

REPÚBLICA DEL PERÚ



Autoridad Portuaria Nacional
(APN)



SECOND DRAFT CONCESSION CONTRACT

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

March 10 2006

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

TABLE OF CONTENTS

CONCESSION CONTRACT

SECTION I: RECITALS AND DEFINITIONS

RECITALS

DEFINITIONS

- 1.18.1 Permitted Creditors
- 1.18.2 Concession Assets Handing Over Document
- 1.18.3 Works Reception Certificates
- 1.18.4 Concession Assets Reversal Certificate
- 1.18.5 Successful Bidder
- 1.18.6 Port Manager
- 1.18.7 Private Investment Promotion Agency– PROINVERSION
- 1.18.8 Berth
- 1.18.9 Mooring and Unmooring
- 1.18.10 Concession Year
- 1.18.11 APN
- 1.18.12 Concession Area
- 1.18.13 Docking
- 1.18.14 Competent Environmental Authority
- 1.18.15 Governmental Authority
- 1.18.16 Tender Document
- 1.18.17 Concession Assets
- 1.18.18 Reversible Assets
- 1.18.19 Non Reversible Assets
- 1.18.20 Forfeiture of the Concession

- 1.18.21 Works Execution Schedule
- 1.18.22 Committee
- 1.18.23 Grantor
- 1.18.24 Concession
- 1.18.25 Concessionaire
- 1.18.26 Tender
- 1.18.27 Conservation
- 1.18.28 Consignee
- 1.18.29 Construction
- 1.18.30 Contract
- 1.18.31 Technical Dispute
- 1.18.32 Non Technical Dispute
- 1.18.33 DBFOT (Design, Build, Finance, Operate and Transfer)
- 1.18.34 Undocking
- 1.18.35 Days
- 1.18.36 Calendar Days
- 1.18.37 Dollar or US\$
- 1.18.38 Exclusive Execution and/or Service Supply
- 1.18.39 Related Companies
- 1.18.40 Permitted Guaranteed Indebtedness
- 1.18.41 Port Equipment
- 1.18.42 Length
- 1.18.43 Environmental Technical Specifications
- 1.18.44 Environmental Impact Study (EIA)
- 1.18.45 Referential Study
- 1.18.46 Technical File
- 1.18.47 Exploitation
- 1.18.48 Contract Execution Date
- 1.18.49 Trust Fund
- 1.18.50 Force Majeure
- 1.18.51 Performance Bond
- 1.18.52 Concession Contract Performance Bond
- 1.18.53 Works Execution Performance Bond
- 1.18.54 Standard Rate Index
- 1.18.55 Works Progress Reports
- 1.18.56 Port Infrastructure
- 1.18.57 Common Port Infrastructure
- 1.18.58 Inventories
- 1.18.59 Applicable Laws and Provisions
- 1.18.60 LIBOR
- 1.18.61 Complementary Investment Amount:
- 1.18.62 Dock

- 1.18.63 Ship
- 1.18.64 Service and Productivity Levels
- 1.18.65 Regulatory Standards
- 1.18.66 New Container Terminal – Southern Zone
- 1.18.67 Works
- 1.18.68 Civil Works
- 1.18.69 Exterior Works
- 1.18.70 Interior Works
- 1.18.71 Party
- 1.18.72 Parties
- 1.18.73 Minimum Interest
- 1.18.74 Conservation Plan
- 1.18.75 Environmental Management Plan
- 1.18.76 Price
- 1.18.77 Works Official Estimated Budget
- 1.18.78 Port
- 1.18.79 Port Grounds
- 1.18.80 TUO Regulation
- 1.18.81 Regulator
- 1.18.82 Compensation
- 1.18.83 Services
- 1.18.84 Standard Services
- 1.18.85 Special Services
- 1.18.86 Strategic Partner
- 1.18.87 Suspension
- 1.18.88 Rate
- 1.18.89 Terminal
- 1.18.90 Terms of Reference
- 1.18.91 TEU
- 1.18.92 Exchange Rate
- 1.18.93 Concession Assets Possession Taking
- 1.18.94 TUO
- 1.18.95 Use of the Berth
- 1.18.96 Use of the Port Terminal
- 1.18.97 User

SECTION II: LEGAL NATURE, PURPOSE, MODALITY AND CHARACTERS

LEGAL NATURE

PURPOSE

MODALITY

CHARACTERS

**SECTION III: EVENTS ON THE CONTRACT EXECUTION DATE
REPRESENTATIONS BY THE PARTIES
CERTIFICATIONS ON THE CONTRACT EXECUTION DATE**

**SECTION IV: CONCESSION TERM
TERM SUSPENSION
TERM EXTENSION FOR SPECIFIC ACTIVITIES**

**SECTION V: POLICY ON ASSETS
POLICY ON ASSETS
CONCESSION ASSETS POSSESSION TAKING
INVENTORIES
USE OBJECTIVES
REVERSIBLE ASSETS
LAND COMPRISED WITHIN THE CONCESSION AREA
EASEMENTS
POSSESSORY ACTIONS
ASSETS RETURN
PROCEDURE FOR DETERMINING THE REVERSIBLE ASSETS**

**SECTION VI: PORT INFRASTRUCTURE WORKS
APPROVAL OF THE TECHNICAL FILE
DESIGN SUPERVISION
WORKS DESCRIPTION
WORKS SUPERVISION
CONSTRUCTION WORKBOOK
WORKS EXECUTION SCHEDULE AND TERM
CONSTRUCTION START-UP
WORKS EXECUTION TERM EXTENSION
APPROVAL AND COMMISSIONING OF WORKS
INFORMATION
OFFICES FOR PUBLIC ENTITIES
CONSTRUCTION ECONOMIC SYSTEM**

**SECTION VII: CONSERVATION OF THE CONCESSION
CONSERVATION PLAN
EMERGENCY MAINTENANCE
CONSERVATION SUPERVISION
INFORMATION
SECTION VIII: CONCESSION EXPLOITATION
CONCESSIONAIRE'S RIGHTS AND DUTIES
SERVICE ORGANIZATION**

**EXPLOITATION SUPERVISION
INFORMATION
USER'S RIGHTS AND CLAIMS
INTERNAL REGULATIONS
EXPLOITATION START
SERVICE SCOPE
STANDARD SERVICE
a. SHIP SERVICES
B. CARGO SERVICES
SPECIAL SERVICES
SERVICE AND PRODUCTIVITY LEVELS
ECONOMIC SYSTEM: STANDARD RATE INDEX AND PRICE
PAYMENT
ECONOMIC AND FINANCIAL BALANCE
CONCESSION TAX SYSTEM**

SECTION IX: COMPLEMENTARY INVESTMENT AMOUNT

**SECTION X: GUARANTEES
GRANTOR'S GUARANTEE
GUARANTEE IN FAVOR OF THE GRANTOR
EXECUTION OF GUARANTEES
GUARANTEES IN FAVOR OF PERMITTED CREDITORS
PERMITTED GUARANTEED INDEBTEDNESS AUTHORIZATION
CONCESSION MORTGAGE
STOCK OR SHARE PLEDGE EXECUTION PROCEDURE**

**SECTION XI: POLICY ON INSURANCE
APPROVAL
TYPES OF INSURANCE POLICIES
LIABILITY OF THE CONCESSIONAIRE
GRANTOR'S LIABILITY**

**SECTION XII: SOCIO-ENVIRONMENTAL CONSIDERATIONS
ENVIRONMENTAL RESPONSIBILITY
ENVIRONMENTAL LIABILITIES
ENVIRONMENTAL IMPACT STUDY
ENVIRONMENTAL MANAGEMENT
ENVIRONMENTAL REPORTS**

**SECTION XIII: RELATIONS WITH PARTNERS, THIRD PARTIES AND PERSONNEL
RELATIONS WITH THE STRATEGIC PARTNER**

**RELATIONS WITH THIRD PARTIES
CLAUSES IN CONTRACTS
PERSONNEL RELATIONS**

**SECTION XIV: ADMINISTRATIVE COMPETENCIES
COMMON PROVISIONS
APN'S AND REGULATOR'S POWERS
SUPERVISION POWERS
SANCTIONING POWER
REGULATION RATE**

**SECTION XV: CONCESSION TERMINATION
GROUNDS FOR TERMINATION
PROCEDURES TO CURING
PROCEDURE TO DEFINE THE MAXIMUM APPROVED BUDGET FOR
TERMINATION
TERMINATION EFFECTS
TERMINATION EFFECTS
PROCEDURES FOR TERMINATION
CONTRACT LIQUIDATION
LIQUIDATION DUE TO CONTRACT EXPIRATION
LIQUIDATION BY MUTUAL AGREEMENT
LIQUIDATION DUE TO CONCESSIONAIRE'S NONCOMPLIANCE
LIQUIDATION DUE TO GRANTOR'S NONCOMPLIANCE OR UNILATERAL
DECISION
LIQUIDATION BY FORCE MAJEURE OR ACTS OF GOD OR OTHER CAUSES NOT
ATTRIBUTABLE TO THE PARTIES**

