTIFIED COPY OF THE ARTICLES OF INCORPORATION AND
BYLAWS OF THE CONCESSIONAIRE**

UNOFFICIAL TRANSLATION

EXHIBIT 3
SERVICE AND PRODUCTIVITY LEVELS

- **Time for commencement of Unloading:** No more than twenty (20) minutes for the commencement of the unloading operations, counted from the moment in which the Ship, already moored, has secured all the necessary authorizations.
- **Time for departure of the Ship:** No more than twenty (20) minutes for the departure of the Ship, counted from the moment the loading operations are completed and all the necessary authorizations are obtained.
- **Loading or Unloading Operation Performance (Yield of Operation):** An average of no less than twenty-five (25) containers per hour and per Gantry Crane of Dock:

$$Yield\ of\ operation = \frac{NC}{t \times n_g} \geq 30\ containers\ per\ hour$$

Where:

- NC: Number of containers loaded or unloaded in the last twelve (12) months.
t: Accumulated operation time corresponding to the last twelve (12) months
 n_g : Number of cranes in operation

“Accumulated operation time” means the addition of all the operating times of each ship attended by the Terminal during such period of twelve (12) months. The operation time of each ship is counted as from hooking the first container until unhooking the last container.

The first year after the commencement of the Exploitation, calculation will be made on a quarterly accumulation basis, with a minimum rate of twenty (20) containers per hour and per Gantry Crane of Dock.

- **Service time to Users for removing the merchandise:** No more than thirty (30) minutes counted from the time in which the User requests its merchandise removal after having paid the received services and the time in which the Terminal makes it available to the User. Once the first twelve (12) months have elapsed from the commencement of the Exploitation, the Terminal shall hand the merchandise to the User within a term of no more than fifteen (15) minutes.
- **Dock Occupation Rate:** Not higher than a seventy percent (70%) of the ratio between the Berth annual total occupation time and the annual total availability time.

Its estimation defines the time in which the CONCESSIONAIRE shall have the new infrastructure and/or additional equipment operative, according to its Technical Proposal.

The Dock occupation Rate shall be calculated from the date the CONCESSIONAIRE starts the exploitation with the two berths until the limit to the maximum capacity offered in its Technical Proposal is implemented.

The information necessary to certify compliance with the provisions of this exhibit shall be forwarded on a quarterly basis, which shall serve to verify compliance with the mandatory parameters.

UNOFFICIAL TRANSLATION

EXHIBIT 4

MANDATORY TECHNICAL PARAMETERS FOR THE WORKS AND EQUIPMENT

I. Capacity to serve Ships:

The Terminal must be designed to serve at least two (2) Ships at the same time during 24 hours per Day (on business days, Sundays and holidays).

II. Dock infrastructure:

The Terminal must be designed with at least two Berths of 300m each one and a minimum water depth of 14 m as compared to the average level of mean low water spring (MLWS). The Dock cementation must be ready to dredge the operation area at 16 m. as compared to MLWS. Upon commencement of the Exploitation, the backup area at the Dock cannot be less than 145,000 m². Dock cementation shall be alternatively made with steel pile, reinforced concrete piles, concrete bins or blocks.

Only in the event that the Exploitation is started with a Berth may the storage area be less than the 145,000 m² stated in the preceding paragraph.

III. Equipment:

The Dock must have at least two (2) new gantry cranes per Berth, with an effective average annual capacity of twenty-five (25) containers per hour and per crane. As demand increases and to be able to comply with the service and productivity levels, more cranes shall be conditioned to increase the Terminal's capacity. The Terminal shall have at least six (6) new gantry cranes within the Concession term. The transfer and yard equipment, equally new, shall maintain, in capacity and yield, the required pace to optimize the logistic chain times. In the Technical File, the CONCESSIONAIRE shall detail the equipment characteristics it commits to acquire.

If Exploitation starts with a Berth, the Dock must be equipped with at least two (2) new gantry cranes and the necessary equipment in the storage area.

EXHIBIT 5

POLICY ON RATES

The rate levels of the Standard Services considered in this Exhibit are the result of the Economic Proposal submitted by the Successful Bidder.

SHIP SERVICES

By Meter of Length – Hour (or fraction of hour) US\$.....

CARGO SERVICES

Rate per 20' container with cargo = US\$.....
Rate per 40' container with cargo = US\$.....
Rate per empty 20' container = US\$.....
Rate per empty 40' container = US\$.....

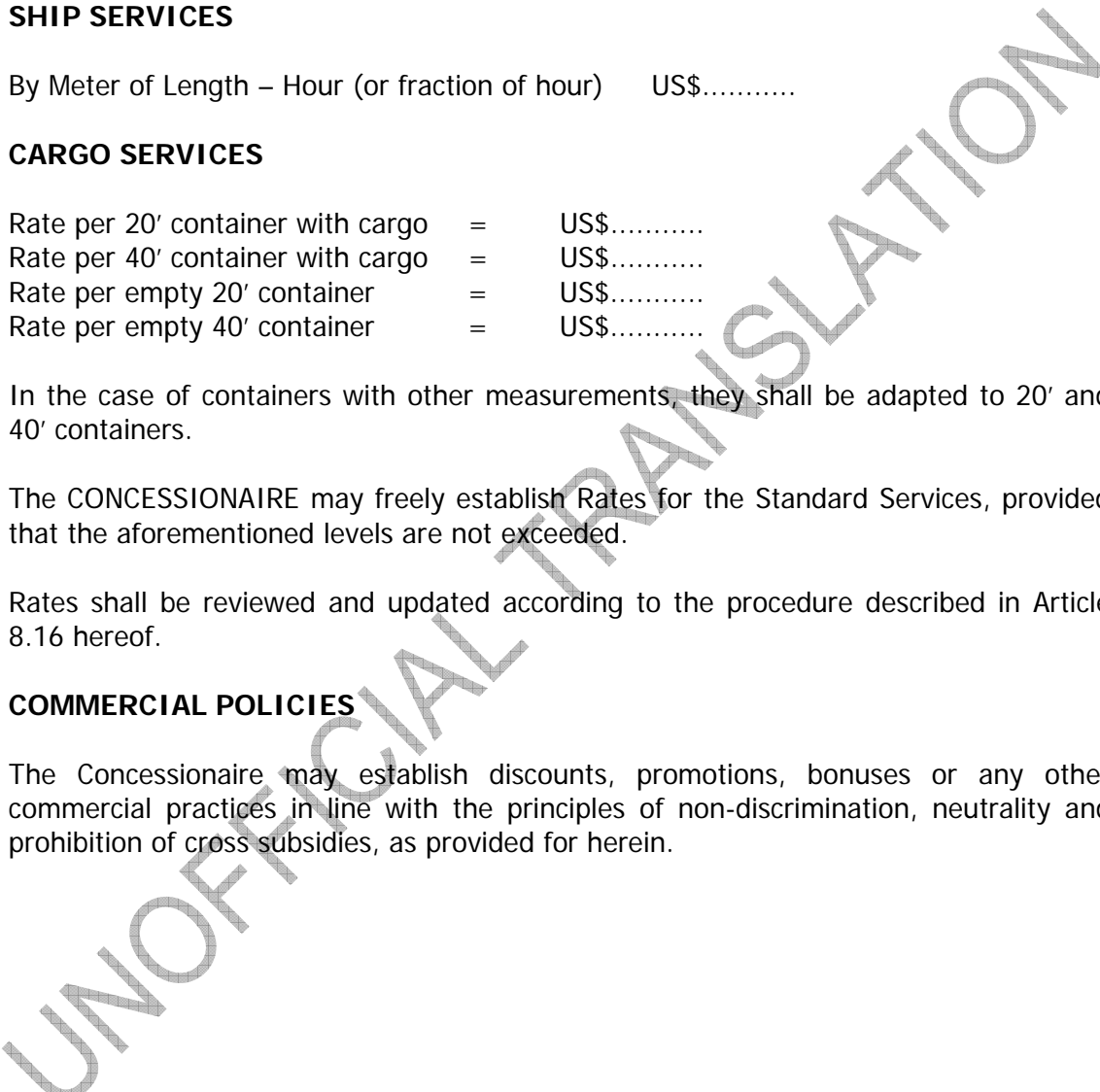
In the case of containers with other measurements, they shall be adapted to 20' and 40' containers.