**SECTION XVI: SETTLEMENT OF DISPUTES
APPLICABLE LAW
APPLICATION SCOPE
INTERPRETATION CRITERIA
WAIVER OF DIPLOMATIC CLAIMS
DEFINITION OF PARTIES FOR THIS SECTION
DIRECT DEALING
ARBITRATION
COMMON PROCEDURAL RULES**

SECTION XVII: AMENDMENTS TO THE CONTRACT

SECTION XVIII: FORCE MAJEURE

FORCE MAJEURE EVENTS

SECTION XIX: PENALTIES

**SECTION XX: DOMICILES
FIXING
CHANGES OF ADDRESS**

**EXHIBIT 1
CONCESSION AREA**

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

**EXHIBIT 3
SERVICE AND PRODUCTIVE LEVELS**

**EXHIBIT 4
MANDATORY TECHNICAL PARAMETERS FOR THE WORKS AND EQUIPMENT**

**EXHIBIT 5
STANDARD RATE INDEX**

**EXHIBIT 6
TERMS OF REFERENCE**

**EXHIBIT 7
CONSERVATION PLAN
CONCESSION**

**EXHIBIT 7
Appendix 1: Maintenance Scope**

**EXHIBIT 8
PUBLIC ENTITIES**

**EXHIBIT 9
COMPLEMENTARY INVESTMENT AMOUNT
CONDITIONS AND PURPOSE OF THE TRUST FUND**

EXHIBIT 10

FORM OF WORK EXECUTION PERFORMANCE BOND

**EXHIBIT 10
FORM OF CONCESSION CONTRACT PERFORMANCE BOND**

**EXHIBIT 11
FORM OF PERMITTED CREDITOR STATEMENT**

**EXHIBIT 12
FORM OF APPROVAL LETTER IN FAVOR OF THE PERMITTED CREDITOR**

**EXHIBIT 13
MINIMUM CONTENT OF THE ENVIRONMENTAL IMPACT STUDY
Content of Environmental Reports**

**EXHIBIT 14
ENVIRONMENTAL IMPACT STUDY**

**EXHIBIT 15
ECONOMIC PROPOSAL**

**EXHIBIT 16
TECHNICAL PROPOSAL**

**EXHIBIT 17
CHART OF PENALTIES APPLICABLE TO THE CONTRACT**

UNOFFICIAL TRANSLATION

CONCESSION CONTRACT

Mr. Notary:

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 1st, 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 No. 059-96-PCM and Legislative Decree No. 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 No. 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 PROINVERSION Steering Council's resolution dated November 3rd, 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 PROINVERSION 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 _____, PROINVERSION 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 No. 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 offer.

In case the Permitted Guaranteed Indebtedness is agreed upon with Permitted Creditors other than those comprised in (i) and (vi), the Permitted Guaranteed Indebtedness must be approved by the GRANTOR, following prior approval by the REGULATOR.

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

1.18.2 Concession Assets Handing Over Document

This is the document signed by the GRANTOR and the CONCESSIONAIRE, through which it is certified that the CONCESSIONAIRE has taken possession of the Concession Area and that the GRANTOR has handed over the Reversible Assets, which will be aimed at executing the Contract.

1.18.3 Works Reception Certificates

These are documents issued by the GRANTOR to certify total and/or partial reception of Works, as well as execution and installation of equipment as per the Technical File. The Works Reception Certificates must include the dates on which the execution of the Works and/or the installation of Port Equipment were approved.

1.18.4 Concession Assets Reversal Certificate

This is the document signed by the GRANTOR and the CONCESSIONAIRE through which they certify the handing over of the Concession 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 and the provision of port services at the port Terminal under its administration.

1.18.7 Private Investment Promotion Agency– PROINVERSION

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 the Terminal assigned 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 No. 034-2004-MTC.

1.18.12 Concession Area

These are areas described in Exhibit 1 to be granted to the CONCESSIONAIRE as per the Concession.

1.18.13 Docking

Operation of leading a 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 competent sector authority to

approve the Environmental Impact Study referred to in Section 12 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 Document

This is the document, including its forms, exhibits, appendixes and circular letters, issued by PROINVERSION 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 Reversible or non Reversible Assets comprised in the execution of the Concession, including the Concession Area.

1.18.18 Reversible Assets

These are all the immovables as well as those movables, communication and security systems, among others, which enable to meet the requirements set forth in Exhibits 3, 4 and 6, to be determined pursuant to the provisions of Articles 5.33 to 5.35. in one way or the other, said assets are included in the Concession and allocated to this or constitute assets that are inseparable from its object, whether they have been handed over by the GRANTOR at the beginning or during the Concession or those acquired or built by the CONCESSIONAIRE during the Concession term. Said assets are essential for Service supply and will be reverted to the GRANTOR.

1.18.19 Non Reversible Assets

These are non essential assets allocated to the Concession which do not impact the quality of the Services supplied by the CONCESSIONAIRE, and which at Concession expiration will not revert to the GRANTOR.

1.18.20 Concession Termination

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

Is the document in which the Works execution programming is certified. It will form an integral part of the Technical File.

1.18.22 Committee

It is PROINVERSION' Committee for Public Infrastructure and Utilities Projects, created by Supreme Resolution No. 444-2001-EF, as amended by Supreme Resolution No. 228-2002-EF and by Supreme Resolution No. 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 Public Law juridical relationship established between the GRANTOR and the CONCESSIONAIRE through the execution of the Contract, by which the GRANTOR grants the CONCESSIONAIRE the right to get economic profit from the Concession Assets 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 Bid

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 at El Callao Port 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.

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 commission the New Container Terminal at El Callao Port Terminal – Southern Zone. The following are included among these activities: (i) execution of different kinds of civil Works; (ii) installation of electric, mechanic or electronic equipment or systems; and (iii) information technology implementation.

1.18.30 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 Concession Assets are granted to the CONCESSIONAIRE, so that they design, build, finance, conserve and exploit the New Container Terminal at El Callao Port Terminal – Southern Zone. Said infrastructure and equipment 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 Service Supply

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 due to financing operations, and issue of securities and/or money taken as a loan from any Permitted Creditor to be invested in the New Container Terminal at El Callao Port Terminal – Southern Zone, including any renewal or refinancing of said debt that is 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, have been approved by the GRANTOR, following the REGULATOR's opinion. The approval procedure is pointed out in Article 10.6.

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 at El Callao Port 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 current regulations, both general and specific, related to the requirements for

protecting and conserving the environment, applicable at every stage of the Concession for the execution of works related to the New Container Terminal at El Callao Port Terminal – Southern Zone.

1.18.44 Environmental Impact Study (EIA)

It is the group of technical interdisciplinary studies, aiming at identifying, predicting, interpreting, valuing and communicating the environmental and social impacts that the execution, Conservation and Exploitation of the Concession may cause on the different components of the environment, living conditions, cultural and archaeological heritage in the Concession's areas of influence; as well as the impact of same on the Concession. Additionally, it proposes most appropriate corrective measures to prevent environmental impact events that may harm the people's health and wellbeing.

It will be submitted by the CONCESSIONAIRE and approved by the Ministry of Transportation and Communications through Directorial Resolution under the law. EIA will form an integral part of this Contract as Exhibit 14.

1.18.45 Referential Study

It is the study referred to in the PNDP, developed as M1 Phase 1 of the Study called "Final Report-Feasibility Study for New Container Terminal at the Port of 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, which must be prepared by the CONCESSIONAIRE according to the Technical Proposal submitted by the Successful Bidder and accepted by the Committee. Said document must be submitted to APN for approval and is binding for the execution of the Works.

1.18.47 Exploitation

It comprises the following aspects: operation and administration of the New Container Terminal at El Callao Port Terminal – Southern Zone; Standard Service and Special Service supply; collection of the Standard Rate Index to Users in exchange for Standard Service supply; and collection of the Price to 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 Article 242 of Law No. 26702, and the CONCESSIONAIRE, through which the CONCESSIONAIRE transfers under possession in trust the amount corresponding to the Additional Complementary Investment Amount for its administration and as per the Contract.

1.18.50 Force Majeure

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

1.18.51 Performance Bond

These are the Concession Contract Performance Bond and the Works Execution Performance Bond. Both banking guarantees will be granted to ensure compliance with the obligations established in the Contract, including penalty clauses according to Section X.

1.18.52 Concession Contract Performance Bond

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

1.18.53 Works Execution Performance Bond

It is the banking guarantee granted to ensure compliance with the CONCESSIONAIRE's obligations, concerning Works execution, pursuant to this Concession Contract, including penalties derived from breach of same.