The CONCESSIONAIRE may freely establish Rates for the Standard Services, provided that the aforementioned levels are not exceeded.

Rates shall be reviewed and updated according to the procedure described in Article 8.16 hereof.

COMMERCIAL POLICIES

The Concessionaire may establish discounts, promotions, bonuses or any other commercial practices in line with the principles of non-discrimination, neutrality and prohibition of cross subsidies, as provided for herein.



BASIC RULES FOR THE APPLICATION OF RATES

AVAILABILITY OF THE TERMINAL FOR THE PROVISION OF SERVICES

The port services to be provided by the Terminal shall be available during the twenty-four (24) hours of ordinary days, Sundays and holidays.

ACCESS TO THE NEW CONTAINER TERMINAL – SOUTHERN ZONE

The New Container Terminal – Southern Zone shall allow the free access of Users and their cargo transportation vehicles for the removal or loading of containers. The entry authorization shall be subject to the conditions established by the Terminal.

PAYMENT CURRENCY AND RATE SCHEDULE

The Rates for the Standard Services shall be denominated in Dollars.

The CONCESSIONAIRE shall have a Rate Schedule comprising the Standard Services, the Prices for the Special Services and the applicable regulations.

RESPONSIBILITY FOR THE NEW CONTAINER TERMINAL – SOUTHERN ZONE

A. Removal and Loading of Containers

In accordance with the Applicable Laws and Provisions, no container shall be removed or loaded onto the Ship without the prior authorization of the National Superintendency of Tax Administration (SUNAT).

B. Potential Loss of Containers

The Terminal's responsibility for the potential loss of any container stored under its custody shall be limited to the provisions of the Customs Code and the Regulations thereto.

EXHIBIT 6**TERMS OF REFERENCE OF THE TECHNICAL FILE****I. GENERAL ISSUES**

The CONCESSIONAIRE shall design, build, conserve and exploit the new Container Terminal – Southern Zone. The works shall include at least demolition of Dock 9, withdrawal of rubble and obstacles from the sea bottom, dredging of the maritime concession area, backup area earth fill, docking and backup area works, inland concession area works, equipping, maintenance plans for the maritime areas, maintenance plans for infrastructure and superstructure civil works, facilities and equipment including the environmental impact mitigation programs, as set forth in Section XII.

II. MARITIME WORKS FILE**2.1 Dredger Selection**

In this section the criteria for selecting the dredger, the calculation reports, the hold size, if it were the case, the selection of pump and dredging cycle shall be calculated.

2.2 Descriptive Report

It shall include areas and volumes to be dredged, dump location, general description of the Works to be executed and the predominantly used earth fill materials.

2.3 Technical Specifications

They will detail the nature of materials to be dredged, depths, earth fill and liquefaction, slopes, transition areas, dredger possibilities, dredging procedures, quality control, approvals, among others.

2.4 Schedule of Quantities

It shall be made up based on the necessary items to execute the Works, including metering in logical building units. The schedule of quantities shall be based on the corresponding calculation reports.

2.5 Unit Price Analysis

It will be made for each one of the items making up the dredger Value. The Complementary Equipment List to execute the Works shall include the amount, characteristics and power of the equipment.

2.6 General Execution Schedule

It shall detail the sequence and duration of each item and total term.

2.7 Works Blueprints

They shall show at a convenient scale every work to be executed, including type and quality of material to be dredged and procedures to be followed in agreement with technical specifications.

III CIVIL WORKS FILE

In this File the CONCESSIONAIRE shall submit the studies and designs of every infrastructure, port and electric, sanitary and any other facility works necessary for the project to be completed within the term foreseen in the Contract.

3.1 Design criteria

The CONCESSIONAIRE will take into account the requirements established in the Tender Document, when preparing the detail engineering, considering that the project is located in a seismic zone and the infrastructure useful life of the berths must be of no less than fifty (50) years.

The CONCESSIONAIRE shall submit the Design Supervisor the calculation reports of all the projects that have structure, electric and sanitary facilities blueprints, studies (soils, hydrographic, power demand, water sources, etc) measurement, etc. that the CONCESSIONAIRE requested from the Consultants responsible for the works design. Detail engineering shall consider calculation of every element of the port infrastructure.

3.2 Descriptive Report

It shall include the Project location and its nature, generally describing the works to be executed, the procedures and the predominant materials.

3.3 Technical Specifications

They include the nature of the material to be used, the constructive procedures, stages, quality controls, approvals, payment methods, etc. that will be used to comply with the correct execution of works and actions corresponding to Supervision.

3.4 Schedule of Quantities

It will be based on the necessary items to execute the works including metering in logical building units, so that the Design Supervisor can revise the CONCESSIONAIRE's proposal.

3.5 Unit Price Analysis

It shall be made for each one of the items making up the works Value. No item of a global or estimated nature shall be accepted. Labor, materials, equipments, etc. inputs will be equally detailed in quantities.

3.6 Works value

It shall be configured in strict agreement between metering, Unit Prices, and Overheads.

3.7 Minimum Equipment List

It is the indispensable equipment to execute the works; quantity and characteristics of the equipment shall be included.

3.8 General Execution Schedule

It will detail the execution sequence, duration of each item and works total execution term..

3.9 Works Blueprints

They will show at convenient scale all the works to be executed, including type and quality of materials to be used and procedures to be followed in agreement with the technical specifications.

3.10 Additional Considerations

The location and measurements of the offices to be furnished by the CONCESSIONAIRE to the entities listed in Exhibit 8 must be stated, as well as the merchandise control action area to be assigned to SUNAT to perform its functions.

IV. EQUIPMENT TECHNICAL FILE

In this section, the Concessionaire shall submit the studies and designs of the Gantry Cranes he will install at the berths and the complementary equipment he will use in the backup area. Likewise, he shall submit the terminal operations Plan and a model showing he will meet the service and efficiency levels established in its proposal

4.1 Design Criteria

Since the project is located in a seismic zone, the Concessionaire shall submit and support the criteria taken into account to establish capacity, path, exterior reach, back reach, clearance for the containers, hoisting height, distance between butts, base width, number of wheels to support, crane operation weight according with the requirements set forth in the Tender Document and the CONCESSIONAIRE's technical proposal. Special attention shall be given to establish the arm, counterweight and container weight (spectrum of the last earthquakes occurred in the region).

The Concessionaire shall submit to the Supervisor the calculation reports of any project that has blueprints of sanitary and electric structures etc.

The Concessionaire must specify the characteristics and numbers of complementary equipment he will use to transport containers from the dock to the backup area and vice versa. Generally, it will point out the type of yard cranes it will use in the backup area.

It will attach the design parameters and spreadsheets of the gantry cranes metal structures.

It shall submit the assembly plan for the Gantry cranes and the yard cranes, as well as for the placement of the complementary equipment at the terminal.

4.2 Descriptive Report

It shall comply with the general report and that of each one of the specialties.

4.3 Technical Specifications

They will detail the nature of the material, constructive procedures, engines, power, types, equipment, included measurement standards, measurement units, stages, quality controls, approvals, etc. that will be used to comply with the correct execution of works and Supervision actions.

4.4. - Schedule of Quantities

It will be based on the necessary items to execute each one of the crane components, and all other equipment in the backup area, including the number, parts, among others, so that the Supervisor may revise the Concessionaire's technical proposal.

4.5 Unit Price Analysis

It will be performed for each one of the items making up the value of the equipment. Labor inputs, material, equipment, etc. shall be detailed in quantities and no general estimations shall be accepted. The Value of gantry and yard cranes and complementary equipment shall be configured by metering, Unit Prices and Overhead addition.

4.6 General Execution Schedule

It will detail the execution sequence, each item's duration, and the total execution term of the equipment.

4.7 Works Blueprints

They will show a convenient schedule of the works to be executed concerning the crane and assembly, including type and quality of materials to be used and procedures to be followed in agreement with technical specifications.

V. WORKS BUDGET

A comprehensive Works budget must be submitted, including each one of the valued items corresponding to the Sea Work, Civil Work and Equipment Files

V. MAINTENANCE PLAN

It shall contain the items outlined in Exhibit 7 and its Appendix.

The CONCESSIONAIRE shall be responsible for the mistakes, omissions, defects or failures in the Technical File that give way to additional terms not foreseen by the GRANTOR. Therefore, it is understood that the revision and approval of the Technical File by APN does not exempt the CONCESSIONAIRE from its responsibility.

The following aspects shall be complied with to carry out the Works:

- The port operations cannot be stopped during execution of works.
- Considering that the works will be built within the Callao port area, the Concessionaire binds itself to make every relevant coordination with the Callao Port Terminal Management and APN.

UNOFFICIAL TRANSLATION

EXHIBIT 7

CONCESSION CONSERVATION PLAN

Introduction

The Port Infrastructure Conservation Plan shall consider the type of Work, equipment and facility, according to its use intensity, critical character, operating and environmental conditions; so as to comply with the minimum service and productivity levels set forth herein.

The criteria for choosing the solutions for the different structures, as well as for choosing the equipment, are directed towards defining standard equipment or structures and be ready to allocate important amounts for maintenance, including equipment replacement or else acquiring Port Equipment and designing more robust and durable structures.

Based on the preceding paragraph, the CONCESSIONAIRE shall prepare a Conservation Plan and submit it to APN for evaluation and approval thereof.

The Conservation Plan shall be aimed at least at the following Port Infrastructure:

1. Port Equipment:

- Proposing a preventive maintenance program for the Gantry cranes and yard cranes as a result of an inspection program establishing:
 - o The elements to be inspected and inspection frequency.
 - o Necessary repairs when the equipment is at stoppage.
 - o Replacement of worn out parts changed at the end of useful life term, independently from the apparent state of repair.
- Proposing a Maintenance Program for the Mobile Equipment, comprising
 - o Cleaning and greasing to prevent wear out and corrosion.
 - o Adjustment to maintain the equipment in the foreseen conditions.
 - o Revision to replace worn out parts on a timely basis.
- Propose the construction of a workshop with a bridge crane, special tools, ditches, hydraulic hoists, equipment for traction tests, and cable verification, among others deemed necessary.

2. Onshore Works:

Proposing a preventive maintenance program for:

- The reinforced concrete works, piles, slabs, beams and other concrete elements of the Berths and buildings in the new Container Terminal – Southern Zone.

- Dock defenses
- Metal Structures (piles to be used in the Berths, special attention should be given to open air areas that are wetted by the tide)
- Bitts and other Mooring elements.
- Office buildings, paints, waterproofing, water and sewage facilities.
- Warehouses (light covers).
- Natural or artificial paving stones, flexible pavements made of asphalted agglomerate or flexible with superficial treatment and rigid concrete pavement (most of the maintenance shall focus on cracks and joints to prevent water from entering interior layers or the reinforcement steel).
- Water networks, valve courses, faucets, leak control, among others.
- High and low voltage power lines, signaling, renewal plans due to breakage or age.
- Electric stations, sub stations and switchboards.
- Telephony and telecommunications services.
- Drain water network or extraordinary surge drainage water.
- Gantry crane rails.