1.18.54 Standard Rate Index

It is the maximum amount which, as rate index expressed in Dollars, the CONCESSIONAIRE can collect for supplying the Standard Services, pursuant to Section VIII of this Contract.

1.18.55 Works Progress Reports

These are documents the CONCESSIONAIRE will prepare, as per the provisions in the Contract herein, and those established by APN, by means of which it will certify that the works are built, rehabilitated, or improved, and the corresponding equipment is implemented. The Works Progress Report will be subject to approval by APN.

1.18.56 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.

1.18.57 Common Port Infrastructure

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

1.18.58 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 APN and the REGULATOR within thirty (30) Days following the execution of the Concession Assets Handing Over Document. 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 regulations established by the REGULATOR, for the correct execution of Works. On the same date, the CONCESSIONAIRE will return the assets it deems unnecessary or inappropriate to the Concession. 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 Reversible Assets corresponding to the Works executed during the Concession, which, when completed, shall be presented to APN and the REGULATOR by the CONCESSIONAIRE with the Works reception request referred to in Section VI.
- c) Annual Inventory.- It is the list of Reversible and non Reversible Assets that the CONCESSIONAIRE shall present to APN and the REGULATOR between the first fifteen (15) days of April of each calendar year and the Concession Termination. This list includes the Reversible and non Reversible Assets the CONCESSIONAIRE has on the closing date of said inventory.
- d) Final Inventory. It is the list of Reversible and non Reversible Assets the CONCESSIONAIRE has on the date of Concession Termination. It shall be

submitted by the CONCESSIONAIRE to APN and the REGULATOR when, for any reasons, Concession Termination occurs.

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 Complementary Investment Amount:

It is the obligation assumed by the CONCESSIONAIRE for the execution and maintenance of works or services that may help to improve the National Port System, such as: dredging, breakwaters, systems and others to be established by APN. Its priority application is for 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 at El Callao Port Terminal – Southern Zone.

The Complementary Investment Amount will be contributed only once and will 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, generally, the Peruvian legislation.

The Complementary Investment Amount is divided in two:

- **Minimum Complementary Investment:** It is the mandatory investment commitment for executing the common works required by the operation of the New Container Terminal at TPC– Southern Zone. This investment will involve executing dredging (access canal and maneuver pool) and in rehabilitating and/or improving the south TPC breakwater, pursuant to the requirements established herein.
- **Additional Complementary Investment (ICA):** It is the amount that, additionally to the Minimum Complementary Investment, the Successful Bidder offered as a component of its economic proposal.

1.18.62 Dock

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

1.18.63 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.

1.18.64 Service and Productivity Levels

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

1.18.65 Regulatory Standards

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

1.18.66 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.

1.18.67 Works

It is the result of the Construction and Equipment works that shall be executed along 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.

1.18.68 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.

1.18.69 Exterior Works

It comprises civil works built offshore, such as: sea walls, breakwaters, navigation aids, dredging works, etc.

1.18.70 Interior Works

They comprise 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.

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\$175,000,000 (One Hundred and Seventy Five Million US Dollars) to implement and commission the New Container Terminal, according to the Referential Study at its first stage. This budget only applies to the express provisions set forth herein.

1.18.78 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.

1.18.79 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.

1.18.80 TUO Regulation

It is Supreme Decree No. 060-96-PCM, Regulations of the Consolidated Text of the Rules with Rank of Law that regulate the granting in Concession of the public infrastructure and utilities Works to the private sector, and their amending regulations.

1.18.81 REGULATOR

It is OSITRAN (Supervisory Body of Investment in Transport Infrastructure for Public Use), pursuant to Law No. 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 No. 010-2001-PCM), are mandatory to observe and comply with for the CONCESSIONAIRE.

1.18.82 Compensation

It is the economic consideration which the CONCESSIONAIRE is obliged to pay to the GRANTOR on a periodical basis during the Concession term, pursuant to Section VIII of the Contract.

1.18.83 Services

They are the Standard and Special Services, alike.

1.18.84 Standard Services

They are the services that, pursuant to Section VIII, the CONCESSIONAIRE will supply both to the Ship and cargo, for which it will charge the Standard Rate Index. These services will be supplied on a mandatory basis to any User requesting them.

1.18.85 Special Services

They are services other than the Standard Services that the CONCESSIONAIRE may supply and for which it will be entitled to charge a Price, which shall not affect the Users' right to demand Standard Services supply as an alternative.

1.18.86 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.

1.18.87 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 the Contract herein and the Applicable Laws and Provisions.

1.18.88 Rate

Economic consideration charged for the use of port infrastructure or supply of a Standard Service.

1.18.89 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.

1.18.90 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 and supervision of the Works, equipment, as detailed in Exhibit 6 to the Contract.

1.18.91 TEU

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

1.18.92 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.

1.18.93 Concession Assets Possession Taking

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

1.18.94 TUO

It is Supreme Decree No. 059-96-PCM, Consolidated Text of the rules with the rank of law that regulate the granting in Concession of Public Infrastructure and Utilities Public Works to the private sector, its complementary and amending regulations.

1.18.95 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 Vessels at the Terminal.

1.18.96 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.

1.18.97 User

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

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 infrastructure of the New Container Terminal – Southern Zone, which at every point keeps its 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 APN, following the REGULATOR's opinion.

PURPOSE

- 2.4 The GRANTOR hereby grants in Concession to the CONCESSIONAIRE the design, construction, financing, operation, maintenance and exploitation of the New Container Terminal at El Callao 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 Article 11.3 of the LSPN and, consequently, it is acknowledged that the CONCESSIONAIRE is entitled to the Exclusive Execution and/or Service Supply 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 Service Supply, the CONCESSIONAIRE shall strictly comply with the principles established in Article 14.3 of the LSPN and all other principles foreseen in Article 2.10 hereof.

The Parties acknowledge that, in pursuance of Article 11.3 and 14.3 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, using and reversing the Concession Assets regulated in Section V of the Contract.
 - b) Building the New Container Terminal at El Callao Terminal – Southern Zone, as per Section VI
 - c) Conserving the New Container Terminal at El Callao Port Terminal – Southern Zone, pursuant to the terms established in Section VII.
 - d) Exploiting the Concession, pursuant to the conditions established in Section VIII, which comprise Exclusive Execution and/or Service Supply.

- e) When applicable, paying the Additional Complementary Investment Amount (ICA), 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 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 the Governmental Authority. 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 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 has full powers to dispose of the Concession Assets, which are not subject to encumbrances or liens of any kind, and there is no impediment, either formally or in effect, that may disturb, affect or impede its effective handing over to the CONCESSIONAIRE in any way.
- 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 Concession 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 complies with the Applicable Laws and Provisions, the legal stability agreement referred to in Legislative Decrees No. 662 and No. 757, and Law No. 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 No. 25570 and its complementary and amending regulations.

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 incorporation and by-laws of the CONCESSIONAIRE, together with the evidence of registration with the relevant Public Records Office, in order to demonstrate that it is a new corporation duly organized under the Applicable Laws and Provisions, that it has the same partners, shareholders or members and that they hold shares in the same proportion as that they held prior to the date of the Contract Award. The CONCESSIONAIRE must demonstrate that it has a Minimum Capital Stock equivalent to 20% of the Official Estimated Work Budget, which is to be signed and paid in accordance with the provisions of the Business Corporations' Law.

The CONCESSIONAIRE shall inform the REGULATOR on any increases or reductions in the capital stock. Capital reductions may not affect the minimum capital stated in this Section.

- 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, pursuant to the provisions of Section XI, and a list of the insurance companies that shall provide them 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 starting date of the Exploitation, except as provided for in Section X regarding the possibility to encumber the Minimum Interest as from the execution of the Concession Contract in order to obtain financing. As from the sixth year after the starting date 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 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 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 those held by the Strategic Partner, 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 starting date of the Exploitation, As from the sixth year of the starting date 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 the same economic or control group and which are related to the bidding corporations or the members of the Consortiums that submitted economic proposals in the Tender, pursuant to the definitions contained in Resolution 090-2005-EF-94.10 issued by the Peruvian Securities and Exchange Commission (published on December 28, 2005) and Resolution 445-2000 issued by the Superintendency of Banking and Insurance (published on July 6, 2000), or in any replacing rules, as the case may be.

- (iii) Any amendment to the by-laws involving a change in the policy on majority votes, types of shares and proportions to be held by the partners among them, their powers and any capital increase, capital reduction, merger, spin-off, transformation or liquidation process of the CONCESSIONAIRE during the first five (5) Years of the Concession, 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.