3. Offshore Works:

Propose the maintenance program of:

- Operational depth of the New Container Terminal – Southern Zone.
- Programming of the possible dredging works.

EXHIBIT 7

Appendix 1: Maintenance Scope

Pursuant to Article 1.18.27, the Conservation activities include the routine, regular and/or corrective maintenance aimed at complying with at least the minimum service and productivity levels established in this Contract concerning port operations.

Maintenance comprises at least the following:

Preventive Maintenance: Maintenance scheduled work carried out to prevent Port Infrastructure failures or an efficiency decrease. It may be routine or regular.

Routine Maintenance These are activities performed on a permanent basis in order to protect and maintain the Port Infrastructure in good operational conditions so that traffic is kept at the required service and productivity levels.

Among others, it comprises the following activities:

1. Port Equipment:

- Exterior cleaning.
- Interior cleaning: oil, oil filters, air filters change.
- Revision and replacement of oil, water, batteries, etc.
- Inspection and maintenance of metal structures, adjustment of bolts, wedges, welding, painting, etc.
- Bearing mechanisms, lubrication and greasing.
- Operational verification of all greasing points.
- Parts Change.
- Minor repairs.

2. Onshore Works:

Generally, the civil works of the Port Infrastructure are designed for a 50-year useful life. However, it is necessary to make routine and variable inspections at 6 months and 12 months periods to the following elements:

- Reinforced Concrete Structures.
- Cementation piles, made of steel and/or concrete.
- Metal structures.
- Warehouses.
- Reinforced concrete and flexible pavement, and natural or artificial paving stones.
- Administration and maintenance buildings and offices.
- Water, power, telephony, communications and other networks.

- Sewage and rain water drainage networks.
- Lighting.
- Electric sub-stations, transformers, switch boards.

3. Offshore Works:

As in the preceding case, they are designed for a 50-year useful life. Adaptation of these works shall require scheduled inspections and controls to learn about the state of repair. Therefore, it will be necessary to perform at least the following activities:

- Operational depth inspection and measurement in the access channel to the New Container Terminal – Southern Zone and Berths.

Regular Maintenance These are larger preventive maintenance tasks made to ensure operation and integrity of Port infrastructure as designed. These are tasks foreseeable in time, with a scheduled frequency, which execution is determined by programming. They comprise, among others:

1) Port Equipment:

- Major repairs (overhaul)
- Repair and painting of metal structures.
- Tire change.
- Bearing change.
- Structure painting.

2) Onshore Works:

- Gantry Crane rail inspection.
- Maintenance of pavements in backup and storage areas.
- Inspections and sealing of superficial cracks in concrete or steel works located in the tidal range area, or in the tide and rough sea variation area,
- Maintenance and course of water lines (piping, valves, faucets, among others)
- Maintenance and course at electric sub-stations, transformers, high and low voltage lines.
- Light lamps change and lighting system course.
- Drainage system sealing and cleaning.
- Maintenance of the Port's interior roads.

3) Offshore Works:

- Dredger for maintaining design depth.

Corrective Maintenance: Occasionally performed tasks aimed at recovering a function or integrity of Infrastructure of the New Container Terminal – Southern Zone when lost due to its usual wear and tear.

UNOFFICIAL TRANSLATION

EXHIBIT 8

PERUVIAN PUBLIC ENTITIES PRESENT AT THE NEW CONTAINER TERMINAL – SOUTHERN ZONE

Below is a list of the public entities which shall be furnished with offices at the New Container Terminal – Southern Zone to perform their duties, as established in Article 6.31 hereof and Article 28 of Supreme Decree 003-2004-MTC.

1. National Superintendency of Tax Administration (SUNAT)

SUNAT is the entity competent to control the entry and exit of merchandise, transportation means and persons to and from the Port grounds, as per the applicable regulations.

The area destined to the physical inspection of the merchandise must be located within the Primary Zone and in proportion to the dispatch operations, and enable, if necessary, the placement of high technology equipment and tools to facilitate the customs operations so that they are carried out properly and in compliance with the quality standards.

2. National Service of Agricultural Health (SENASA)

The Agricultural Health Office of SENASA, the National Authority in Agricultural Health, has the following functions, among others: the phytosanitary and zoosanitary control, as the case may be, of the national and international flow of plants and animals, and its products and by-products.

3. Maritime Health (Ministry of Health)

It is the Health Authority which grants free pratique.

4. National Port Authority (APN)

The office must be appropriate for the performance of the duties of APN personnel in charge of the Reception and Dispatch of Ships.

In the event that, pursuant to the Applicable Laws and Provisions, another entity of the Peruvian Government must perform the duties required at the New Container Terminal – Southern Zone and the provision of physical spaces is required for it to perform its duties, the CONCESSIONAIRE must provide the necessary spaces to comply with such duties, as provided for in Articles 6.29 to 6.31 hereof and Article 28 of Supreme Decree 003-2004-MTC.

EXHIBIT 9**MINIMUM COMPLEMENTARY INVESTMENT****MCI WORKS****I. DEFINITION**

The Common Works comprise the following items:

- Dredging of the Access Channel to El Callao Port Terminal (TPC)
- Dredging of the maneuvering area
- Repair of the Breakwater

II. SCOPE OF MCI WORKS**2.1 DREDGING OF THE ACCESS CHANNEL TO TPC****CURRENT SITUATION**

TPC has an external access channel measuring 1000 m in length and 180 m in width, dredged at a depth between -11 m and -12 m, the beginning of which is marked by two (2) buoys and the end by the reefs of the Northern and Southern breakwaters. Inside, the channel extends along 400 m. At the level of the reefs, the channel narrows to around 130 m / 140 m, determining the width of the inlet; presently, the depth of the inlet varies at the axis, between -14 m and -16 m, and at the ends, between -10 m and -12 m.

SCOPE OF THE ACCESS CHANNEL DREDGING

The internal and external access channel must at least be dredged at a -14 m depth, along 1500 m and 400 m, respectively, and with a width of 180 m at the bottom. It has been considered that the natural slope of the dredged sea bottom is 1 vertical, on 5 horizontal.

Based on these parameters, the Concessionaire shall define the volume to be dredged.

2.2 DREDGING OF THE MANEUVERING AREA**CURRENT SITUATION**

This area has a 500-m diameter and depths ranging from -10.5 m to -12 m.

SCOPE OF THE MANEUVERING AREA DREDGING

This area must be dredged at -14 m, with a 600-m diameter. It has been considered that the natural slope is 1 vertical on 5 horizontal.

CONDITIONS OF THE AREA TO BE DREDGED

The soil characteristics and the hydrographic conditions were defined in the PCI-CESEL study, which is available at the DATA ROOM.

The location of the maneuvering Area shall be determined by the Concessionaire according to its operating requirements.

The dumpsite for the dredged material is to be defined in the Environmental Impact Study.

2.3 REHABILITATION OF THE SOUTHERN BREAKWATER IN THE TPC

2.3.1 General Information

The TPC Southern breakwater was built in the first decades of the past century to protect the port from the swell; it extends in an East-West direction. It was built with a trapezoidal section and a length of 1100 m. This breakwater was built using hand-placed rock elements. In the 1960-1970 decade of the last century, the crest was raised with concrete blocks obtained from the demolition of Dock 8.

The breakwater is cemented on alluvial soil, made up of the debris cone of the Rimac River. The exterior and interior parts are located between -8 m and -6 m, respectively, referred to the average sea level.

2.3.2 Situation of the Southern breakwater

The breakwater has lost its design shape due to the loss of armor elements and middle layers as a result of the swell and has been subject to natural seismic settlements. The crest elevation in some sections is near the sea level and during high tide hours the water enters the port grounds. The access road, which extends along the breakwater, for entering up to the reef beacon and for making repairs, has disappeared.

2.3.3 Minimum required repairs

The repair of the remaining section of the breakwater that is not covered by the Southern terminal will entail recovering the characteristics of the breakwater section to meet at least the following conditions:

Minimum crest elevation of +4m above average sea level or the elevation that, based upon the studies conducted by the Concessionaire, ensures that waves will not surpass the breakwater during at least all the Concession term.

The minimum crest width must be 6 m.

The slope of the rock fill must be at least 1.2 on the seaside and 1:1.5 on the protected side.

The following building system will be adopted (the contractor may propose an alternate procedure to APN):

- Transportation and placement of material from land using heavy equipment. Placing of the armor material with a crane.
- Work level between +2.5 m and +3 m above the low tide level of ordinary syzygies.
- The armor rock weight must be defined according to the wave, which return period shall be 30 years.
- The blocks located above the breakwater crest may be reused.
- The repair includes the placing of rock underwater which guarantees breakwater crest stability. In order to comply with this requirement, it will be necessary to perform a survey on the breakwater, with cross-sections every 5 m, in order to establish the axis of the section that will be adopted for the repair, the rock volume of each layer, and the crest level.

EXHIBIT 10
FORM OF CONCESSION CONTRACT PERFORMANCE BOND
(A copy of the Concession Contract Performance Bond must be attached)

Lima, 200....

Messrs
Ministry of Transportation and Communications

Ref.: Letter of Guarantee N°.....
Due date:.....

Gentlemen,

This is to certify that, at the request of our client,
(name of corporation) (herein after the Concessionaire), we have issued this joint and several, irrevocable, unconditional and automatically executable letter of guarantee without benefit of excussio or division up to the amount of..... in favor of the Ministry of Transportation and Communications to guarantee the correct and timely compliance with each and every obligation under the charge of the Concessionaire, including the operation and maintenance obligations derived from the execution of the Concession Contract for the New Container Terminal – Southern Zone (hereinafter “the Contract”),

This Letter of Guarantee shall also guarantee correct and timely compliance with the obligations under the charge of the Concessionaire set forth by the provisions contained in the Consolidated Text of rules with a Rank of Law regulating the granting in concession of public infrastructure and utility works to the private sector approved by Supreme Decree N° 059-96-PCM.

To honor this Letter of Guarantee in your favor, a notarized written request sent by the Supervisory Body of Investment in Transport Infrastructure for Public Use (OSITRAN) shall suffice, which must be signed by the Chairman of the Steering Council or any person duly authorized by this body. Payment will be made within twenty-four (24) hours following your request at our offices located at

All delays on our part in honoring this Letter of Guarantee will accrue interest at the LIBOR rate plus a 3% spread, as from the date of the request to honor it until the actual date of payment.

Our obligations pursuant to this guarantee will not be affected by any dispute between you and our clients.

This Letter of Guarantee will be in force from 200..., to..... 200..., inclusive.

Sincerely,

Signature

Name

Banking Entity.....

UNOFFICIAL TRANSLATION

EXHIBIT 11
FORM OF PERMITTED CREDITOR STATEMENT

Lima, _____ 2006

Messrs
Ministry of Transportation and Communications
Av. Zorritos 1203 – Cercado de Lima
Lima 1, Lima – Perú

Permitted Creditor:.....

Reference: Concession Contract for the New Container Terminal – Southern Zone.

Pursuant to Article 10.5 of the Concession Contract for the New Container Terminal – Southern Zone, we hereby represent under oath that:

- a) We are not subject to impediments or restrictions (contractual, judicial, arbitral, administrative, legislative or other), to assume and comply with the commitment to finance..... (CONCESSIONAIRE) up to the amount of _____, so that it is able to comply with its obligations under the Concession Contract _____.
- b) Our competent internal bodies have approved a credit line for up to the amount of _____, in favor of..... (CONCESSIONAIRE), aimed at complying with the obligations derived from the Concession Contract for the New Container Terminal – Southern Zone.
- c) We comply with all requirements set forth in the Concession Contract for the New Container Terminal – Southern Zone, as well as, with all those required by the Applicable Laws and Provisions, to qualify as Permitted Creditors, as per the terms that the Concession Contract assigned to this definition.

Sincerely,

Signature:.....

Name:.....

Permitted Creditor Representative.

Entity:

Permitted Creditor.

EXHIBIT 12

FORM OF APPROVAL LETTER IN FAVOR OF THE PERMITTED CREDITOR

_____2006

Messrs.

.....

Ref: Permitted Creditor _____: Concession Contract for the New Container Terminal – Southern Zone.