On the Contract Execution Date, the corporations or shareholders that make up the Strategic Partner shall have signed, by a notarially recorded instrument, an agreement among them whereby they undertake to 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 at El Callao Port 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 Works Execution Performance Bond and the Concession Contract Performance Bond, mentioned in Section X.
- h) Submit an agreement entered into between the corporations or shareholders that make up the Strategic Partner, whereby they undertake to comply with the terms and conditions set forth in Section XIII of the hereof.
- i) Pay to PROINVERSIÓN the amount corresponding to the preparatory acts of the process for the promotion of private investment in the New Container Terminal, as provided for in Sub-point 11.1.5 of the Tender Documents, which is equivalent to _____ US Dollars (US\$ _____).
- j) Pay to the GRANTOR the sum of..... US Dollars (US \$) as the Additional Complementary Investment Amount, in accordance with the Tender Documents. This amount shall be deposited in a private Trust exclusively created for the execution and maintenance of works and services contributing to improve the port system, such as: dredging, breakwaters, systems and others to be established by APN. Its priority application is for the common works which are necessary as a result of the new requirements set forth for the implementation of the New Container Terminal – Southern Zone. This amount does not include the cost of the design, Construction, financing, Conservation and Exploitation of the New Container Terminal at El Callao Port Terminal – Southern Zone.

The % of the aforementioned amount shall be contributed by the CONCESSIONAIRE to the private trust, within thirty (30) Calendar Days as from the Contract Execution Date, and the remaining..... % shall be

progressively credited as required by APN, following the procedure set forth in Exhibit 9 hereto.¹

- 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 Reversible 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 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 XIX.
 - 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 opinion of the REGULATOR, which must be issued within a term of no more than fifteen (15) Calendar Days.

Any of the Parties may invoke a Concession Term Suspension due to the grounds referred to in Paragraph a) of this Article, through communication addressed to the REGULATOR within thirty (30) Days following the occurrence of the event subject-matter of the request. The REGULATOR will pronounce itself through a duly substantiated resolution within the term of thirty (30) Days as from reception of the Suspension request. If the REGULATOR issues no decision, the Suspension request shall be considered as 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.

¹ Paragraph j) shall apply only in the event of a tie, as prescribed in Point 7.2 of the Tender Documents.

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.

As long as the REGULATOR does not issue a decision on the Suspension request, the CONCESSIONAIRE shall continue supplying the Services so that Users may continue utilizing the Port Infrastructure subject-matter of the Concession herein, as long as it is physically possible.

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 regulates the possession of Reversible and non Reversible Assets granted in the Concession.
- 5.2 Every asset, including the Concession Area, that the GRANTOR is obliged to hand over to the CONCESSIONAIRE under this Contract, shall be handed by the GRANTOR free of liens and encumbrances, free of individuals or corporations, or other occupants, as well as from any other kind of encumbrance.
- 5.3 During the Concession term, the GRANTOR shall keep ownership of the Reversible 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. Similarly, the Concession is also sufficient title to guarantee economic and any other similar kind of operations of the CONCESSIONAIRE, directly related to this Concession, at the banking and financial system, as established in Section X of this Contract.

- 5.4 The CONCESSIONAIRE shall have the exclusive possession, use and enjoyment of the Concession Assets, exclusive Services supply, design and execution of Works and Equipment, and the exercise of any rights needed to comply with its obligations under this Contract and the Applicable Laws and Provisions.
- 5.5 The Concession's real estate 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, as long as said assets have been handed over by the GRANTOR upon Concession Assets Possession Taking.

CONCESSION ASSETS POSSESSION TAKING

- 5.6 The GRANTOR and the CONCESSIONAIRE must sign the Concession 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 execution hereof. Said document shall certify that the CONCESSIONAIRE has taken possession of the land comprised within the Concession Area, as well as of the Reversible Assets that will be aimed at performing the Contract, specifying their characteristics, location, state of repair, operation and performance. In the event that the Certificate of Delivery of the Concession Assets is not signed within the stipulated term, the provisions of Article 4.2 shall apply.
- 5.7 The Initial Inventory will form part of the Concession Assets Handing Over Document, as well as any other element that helps to individualize 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 Concession Assets Handing Over Document shall be signed in four (4) original copies, two of which shall be submitted to APN and the REGULATOR, respectively, and the other two to the Parties.

INVENTORIES

- 5.9 The CONCESSIONAIRE is obliged to prepare and submit to APN and the REGULATOR the Concession Assets Inventories, which shall state the characteristics, location, state of repair, operation and performance of the assets listed therein. The Contract requires four kinds of inventories: a) Initial Inventory; b) Works Inventory; c) Annual Inventory; d) Final Inventory.

- a) Initial Inventory. Within thirty (30) Days following the execution of the Concession Assets Handing Over Document, the CONCESSIONAIRE is obliged to submit to APN and the REGULATOR a list of the Reversible Assets and other assets it will have so as to start the Construction and Exploitation of the New Container Terminal, as well as the land comprised within the Concession Area that the GRANTOR has handed over to it. On the same date, the CONCESSIONAIRE shall proceed to return the assets it deems unnecessary or inappropriate for the Concession. If the return of the aforementioned assets were not physically possible, the CONCESSIONAIRE will be authorized to decommission or tear down the same, according to the asset commissioning and decommissioning procedures established to that effect by the REGULATOR.
- b) Work Inventory. It will be submitted to APN and the REGULATOR by the CONCESSIONAIRE together with the Works reception request referred to in Section VI.
- c) Annual Inventory. It shall be submitted to APN and the REGULATOR by the CONCESSIONAIRE, within the first fifteen (15) Days after April of each calendar year up to the Forfeiture of the Concession. This list shall include the Reversible and non Reversible Assets it has on the closing date of said inventory.
- d) Final inventory. It will be submitted to APN and the REGULATOR by the CONCESSIONAIRE when, due to any cause, the Forfeiture of the Concession occurs. This list shall include the Reversible and non Reversible Assets it has on the date of Forfeiture of the Concession.

Each one of these inventories shall imply the preparation and execution of a certificate.

USE OBJECTIVES

- 5.10 All the Reversible Assets involved in the Contract shall be destined to the Construction, Conservation and Exploitation of the New Container Terminal at El Callao Port Terminal – Southern Zone, and/or to the Service supply.
- 5.11 Non Reversible Assets shall also be aimed at the Construction, Conservation and Exploitation of the New Container Terminal at El Callao Port Terminal – Southern Zone, and/or the Service supply, but without the character of indispensable, and they can be unassigned from the Concession by the CONCESSIONAIRE at any time.

REVERSIBLE ASSETS

- 5.12 The Reversible Assets the GRANTOR has for the Design, Construction, Conservation and Exploitation of the New Container Terminal at El Callao Port Terminal – Southern Zone shall be delivered on the date of Concession Assets Possession Taking at the place and state of conservation in which they are.
- 5.13 The CONCESSIONAIRE shall perform activities aiming to preserve, during the period fixed for the Concession, the condition and nature of the Reversible Assets received from the GRANTOR. 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 the Reversible Assets and avoid 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 Reversible Assets in accordance with the established service levels. In all these tasks, the CONCESSIONAIRE shall seek to utilize recognized effective technologies as well as to introduce new technologies.

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.

- 5.14 The main obligation of the CONCESSIONAIRE is to reinstate at its own cost the Reversible Assets that may be obsolete, lost, technologically outdated or whose state of conservation does not enable to meet the service and productivity levels set forth in Exhibit 3, and hand them over to the GRANTOR. This obligation of handing over the assets shall be understood as complied with by making such assets available to the GRANTOR through a written notice, within a term not to exceed three (3) months since such assets became worn out or outdated. The CONCESSIONAIRE shall send a copy of such notice to APN and to the REGULATOR. If it were not physically possible to hand over such assets, the CONCESSIONAIRE shall be authorized to remove them from the inventory or demolish them as per the asset listing and delisting procedures prescribed by the REGULATOR to such effect.

Any Reversible Assets the CONCESSIONAIRE would include or build during the Concession term under any title or mode, including but not limited to leasing, as long as they are allocated to it, may not be transferred separately from the Concession, mortgaged, pledged or subjected to liens of any kind, during the term of the Concession, without the prior approval of the GRANTOR, and the prior

opinion of the REGULATOR. Said approval is to be issued within fifteen (15) 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 Whether handed over with the Concession or acquired or built during its validity, all Reversible Assets that have not been returned previously to the GRANTOR shall become part of the Final Inventory and shall revert to the GRANTOR.
- 5.16 The new Concession Assets resulting from the Works shall be registered with the respective Real Estate Registry, if applicable, in the name of the GRANTOR, within a maximum period of six (6) months from the completion of their construction or execution, except for any delays in the public administration. For these purposes, the GRANTOR shall give 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.
- 5.17 The Reversible Assets referred to electric, mechanic or electronic machinery, equipment and systems and any other personal property acquired by the CONCESSIONAIRE during the Concession shall be transferred to the GRANTOR or to whom it may designate upon expiry of the Concession term or upon early termination of the Concession. The pertinent provisions of Article 22 of the TUO shall apply.