As per Article 10.6 of the Concession Contract for the New Container Terminal – Southern Zone, we hereby declare the following in his favor:

- a) We have been notified of the loan of up to Dollars (US\$) of capital and every interest, commission, and any other expenditure or payment related to the credit granted by the Permitted Creditor to the CONCESSIONAIRE.
- b) We confirm our approval concerning compliance set forth in the Concession Contract for the New Container Terminal – Southern Zone, as well as all others required by Applicable Laws and Provisions to rank as Permitted Creditor.
- c) We approve fully and unrestrictedly, as per Article 10.6 of the Contract, each and every one of the guarantees that shall be established in your favor to backup the aforementioned loan, same that are mentioned as references in the attached Exhibit.
- d) We give our consent in advance so that all or part of the guarantees established in your favor may be executed if so stipulated in the loan contract and other related and/or complementary contracts. Execution of these guarantees shall not require any prior approval or later confirmation and you will have the right to execute them in the way, opportunity and modality that best suits your interests.

Sincerely,

Ministry of Transportation and Communications.

EXHIBIT 13
MINIMUM CONTENT OF THE ENVIRONMENTAL IMPACT STUDY

I. Introduction:

- i General Background:
 - a. Area.
 - b. Construction and dredging to be carried out.
 - c. Exploitation.
- ii Rationale.
 - a. Reasons for selecting the aquatic and dredging facility placement area.
 - b. Proposed technology to develop the project to be built and dredged.
 - c. Applicable environmental standards.
- iii EIS Objectives (include the main objectives of the assessment, both general and specific)
- iv Applied methodology to develop the EIS (describe methods and techniques to be applied at different stages of Environmental Impact Studies: office, field and laboratory)

II. Project Description

Total description of the activities to be developed at the Construction and Exploitation stages, including, at least, the following information:

- i Location and structure of facilities, water depth in the area considered for placing the facility and the area to be dredged and involved adjacent areas, number and type of ships for which the aquatic facility is foreseen, supply of water, power, fuel, and others, including the dredger, access roads and facilities for maintaining and repairing ships.
- ii Origin of the material to build the breakwater and/or earth fills and dredging execution.
- iii Selected areas for evacuating the dredged material.
- iv System to remove dredging waste.
- v Remediated zone. Origin of the earth-fill material.
- vi Drainage and sewer system, system to dispose solid waste.
- vii Foreseen amount of sanitary waste and means to dispose off it.
- viii Description and schedule of the proposed building and dredging stages.
- ix Description of the normal operation foreseen for the aquatic facility and dredging including maintenance and measurement of water quality.

III. Environmental Characterization.

This is the environmental characterization (base line assessment) of the Concession Area and the Construction and Exploitation activities influence area, which identifies the existing environmental liabilities before the Concession Assets Possession Taking.

This characterization shall include at least the following:

- i Geomorphology (site characteristics) that shall be supplemented with:
 - a) Topographic map of the land coastal zone and the batimetric plan of the maritime coastal zone of the site and its surroundings at 1:5000 or 1:2500 scale comprising at least 2 coast kilometers in each direction and down to the water depth appropriate to the project and 200 meters inland from the coast line.
 - b) Details about the proposed of existing marine zone structures in a 5 km radio from the proposed place.
 - c) Physiographic characteristics such as cliff, terraces, beach, rock, dunes.
- ii Hydrographic, Hydrology and Meteorology.
 - a) Wind speed and intensity.
 - b) Characteristics of tides and probability of extreme conditions.
 - c) Wave and current patterns at the proposed site, including probability of extreme conditions.
 - d) Hydrologic conditions of the canals and exits to the sea, both natural and artificial.
 - e) Nutrient concentration (top and bottom)
 - f) Dissolved Oxygen (DO) Distribution in the water column, vertical cut.
 - g) Solids in suspension (top and bottom)
 - h) Water color and turbidity.
- iii Information on sediments.
- iv Biological Conditions
 - a) Identification in maps by coastal habitats and at those located in the aquatic area of influence.
 - b) Ascertainment of the species that might be used as indicators of the ecosystem condition.
 - c) Location of the main habitat elements, such as feeding, shelter and reproduction zones, and of the importance zones for migrating species.
 - d) Protected of rare biological species.
- v Current and future uses of sea and beaches.
 - a) Location and size of nearby human settlements.
 - b) Location and description of existing cultural assets in the project area.
 - c) Vehicle access system and roads.

- d) Hydrobiological exploitation zones, including main exploited species.
- e) Existence of beach resorts and beaches used by beachgoers in immediate proximity.

vi Social-Economic Factors

IV. Environmental Impacts

This section shall define the possible environmental impacts and their assessment, both the positive and the negative impact as foreseen or predicted, using generally accepted standards whenever possible, including at least the following:

- i Topographic and batimetric changes, anticipation of same during and after construction until stability conditions are reestablished.
- ii Sand movement and places where sand accumulation and coastal erosion will probably increase.
- iii Possible oceanographic changes along a 10-year period, including risk of location and wave deviation to adjacent coast, concentration of wave and current energy may endanger swimming or disturb fishers.
- iv Marine pollution risk inside and outside the area to be built.
- v Possible effects of the project in the area's flora and fauna.
- vi Repercussion in the current or proposed uses of nearby lands and aquatic area to be affected.
- vii Social-cultural effects.
- viii Repercussion in the production and safety of sea food.
- ix Repercussion in the quality of bathing water and sand, mud or similar cleaning up at beaches, or seashore, if any.

V. Environmental Management Plan

This Plan will contain at least the following:

- i Description of the methodologies and procedures that the CONCESSIONAIRE will develop at different Concession stages aiming at implementing all the measures established herein and in the Environmental Impact Study.
- ii The specific activities and/or actions to implement the mitigation measures, risk production plan, accident control and environmental follow up plan that the CONCESSIONAIRE will adopt taking into account the conditions and requirements set forth in this Contract and the Environmental Impact Study, including a detail of the terms and those responsible for said implementation.
- iii Identification of estimated procedures, responsible people and dates for submission of Environmental Reports, as per the form defined in Exhibit 12.
- iv Security and Hygiene Risk Prevention Plan.
- v Plan of Accident or Contingency Control Measures.

- vi Description and specification of the training, information and environmental education program implementation procedures, as well as, those regarding labor safety in favor of its personnel.
- vii Description and specification of the procedures for the implementation of permanent programs to inform and communicate with the community that will be directly affected by the works and users, and the action and response mechanisms to eventual claims and/or problems reported.
- viii Description of the team of professionals who will be in charge of executing this Environmental Impact Assessment, stating their organization, work methodology and the procedure they will use to adopt the aforementioned plans and measures.
- ix Description and specification of implementation procedures regarding the permanent environmental information and education programs, intended for Users and the Community adjacent to the Concession, aiming at promoting natural resources and cultural heritage protection.
- x Specific activities and/or actions (Environmental Technical Specifications) for implementing the mitigation measures, risk prevention plans, accident control, and environmental follow up plan, which the CONCESSIONAIRE will adopt during these stages, including details of the terms and people responsible for said implementation.

VI. Identification of Applicable National Environmental Quality and Maximum Permissible Limits Standards (Surveillance and Control)

- i Physical
- ii Chemical
- iii Biological

VII. Conclusions and Recommendations

VIII. Name and signature of those responsible for the assessment and of EIS participants, including profession and number of association of membership, as applicable.

Content of the Environmental Reports

1. INTRODUCTION	
1.1 General Aspects	CONCESSIONAIRE name, period (quarter, semester, year), correlative number of submitted Environmental Report, relevant observations related to the ending and starting periods (quarter, semester, year) and general schedule of works in the case of Construction.
1.2 Brief work description	Main characteristics, works committed and completed in the quarter, etc.
1.3 Performed Activities	Field work, inspections, report or document submission, description of new works.
1.4 Environmental Aspects	Description of the main environmental problems in the period (quarter, semester, year) and compliance with the observations made to the former Environmental Report. Description of application of the Environmental Impact Study submitted as per the Contract. The first Environmental Report shall include the parameters to be used as baseline for air, noise and water quality monitoring.
2. INVOLVED ENVIRONMENTAL PERMITS (LIST, APPLICATION AND APPROVAL)	
EXHIBITS Photographs, drawings, maps, etc. Environmental follow-up matrices. Certificates, permits, etc.	
3. WORKS PROGRESS (ONLY FOR CONSTRUCTION)	
3.1 Works	Brief description of the areas with a current work front, including progress and activities to be performed (for example, demolitions, temporary built works, closing of a work front, etc.). Status and progress regarding compliance with the Socioenvironmental Specifications set forth herein and Environmental Management Plans contained in the EIS, emphasizing: <ul style="list-style-type: none"> • Implemented mitigation measures (solution proposals, measure application calendars, involved permits). • Follow-up and Monitoring Plan.

3.2 Machinery Yard, shops	<p>Brief description of installed plants, their technology and location.</p> <p>Status and progress of Environmental Management Programs related to this activity, emphasizing:</p> <ul style="list-style-type: none"> • Implemented mitigation measures (solution proposals, measure application calendars). • Follow-up and Monitoring Plan.
3.3 Dredged Material Deposits (DMD)	<p>Brief description of the Settlement Ponds for the Dredged Material (DMD), either active or closed, their characteristics and location.</p> <p>Brief description of the final Deposit for the settled dredged material, characteristics and location.</p> <p>Status and progress of the Environmental Management Programs related to this activity, emphasizing:</p> <ul style="list-style-type: none"> • Implemented mitigation measures (solution proposals, measure application calendars, involved permits). • Follow-up and Monitoring Plan.
3.4 Warehouses and offices.	<p>Brief description of camps built or closed for the different works, their characteristics and location.</p> <p>Status and progress of the Environmental Management Program related to this activity, emphasizing:</p> <ul style="list-style-type: none"> • Implemented mitigation measures (solution proposals, measure application calendars, involved permits). • Follow-up and Monitoring Plan.

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EXHIBIT 14

ENVIRONMENTAL IMPACT STUDY

UNOFFICIAL TRANSLATION

EXHIBIT 15
ECONOMIC PROPOSAL

UNOFFICIAL TRANSLATION

EXHIBIT 16
TECHNICAL PROPOSAL

UNOFFICIAL TRANSLATION

EXHIBIT 17

CHART OF PENALTIES APPLICABLE TO THE CONTRACT

Table 1: Penalties referred to Section III of the Contract: Events on the Contract Execution Date

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
3.3.e)		Failure to deliver the proposed insurance policies, the list of companies and the hiring schedule.	Each time.
3.3 f) i)		Failure to submit the transfer of the shares or stock of the Strategic Partner, permitted as from the sixth year, for its approval by the GRANTOR.	Each time
3.3 f) i)		Failure to submit the transfer of the shares or stock of the Strategic Partner to a company of the same Economic Group for its approval by the GRANTOR.	
3.3 f) ii)		During the first five (5) years from the date for the commencement of the exploitation, failure to submit, for approval by the GRANTOR and the REGULATOR, the draft resolution of the Shareholders' Meeting implying a change in the system of majorities, classes of shares and proportions belonging to the partners and any capital increase and/or reduction, merger, spin-off, transformation or liquidation of the CONCESSIONAIRE, as from the Contract Execution Date.	Each time
3.3 f) iii)		As from the sixth year, failure to inform the REGULATOR on the capital increases and reductions.	Each time
3.3.g)		Delay in the delivery of the Concession Contract Performance Bond.	Each day of delay

Table 2: Penalties referred to Section V of the Contract: Policy on Assets

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
5.9		Delay in the submission of the Inventories to APN.	Each day of delay.
5.13		Failure to reinstate the assets that may be obsolete, lost, technologically outdated or which state of conservation does not enable	Each time

		to meet and maintain the requirements set forth in Exhibits 3 and 4 or to comply with the Standard Services.	
5.14		Remove the assets intended for the Contract performance outside the Concession Area without the GRANTOR's approval.	Each time
5.14		Transfer the assets intended for the Contract performance separately from the Concession without the GRANTOR's approval.	Each time
5.14		Mortgage, pledge or impose any type of lien on the assets intended for the Contract performance without the GRANTOR's approval.	Each time
5.38		Failure to exercise the possessory action.	Each time.
5.43		Delay in returning the Concession Assets upon Forfeiture of the Concession due to any cause.	Each day of delay.
5.43		Failure to notify the GRANTOR, with a copy to the REGULATOR, of the need to replace one or more assets	Each time

Table 3: Penalties referred to Section VI: Port Infrastructure Works

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
6.1		Delay in the submission of the entire Technical File to APN for its integral approval.	Each day of delay
6.7		Delay in the delivery of the additional information required by the Design Supervisor.	Each day of delay
6.7		Failure to give the Design Supervisor free access to the activities and studies performed by the CONCESSIONAIRE for the preparation of the Technical File.	Each time
6.11		Failure to give the Work Supervisor free access to the Concession Area to carry out his work without obstacles.	Each time.
6.12		Failure to have a Construction Workbook during the Construction	Each day of delay
6.14		Failure to give the GRANTOR, the REGULATOR and/or the Work Supervisor free access to the Construction Workbook during the Construction.	Each time
6.14		Delay in the delivery of the original and copies of the Construction Workbook.	Each day of delay
6.17		Delay in the completion of the total Works	Each day of delay