For the purposes of this Contract, the reinstated Assets and the Assets acquired through financial leasing that qualify as Reversible Assets shall have the same treatment as that given in general to the Concession Assets.

- 5.18 Both the reversal and the return of assets which for any reason the CONCESSIONAIRE would make to the GRANTOR are not subject to any taxes, charges, liens, payment of compensation to the CONCESSIONAIRE or any security interest or other, whether existing or to be created, as prescribed in Article 22 of the TUO and its modification, Law 27156.
- 5.19 The CONCESSIONAIRE shall be held liable for the damages, detriments or losses caused to the Reversible Assets from the Concession Assets Possession Taking, acquisition or Construction thereof until the Forfeiture of the Concession or until the delivery to the GRANTOR, as stipulated in Article 5.14.
- 5.20 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 Reversible Assets, provided that this situation arises during the period between the delivery of the Concession Assets by the GRANTOR to the CONCESSIONAIRE and the reversal thereof by the CONCESSIONAIRE in favor of the GRANTOR, unless there is a cause attributable to the GRANTOR.

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

On its part, the GRANTOR acknowledges that any claim filed by third parties in connection with the Reversible Assets due to facts occurred prior to the delivery to the CONCESSIONAIRE shall be the GRANTOR's responsibility, and the CONCESSIONAIRE shall be released from any responsibility

- 5.21 The CONCESSIONAIRE binds itself to effect an insurance policy for the Reversible Assets, under the terms established in SECTION XI.
- 5.22 The CONCESSIONAIRE shall be responsible and under the obligation to pay the taxes, rates and contributions related to the Concession Assets.
- 5.23 The non Reversible Assets of the CONCESSIONAIRE which were allocated by it to the Concession and which are convenient for the continuity of operations, may be acquired by the Port Manager upon expiration of the Concession, within a term not to exceed twenty-four (24) months as from the date the CONCESSIONAIRE delivers to the GRANTOR the list of non-Reversible Assets, previously verifying their state of conservation and normal use as well as their actual value pursuant to the market conditions, which is to be determined by an expert, at the expense of the CONCESSIONAIRE.

LAND COMPRISED WITHIN THE CONCESSION AREA

- 5.24 The GRANTOR is obliged to make available to the CONCESSIONAIRE the land corresponding to the Concession Areas, within the terms established in this Contract.

The Concession Assets shall be exclusively used for the Concession as per the Applicable Laws and Provisions.

EASEMENTS

- 5.25 The GRANTOR undertakes to perform any necessary procedures 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 be:

- a. Temporary occupation of indispensable assets for the Design, Construction, Conservation and Exploitation of the New Container Terminal at El Callao 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 as Concession rights.

- 5.26 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.
- 5.27 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.
- 5.28 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

- 5.29 Following execution of the Concession Assets Handing Over Document, the CONCESSIONAIRE is bound to exercise any of the following forms of possessory action in the event of an attempted appropriation of the Concession Area, such as activities incompatible with the proper use of such area by third parties:

- a) Out-of-court possessory action, used to repel the force applied against the CONCESSIONAIRE and be able to recover the property, 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 APN and the REGULATOR 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 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 legal actions to be filed by the CONCESSIONAIRE to safeguard the GRANTOR's right over the Concession Assets, provided that such claims originate from facts occurred after the transfer of the assets to the CONCESSIONAIRE.

ASSETS RETURN

- 5.30 Once the Forfeiture of the Concession takes place due to any cause, the CONCESSIONAIRE shall be bound to return to the GRANTOR, within the following thirty (30) Days and in a single act, all the Reversible Assets, including the Concession Area, that were delivered upon the Concession Assets Possession Taking, as well as any assets that may have been incorporated, that may have been allocated to the Concession or that constitute accessory assets that may not be separated from the purpose of the Concession, excluding those that were removed from the inventory and/or demolished. The Concession Assets must be in good order and repair and in conditions to be used and exploited.
- 5.31 During the act of return, the CONCESSIONAIRE and the GRANTOR shall execute the respective Concession 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.
- 5.32 The list of Concession Assets corresponding to the Final Inventory and to the Concession Area, as well as any other element contributing to the interpretation of the object returned and its state, shall form part of the Concession Assets Reversal Certificate. The interpretative elements may include drawings, pictures or schemes.

PROCEDURE FOR DETERMINING THE REVERSIBLE ASSETS

- 5.33 All the assets listed in the Initial Inventory are considered Reversible Assets, except for those assets that may be obsolete, lost, technologically outdated or whose state of conservation does not enable to meet the service and productivity levels set forth in Exhibit 3.
- 5.34 In order to determine the listing of Reversible Assets, the CONCESSIONAIRE shall submit a proposal to the GRANTOR, sending a copy to the REGULATOR. The REGULATOR shall issue an opinion on said listing within a term not to exceed thirty (30) Calendar Days following receipt of the proposal. Upon expiration of such term, for the purposes hereof, it shall be understood that the REGULATOR does not have any objection against the list presented by the CONCESSIONAIRE. The GRANTOR shall have no more than thirty (30) additional Calendar Days to accept or reject the list submitted by the CONCESSIONAIRE. If no agreement is reached as to the list presented by the CONCESSIONAIRE, the Parties shall apply the provisions of Section XVI, referring to Settlement of Disputes.
- 5.35 The list of Reversible Assets shall be submitted by the CONCESSIONAIRE to the GRANTOR on the following occasions:
1. Upon submitting the first Annual Inventory after commencement of the Exploitation.
 2. Every five (5) years counted as from the presentation of the list mentioned in the preceding Point, on the same date established for submitting the Annual Inventory.
 3. Upon submitting the Final Inventory, pursuant to Article 15.7.

SECTION VI: PORT INFRASTRUCTURE WORKS

APPROVAL OF THE TECHNICAL FILE

- 6.1 Within ten (10) months as from the Contract Execution Date, 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 6.16. 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.

The partial Works that the CONCESSIONAIRE may execute as described in the foregoing paragraph include:

1. Demolition of Dock 9
2. Demolition and preliminary works ashore
3. Pavements, facilities and edifications ashore
4. Dredging works
5. Backfilling of the storage area
6. Partial construction of the Dock: first Berth
7. Equipment for the operation of the first Berth
8. 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.

DESIGN SUPERVISION

- 6.2 In preparing the Technical File, the CONCESSIONAIRE must furnish the Design Supervisor 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 five (5) years, whether in Peru or abroad, unless otherwise agreed by the Parties.

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 6.1, to make the relevant observations or approve it. Should APN fail to comply with these provisions 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 that may be 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, as the case may be, 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 against 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. 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 16.13.

DESCRIPTION OF THE WORKS

6.6 The CONCESSIONAIRE commits itself to execute the Works corresponding to the New Container Terminal, in accordance with the Technical File approved by APN, without prejudice to the Conservation activities referred to in Section VII.

6.7 The provisions contained in this Section shall prevail over any other contractual provision contrary thereto.

WORK SUPERVISION

6.8 It is the responsibility of the Work Supervisor to carry out the Supervision actions within its area of competence during the development of the Works. The designation of the Work Supervisor shall be notified in writing to the

CONCESSIONAIRE within a term not to exceed five (5) Days as from the aforesaid designation.

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

CONSTRUCTION WORKBOOK

- 6.10 As from the commencement of the Works, 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 contractors; copy of the results of the assays or commissioning tests; copy of communications between the CONCESSIONAIRE, APN and/or 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.
- 6.11 The Construction Work shall be kept as original. In addition, three (3) sets of copies shall be kept. The pages must be authenticated by a notary and sequentially numbered, with the possibility of adopting the mechanized system of loose sheets.
- 6.12 The GRANTOR, APN and the Work Supervisor shall have free access to the Construction Workbook during the Construction. Once the Work is commissioned, the original shall be delivered to APN within a term of thirty (30) Calendar Days as from the date of commissioning, 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 REGULATOR.

WORKS EXECUTION SCHEDULE AND TERM

- 6.13 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 6.14, and ensure compliance with the maximum terms for each activity.

- 6.14 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.
- 6.15 The maximum term to complete the Works is thirty-six (36) months as from commencement of the Construction.

CONSTRUCTION START-UP

- 6.16 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

- 6.17 The CONCESSIONAIRE may request APN to extend or postpone the partial terms of the Critical Path activities indicated in the Works Execution Schedule. Any extension or modification of the term for the execution of the Works shall require the prior and duly substantiated opinion of the Work Supervisor. When the CONCESSIONAIRE requests a modification of the term for the execution of the Works due to causes attributable to the CONCESSIONAIRE, the penalties accrued from the date of non-compliance with the execution Schedule until the date the Works are completed shall apply. In the event that the non-compliance by the CONCESSIONAIRE occurs more than five (5) times in activities of the Critical Path, during the Construction period, the GRANTOR, besides the application of the respective penalties, may also terminate the Contract, unless APN issues an opinion to the contrary, and APN may establish the new parameters.
- 6.18 The requests for extension of the terms 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 and request the Work Supervisor to extend both the intermediate activities and the term for the

total completion of the Works. Said request must be duly substantiated, including the new proposed Works Execution Schedule.

Within the following seven (7) Days, the Work Supervisor shall issue a report expressing his opinion about the request for extension of the term and shall forward the same to APN, with a copy to the CONCESSIONAIRE. APN shall issue a decision on the aforesaid extension within a term not to exceed ten (10) Days following receipt of the aforementioned report. If APN issues no decision within the above-referred term, the term shall be considered extended, provided that the Work Supervisor has issued a favorable opinion.

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

- 6.19 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 extension of the maximum term for the execution of the Works, set forth in Article 6.14, for a term equal to the delay.

APPROVAL AND COMMISSIONING OF WORKS

- 6.20 As the Works are completed, the CONCESSIONAIRE shall request the GRANTOR, with a copy to the Work Supervisor, to receive the Works, enclosing the respective report wherein he shall establish the completion of the works pursuant to the Technical File approved.

For their Commissioning, the Works should 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 regulations and the internationally accepted port practices and operations.

The procedure established in Articles 6.20 to 6.27 shall also apply to the Works resulting from the partial approvals of the Technical File.

- 6.21 Within a term of forty-five (45) Days, the GRANTOR shall determine the acceptance or rejection of the Works received, with the prior approval of the Work Supervisor. 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 Commissioning of said Works has been given. 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 Work Supervisor, more than one percent (1%) of the Official Estimated Work Budget. 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 Commissioning of the Works shall be understood to have been given.

- 6.22 Any of the Parties that do not agree with the decision issued by the GRANTOR with respect to the observations raised 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. 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 16.13.
- 6.23 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.
- 6.24 The term indicated for the rectification shall be suspended until the expert issues his decision.
- 6.25 In the event that the Works are rejected by the GRANTOR and without prejudice to the penalties described in this Section, the CONCESSIONAIRE shall clear the objections or rectify the irregularities detected, in such a manner that it may lead to the commissioning of the Works within the new term fixed by the REGULATOR. This term shall in no case exceed sixty (60) Calendar Days.
- 6.26 In the event that the new term for the respective rectification expires, and the Works have not yet been approved for reasons imputable 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.

- 6.27 Without prejudice to the provisions set forth in the preceding articles regarding the acceptance of the Works, the CONCESSIONAIRE shall secure the respective licenses to commence the Exploitation of the New Container Terminal by providing the Services, pursuant to the terms established in the Contract. The GRANTOR shall cooperate with the CONCESSIONAIRE to secure the corresponding licenses, pursuant to the Applicable Laws and Provisions.

INFORMATION

- 6.28 It is the obligation of the CONCESSIONAIRE to provide the Work Supervisor 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 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

- 6.29 The CONCESSIONAIRE shall provide to the public entities referred to in Exhibit 8, free of charge, un-furnished offices fit for the activities carried out by said entities.
- 6.30 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.
- 6.31 The CONCESSIONAIRE may relocate or re-assign the said offices, provided that this is due to the operating needs of the New Container Terminal or that it generates higher profitability for it and does not affect the activities of the entities, previously coordinating with the respective entity.

CONSTRUCTION ECONOMIC SYSTEM

- 6.32 The CONCESSIONAIRE shall prove to the GRANTOR, thirty (30) Days before commencement of the Works, 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 may present a notarially authenticated 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.

- 6.33 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.
- 6.34 In the event that the CONCESSIONAIRE fails to comply with the provisions set forth in Articles 6.32 and 6.33, 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.
- 6.35 The loans that the CONCESSIONAIRE may obtain in order to finance the Construction of the Works shall not be guaranteed by the GRANTOR in any manner whatsoever.

SECTION VII: CONSERVATION OF THE CONCESSION

- 7.1 The CONCESSIONAIRE binds itself to undertake the Conservation of the Reversible Assets that it may receive from the GRANTOR, from the Concession Assets Possession Taking to the date of Forfeiture of the Concession, as well as the other Reversible Assets incorporated by or into the Concession, from the time of incorporation and during the term of the Contract. In the case of the Reversible Assets subject to early return, the CONCESSIONAIRE shall undertake the Conservation from the commencement of the Concession until said assets are returned to the GRANTOR.
- 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 levels required in Exhibit 3. The updates of the Conservation Plan must be approved by the Conservation Supervisor.

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 levels established in Exhibit 3 to the Contract.

CONSERVATION SUPERVISION

7.6 It is the responsibility of the Conservation Supervisor 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 Conservation Supervisor 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 Conservation Supervisor with half-yearly reports on the development of the Conservation of the Concession, pursuant to the terms and conditions determined by the Conservation Supervisor. Said reports must be submitted within the first five (5) Days of the month following that in which the period of the report ends. The Conservation Supervisor 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 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.

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 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 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 No. 036-2004-

CD-OSITRAN or any regulation replacing it, the CONCESSIONAIRE shall submit to the REGULATOR the documents and information detailed in Exhibit 3.

USER'S RIGHTS AND CLAIMS

- 8.6 The Users of the New Port Terminal 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 REULATIONS

- 8.9 The CONCESSIONAIRE shall inform the REGULATOR about the draft Tariff Rules and the Regulations thereto within a term not to exceed ninety (90) Calendar Days from the Contract Execution Date, and the following regulations within ninety (90) Calendar Days before commencement of its operations 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 procedure for the approval of the aforementioned regulations 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 regulations. In order to approve the above-listed regulations, 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.

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 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 compulsorily provided by the CONCESSIONAIRE to all Users that request such services, and include, in the case of loading, all the services that must be provided to the Users from the time a container enters the Terminal until the Ship that loads the container is unmoored to set sail. In the case of unloading, it comprises from the mooring of the Ship that arrives at the Terminal until the container is removed by the User. In both cases, it includes the permanence of the container at the Terminal for up to forty-eight (48) hours, free of charge.

The Standard Services are divided into:

Ship Services:
- Use of Berth (includes Mooring and Unmooring services)
- Unloading and/or Loading (includes the use of the gantry crane)

Cargo Services:
Use of the Port Terminal (includes the transfer, handling, 48-hour permanence and weighing services)

The payment of the above-referred Services shall be the only consideration, as a Standard Service, that the User is obliged to perform. The CONCESSIONAIRE may not condition the provision of the Standard Service to any other service or additional payment.

a. SHIP SERVICES:

a.1. USE OF BERTH

It comprises 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 Tariff includes Vessel Mooring and Unmooring services.

a.2. UNLOADING AND/OR LOADING

It comprises the vessel unloading and/or loading services, including the use of the gantry crane of the Dock

The Rate for this item is applied to the Ship for each container with cargo or empty and for each unloading or loading operation.

b. CARGO SERVICES:

USE OF THE PORT TERMINAL

It comprises the use of the Terminal infrastructure to allow the merchandise transfer operation from the side of the Ship to the backup area of the Terminal and vice versa in the case of loading. The Rate for this item shall be applied to the Consignee of the cargo, 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 Consignee 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.

SPECIAL SERVICES

8.13 Without prejudice to the aforementioned Standard Services, the CONCESSIONAIRE may additionally provide Special Services to 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 Services.

ECONOMIC SYSTEM: STANDARD RATE INDEX AND PRICE

8.15 For the provision of the Standard Services, the CONCESSIONAIRE shall be entitled to charge the Standard Rate Index 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.

COMPENSATION

8.16 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:

US\$.....per container loaded or unloaded, from the date of commissioning to the date of expiration of the Concession.

To that effect, the CONCESSIONAIRE shall make monthly partial payments amounting to _____, within the first seven (7) Days of the month following the

month which is subject of the payment, until it completes the total amount that constitutes the Compensation.

Within..... () 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.

ECONOMIC AND FINANCIAL BALANCE

8.17 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.

This Contract stipulates a mechanism to reestablish the economic and financial balance, to which the CONCESSIONAIRE and the GRANTOR will be entitled in the event that the State of the Republic of Peru exclusively and explicitly amends the Concession due to changes in the applicable legal and regulatory provisions.

If, due to changes in the Applicable Laws and Provisions and/or actions taken by the government, exclusively related to economic and financial aspects, regarding:

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

and, if the annual gross income of the CONCESSIONAIRE were to vary by ten percent (10%) 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 of the term of the Concession, or, alternatively, the annual costs and/or expenses of the CONCESSIONAIRE were to vary by ten percent (10%) 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 of the term of the Concession, 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 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, provided such effects were produced solely as a result of the changes in the Applicable Laws and Provisions and/or of governmental actions.