6.18		Delay in starting the Construction of the Works pursuant to the terms of the Contract.	Each day of delay
6.23		Delay in correcting defects that do not represent less than 1% of the Works Official Estimated Budget	Each day of delay
6.24		Delay in the correction of irregularities or the release of the objections that caused the rejection of the works.	Each day of delay
6.30		Delay in the submission of reports relating to the development of the Works execution to the REGULATOR, either directly or through the Work Supervisor.	Each day of delay.
6.30		Failure to submit to the REGULATOR the monthly work progress report	Each day of delay
6.31		Failure to provide the public entities described in Exhibit 8 with the facilities required to carry out their work, on a gratuitous basis.	Each time
6.34		Delay in certifying to the GRANTOR that the CONCESSIONAIRE has the necessary funds to comply with the Works Execution Schedule.	Each day of delay.
6.35		Delay in the submission of the financing agreement entered into with third parties, if applicable.	Each day of delay

Table 4: Penalties referred to Section VII: Conservation of the Concession

Contract Article	Amount (US\$)	Description of the penalti	Application Criterion
7.5		Failure to comply with the term to recover the Service and Productivity Levels established in Exhibit 3, in emergency maintenance situations.	Each day
7.7		Failure to give the REGULATOR or its designee free access to the Concession area to carry out its activities without obstacles and with the required accuracy.	Each time.
7.8		Failure to provide the REGULATOR with half-yearly reports on the development of the Conservation of the Concession.	Each day of delay

Table 5: Penalties referred to Section VIII: Exploitation of the Concession

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
8.5.		Delay in the submission of the reports on the development of the Exploitation of the Concession within the terms prescribed by the Regulator.	Each day of delay
8.9		Delay in the communication to the REGULATOR of the Draft Rate Regulations.	Each day of delay
8.9.		Delay in the submission of the documents outlined in Article 8.9 to APN for approval.	Each day of delay
8.14 (Exhibit 3)	0.5% of UIT	Exceed the maximum time of one (1) hour in total without operating, counted from the time the Ship is moored to the Dock to the commencement of the loading or unloading operations; and from the completion of such operations to the time the Undocking of the Ship starts.	Each time
8.14 (Exhibit 3)	2% of IBTA	Failure to meet the quarterly minimum average performance of containers to be loaded or unloaded.	Each time
8.14 (Exhibit 3)	0.5% of the UIT	Exceed the time of service to the user for the removal of its merchandise, counted from the time the User requests the removal of the merchandise after payment of the services received to the time the Terminal makes the merchandise available to it.	Each time
8.14 (Exhibit 3)	2% of IBTA	Exceed the seventy percent (70%) of the dock use rate, the ratio between the total annual time the dock is used and the total annual time the dock is available.	Each time
8.14 (Exhibit 3)	1 UIT	Incomplete information to certify compliance with the service and productivity levels.	Each time
8.14 (Exhibit 3)	0.10% of the UIT	Untimely information to certify compliance with the service and productivity levels, which must be submitted on a quarterly basis.	Each day of delay
8.15 (Exhibit 3)	Twice the sum collected	Exceed the maximum rate levels applicable to the standard services to the ship and the cargo considered in the Concession Contract, which shall be valid for five (5) years.	Each time and per each rate level
8.15	1 UIT	Failure to submit the Regulations on Rates, prices and applicable rules for the activities and services established prior to the Terminal operation.	Each day of delay

8.15 (Exhibit 3)	Twice the sum collected	Collect operating charges additional to the standard service, both upon loading and unloading.	Each time
8.15 (Exhibit 3)	Twice the sum collected	Collect administrative surcharges that increase the maximum Level of the standard services.	Each time
8.15 (Exhibit 3)	10 UIT	Failure to consider the Basic Rate Regulations stated in Exhibit 3 in the Rate Regulations, prior to the Terminal operation.	Each day of delay
8.15 (Exhibit 3)	Twice the sum collected	Collect its services from a User not bound to pay the standard rates.	Each time
8.17		Delay in payment of the monthly compensation to the GRANTOR	Each day of delay

IBTA: Previous quarterly gross income

UIT: Tax Unit

Table 6: Penalties referred to Section X: Guarantees

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
10.6.		Failure to inform the REGULATOR and the GRANTOR in writing on the terms of the Permitted Guaranteed Indebtedness, under the assumptions outlined in Items i) or iv) in the definition of Permitted Creditors.	Each time
10.6		Failure to submit the amendment to the main financial terms originally agreed to the approval of the GRANTOR, under the foregoing assumption.	Each time
10.6.		Failure to submit in writing the request for approval to the GRANTOR and the REGULATOR, accompanied by the information related to the Permitted Indebtedness and the information contained in the last paragraph of Article 10.5, under the remaining assumptions of the categories included in the definition of Permitted Creditors.	Each time.
10.6		Failure to submit the additional information required by the GRANTOR and/or the REGULATOR within the terms established by them.	Each day of delay
10.7.1.		Failure to submit the request for approval of the Mortgage establishment.	Each time.

Table 7: Penalties referred to Section XI: Insurance System

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
11.1		Delay in delivering the copies of the final insurance policies to the GRANTOR, with copy to the REGULATOR.	Each day of delay
11.7		Delay in notifying the REGULATOR on the renewal dates of the insurance policies and delivery of the proposed amendments to the policy conditions, if applicable.	Each day of delay
11.8		Failure to pay the premiums of the insurance policies.	Each day of delay
11.12		Delay in the submission of the Coverage Report to the REGULATOR.	Each day of delay

Table 8: Penalties referred to Section XII: General Socioenvironmental Considerations

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
12.2		Failure to comply with the commitments made in the Environmental Impact Study.	Each time
12.8.		Delay in the submission of the Environmental Impact Study to the Competent Environmental Authority within the established term, for approval.	Each day of delay
12.14.		Delay in the implementation and certification of an internationally renowned environmental management system.	Each day of delay
12.15., 12.16. and 12.17.		Delay in the submission of the Environmental Reports to APN.	Each day of delay

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