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 reestablish 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 its receipt.

The Parties undertake to make every effort to reach an agreement on the amendments that will facilitate the reestablishment 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

8.18 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 issued 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 8.17 – 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.

- 8.19 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: COMPLEMENTARY INVESTMENT AMOUNT

- 9.1 As per Article 3.3, Paragraph I) of the Contract, on the Contract Execution Date, the CONCESSIONAIRE shall establish a private trust fund destined to the ends stated in said Article and pursuant to Exhibit 9 hereto.

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 Performance Bonds:

a. Works Execution Performance Bond:

In order to guarantee each and every one of the obligations established in the Contract, related to the proper execution and delivery of the Works contained in the Technical File, including the payment of penalties, the CONCESSIONAIRE shall deliver to the GRANTOR, a Works Execution Performance Bond, for an amount equivalent to 20% of the Works Official Estimated Budget. The referred Bond must be kept in force from the Contract Execution Date up to the approval of the Works by the GRANTOR. Without prejudice to the foregoing, the Bond may be reduced in proportion to the progress of the works, for up to a minimum amount equivalent to 20% of the initial guarantee. In order to make this reduction effective, the CONCESSIONAIRE must have obtained the approval of the Works for a Berth.

b. Concession Contract Performance Bond

In order to guarantee each and every one of the obligations established in the Contract, including the 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 an amount equivalent to 10% of the Works Official Estimated Budget. The referred Bond must be kept in force as from the Contract Execution Date to the end of the Concession.

EXECUTION OF THE GUARANTEES

10.3 The guarantees 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 execution of the Guarantees, the CONCESSIONAIRE must reinstate, or cause the reinstatement of the established amount. Failure, by the CONCESSIONAIRE to reinstate the Performance Bonds corresponding to the amount established in Article 10.2, within a term of thirty (30) Days counted as from the date in which it was partially executed, the REGULATOR, by a written communication to that effect, will terminate the Contract and expire the Concession on the date of the notice.

- 10.4 The Works Execution Performance Bond and 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 and Exploitation of the Works, the CONCESSIONAIRE may, prior authority by the GRANTOR, with the favorable opinion of the REGULATOR, grant a guarantee in favor of the Permitted Creditors, to guarantee the Permitted Guaranteed Indebtedness on:

- (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 if 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.

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, will

begin 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.

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. The CONCESSIONAIRE must simultaneously submit a written request for authority, to both the GRANTOR and the REGULATOR, attaching the draft mortgage contract and exhibits thereof.

The GRANTOR must issue its opinion within the twenty (20) Days following the receipt of the opinion from the REGULATOR, who will have a term of thirty (30) Days counted as from the date of receipt of the request to issue its technical opinion.

Should the REGULATOR require the presentation of additional information it must be requested within a period of ten (10) Days following the receipt of the request, in which case the maximum thirty (30) Day term for the issue, by the REGULATOR of the technical opinion will be computed as from the date of presentation of the requested additional information, to the total satisfaction of the REGULATOR, information that must be submitted simultaneously to the REGULATOR and to the GRANTOR.

The GRANTOR may request additional information within a maximum term of fifteen (15) days prior to the expiry of the term for the issue of its opinion, in which case the maximum twenty (20) Day term to issue its opinion, will begin to be computed once again as 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 paragraph, the petition of the CONCESSIONAIRE will be understood as having been rejected.

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

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 10.9 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.

10.8 Right of the Permitted Creditors to Cure a Breach

10.8.1 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.

10.8.2 The GRANTOR acknowledges that the Contract may not be terminated or the Concession lapsed 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 the preceding 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 point 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.

SHARE OR STOCK PLEDGE EXECUTION PROCEDURE

- 10.9 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 within a term of thirty (30) Days after the date of non-compliance.

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. Notwithstanding, 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 be fully replaced in the contractual position of the original Strategic Partner, and shall be subject to the terms of the Concession Contract signed by the latter for the remaining term. The Parties consent in this act, to assign the contractual position of the Strategic Partner according to the terms stipulated in this Section. Consequently, the new Strategic Partner shall have the same rights conferred in this Contract.

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 limitative, considering them in any case as the minimum requirements that may be extended and improved by the

CONCESSIONAIRE and/or the REGULATOR 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 11.8.

Should any observation be made, the CONCESSIONAIRE will have ten (10) Calendar Days to correct the observation.

Should the REGULATOR make no observation within the referred term, the proposed insurance policies shall be understood as having been rejected. In that case, the CONCESSIONAIRE must submit again the proposals for the required policies.

The final policies shall be effected and delivered to the GRANTOR, with a copy to the REGULATOR, within a term not to exceed thirty (30) Days following approval of the aforementioned proposed policies.

If the Insurance Company does not operate in the Republic of Peru, it shall grant a power of attorney to a person domiciled in the Republic of Peru to represent it with full powers, with respect to the coverage subject matter hereof. In addition, for approval by the REGULATOR, the CONCESSIONAIRE must certify that the Insurance Company:

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 by the Contract.
3. Will provide the CONCESSIONAIRE with 100% of the coverage required by the Contract.
4. Has a stockholders' equity of no less than US\$100,000,000 or its equivalent in other currencies.
5. Has no inconveniences to pay, pursuant to the legislation of its country of origin, in freely convertible currency, the obligations derived from the insurance contracts it executes abroad.
6. 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.
7. Has been the insurance company of the Strategic Partner or its Parent Company over the last three (3) years.

8. Accepts that a local Claims Adjuster be hired.
9. 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 will hold and maintain effective the following insurance policies to cover the New Container Terminal, its workers, users, contractors and subcontractors and will obtain the necessary endorsements for the GRANTOR, and/or whoever it may designate, to be considered 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, product of the indemnity of any loss, to repair the damages caused by such loss. Only in those cases when the reinstatement, replacement and repair of the damaged assets are materially impossible, the indemnity shall be delivered to the GRANTOR.

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

11.3 Personal Insurance for Employees and Employers.

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 the Employees and Employers 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 Pensions). 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 investment in construction and assembly, both of the civil works, their facilities, machinery, equipment and stocks of any kind and the value of their replacement with a new item.

- 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 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. This insurance coverage must cover the direct, indirect and circumstantial damages.

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

The direct, indirect and circumstantial losses must also be covered.

Among the risks covered by this policy, the 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.

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

The CONCESSIONAIRE must provide the Insurance Company with the total replacement value of the works, its facilities, machinery, equipment and stock, as the total risk exposure value.

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

The CONCESSIONAIRE must effect a Civil 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 Civil 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, the State Institutions, in particular ENAPU S.A. and with the exception of the GRANTOR or whoever he may designate, shall be considered Third Persons 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. Consequently, any State Institution shall be entitled to make its legal claim, as Third Persons 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 Civil 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.

11.7 Dishonesty, Disappearance and Destruction Insurance (3D).

The CONCESSIONAIRE must hire this coverage, including in it all the persons who render services to the CONCESSIONAIRE on a temporary or permanent basis, including the staff of the contractors and/or subcontractors and/or surveillance companies.

11.8 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 point.

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

11.9 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 at cost and on behalf 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 effectively 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 Performance Bond related to the Contract.

11.10 Unencumbered Obligations.

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

11.11 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.

11.12 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.

11.13 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.

11.14 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.

11.15 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

- 11.16 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.
- 11.17 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.
- 11.18 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.

OBLIGATION OF THE GRANTOR

- 11.19 Should the GRANTOR receive or earn any amount reimbursed for damages produced in the assets that make up the Concession Assets, in compliance with the terms convened in the policies referred to in this Section, they shall be used solely and exclusively, by the CONCESSIONAIRE to repair, reinstate or rebuild said damages. To this effect, the GRANTOR must deliver the received sums to the CONCESSIONAIRE within a term not to exceed thirty (30) Calendar Days.
- 11.20 Should the GRANTOR receive or earn any amount reimbursed for damages produced in the assets that make up the Concession Assets, in compliance with the terms convened in the policies referred to in this Section and such assets cannot be repaired, replaced or rebuilt, the GRANTOR will not be obliged to reimburse the CONCESSIONAIRE.

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 with the subcontractors in the event of any environmental impact caused in the Concession Area. According to the provisions established in Article 11.12 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 Concession Area, 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 Concession 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 Concession Area, as from the Date of Concession Taking Possession, the CONCESSIONAIRE shall only be held responsible in those cases in which there is evidence that the cause of the damage originated in the Concession Area.

- 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 General 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 starting date of the exploitation.

ENVIRONMENTAL REPORTS

- 12.15 During the Construction Works, 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 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 years, the CONCESSIONAIRE must deliver the Environmental Report must be delivered each semester.
- 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 companies or shareholders therein on the Contract Execution Date, must have entered into an agreement, whereby they undertake to 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 starting date 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 starting date 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 contractual position without the prior authority 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 contractual position, attaching the following:

- a) Preliminary Agreement or Letter of Intention to transfer or assign, duly signed by the acquirer or assignee.
- b) Documentation accrediting the legal status of the third person.
- c) Documentation accrediting the financial and technical capacity of the third party, including the suitable staff and experience in port operation, sufficient to carry out and assume the obligations of the CONCESSIONAIRE pursuant to the Contract.
- d) Contract whereby the third person 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 person in the contractual position occupied 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.

CLAUSES IN CONTRACTS

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

- a) The obligation to have the prior consent of the GRANTOR, prior opinion of the REGULATOR, as the case may be, of the assignment of its contractual position in favor of a duly qualified third person.
- b) 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.
- c) Restrict its validity term so that it will not exceed the term of the Concession.
- d) 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.

STAFF RELATIONS

13.5 In its relations with the staff, the CONCESSIONAIRE must adjust to labor regulations in force in the Republic of Peru.

- 13.6 The employment contracts of the local and foreign staff of the CONCESSIONAIRE, their execution and termination are subject to the regulations governing the labor relations of the staff of the private sector. 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, payment vouchers and others), the payment and withholding of employee 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 in the New Container Terminal.

- 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 due.

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 staff it requires to hire for the Construction, Operation and Exploitation of the New Container Terminal.

SECTION XIV: ADMINISTRATIVE COMPETENCES

COMMON PROVISIONS

- 14.1 The functions, which, by this Contract and the pertinent legal regulations, the GRANTOR, the APN and the REGULATOR must exercise, shall in no case be subject to authorizations, licenses of any other manifestation of the will of the CONCESSIONAIRE. The CONCESSIONAIRE must provide its full collaboration to facilitate the fulfillment of these functions and any breach in this regard shall be

construed as a violation subject to penalty. The GRANTOR, the 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, the APN or the REGULATOR require a prior opinion, of a binding nature or not, by any of the aforementioned entities, 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, the 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, the 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 established by the GRANTOR, the APN and the REGULATOR, in issues of its competence.

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

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

POWERS OF APN AND THE REGULATOR

- 14.3 The APN and the REGULATOR are empowered to exercise all the powers and functions conferred to them by the Contract and the Applicable Laws and Provisions, pursuant to Law 26917, Law 27943 and other regulations of the legislation in force.

INSPECTION RIGHTS

- 14.4 The fees and expenses derived directly from the inspection activities carried out by the Work Supervisor shall be paid by the CONCESSIONAIRE for an amount to exceed US\$7,500,000 (Seven Million Five Hundred Thousand US Dollars). In order to determine the payment and date thereof, the Works Execution Schedule shall be taken into account.

The amount of the fees and expenses for the Work supervision activities exceeds the aforementioned amount, such payments shall be borne by the GRANTOR.

Failure by the CONCESSIONAIRE to cancel the previously indicated amounts, will entitle the GRANTOR to execute the performance bond related to the contract for up to the referred amount.

- 14.5 The Work Supervisor shall have the following functions, among other activities:
- a) Supervise the Contract, in all those aspects related to the Construction of the Works;
 - b) Approve or reject the schedules, projects, plans, programs and other documents presented by the CONCESSIONAIRE. Notwithstanding the approval of any project or document, the CONCESSIONAIRE will continue to be responsible for making sure that the Works, once built, meet the standards established in the Contract.
 - c) Monitor the fulfillment of the environmental considerations contained in the Environmental Impact Study.
 - d) Verify and require the fulfillment of the Schedule of Execution of the Works, submitted by the CONCESSIONAIRE.
 - e) Verify and require the fulfillment of the safety standards;

- f) Verify the fulfillment of the delivery of the necessary land for the execution of the Works, with due annotation in the Construction Workbook;
- g) Propose the application of the penalties established in the Contract;
- h) Order the interruption of the Works in those cases in which the projects required for their execution have not been approved or are being executed without meeting the approved projects.
- i) Keep the corresponding Construction Workbook.
- j) Any other activity during the Construction of the Works indicated in this Contract.

The identification of any failure to comply with the obligations of the CONCESSIONAIRE, the Work Supervisor may require the necessary corrections.

The Work Supervisor 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 five (5) years in Peru or abroad, unless otherwise agreed by the Parties.

14.6 A Conservation Supervisor shall be appointed, who may carry out the following activities, among others:

- a) Monitor the Contract in all those aspects related to the Conservation of the Concession Assets;
- b) Monitor the fulfillment of the technical standards on the Conservation of the Construction Works;
- c) Monitor the fulfillment of the approved Conservation Plan;
- d) Deliver to the GRANTOR, the reports that it may request, related to the activities for the Conservation of the Works;
- e) Inform the REGULATOR, if relevant, of the identified defaults for it to apply the relevant sanctions and penalties;

- f) Approve or reject the schedules, projects, plans, programs and other documents related to the Conservation of the Works, submitted by the CONCESSIONAIRE. Notwithstanding the approval of any project or document, the CONCESSIONAIRE shall continue to be responsible for making sure that the Works meet the standards established in Exhibit 6 to the Contract;
- g) Keep the Conservation Construction Workbook;
- h) Control the fulfillment of the technical standards on the Conservation of the Works.
- i) Any other activity related to the Conservation of the Works, established in this Contract.

The identification of any failure, by the CONCESSIONAIRE, to comply with its obligations, the Conservation Supervisor may require the necessary corrections.

The Conservation Supervisor 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 five (5) years, in Peru or abroad, unless otherwise agreed by the Parties.

14.7. The REGULATOR may appoint an Exploitation Supervisor, who may perform the following activities, among others:

- a) Monitor the Contract during the Exploitation Period of the Concession;
- b) Check the statistical information delivered by the CONCESSIONAIRE;
- c) Deliver to the GRANTOR, the reports that it may request related to the Management of the Concession;
- d) Carry out the pertinent analysis of the background information to be delivered by the CONCESSIONAIRE;
- e) Supervise the fulfillment of the operation of the Services;
- f) Supervise the fulfillment of the annual work plan of the CONCESSIONAIRE;

- g) Supervise the fulfillment of the technical standards on the operation of the Concession;
- h) Supervise the correct collection of rates and the fulfillment of the tariff system;
- i) Verify and demand the fulfillment of the economic conditions of the Contract;
- j) Suggest the imposition of the penalties foreseen in the Contract and the applicable sanctions;
- k) Verify and demand the fulfillment of the deliver of information during the Exploitation stage;
- l) Supervise and control the fulfillment of the legal, accounting, administrative aspects and in general any other derived from the documents of the Contract;
- m) Any other activity required for the proper control of the Contract, in the Exploitation Stage;
- n) Verify and demand the fulfillment of the services levels included in Exhibit 3 to this Contract.
- o) Determine when a service rendered by the CONCESSIONAIRE is classified as a service rendered in conditions of free competition;

In the event of his appointment, the functions of the Exploitation Supervisor shall be exercised according to the powers conferred by the REGULATOR.

Should any breach of the obligations of the CONCESSIONAIRE be detected, the REGULATOR may require the necessary corrections and impose the relevant sanctions.

The Exploitation Supervisor must not be rendering any type of services to Empresa Nacional de Puertos S.A. and must not have rendered any type of services to the CONCESSIONAIRE, its shareholders or Related Companies, in both cases either directly or indirectly, over the past five (5) years in Peru or abroad, unless otherwise agreed by the Parties.

- 14.8 THE CONCESSIONAIRE must furnish the REGULATOR with the information requested by it pursuant to the powers conferred upon it by the Applicable Laws and Provisions:
- 14.9 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

- 14.10 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.
- 14.11 In order to exercise the sanctioning powers conferred to the REGULATOR in this Contract, it shall comply with the provisions issued therein on the subject, exercising its regulatory and normative powers. The CONCESSIONAIRE must pay the fines within the terms established by the referred provisions.

The provisions set forth in the Regulations on Infractions and Sanctions approved by the REGULATOR referred to the assumptions established in this Contract, will prevail over the latter. In this regard, the contractual penalties will not apply for the cases regulated in the referred regulations.

- 14.12 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

14.13 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.

SECTION XV: FORFEITURE OF THE CONCESSION

GROUNDS FOR FORFEITURE

15.1 Additionally to the cases foreseen herein, this Contract may be declared terminated only if one of the following occurs:

15.1.1 Termination Due to Term Expiration

The Concession shall terminate when the term expires as per Section IV.

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 technical opinion and consulting the Permitted Creditors.

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 incurrance in any intentional violation by the staff of the CONCESSIONAIRE, leading to the commission 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, as well as the assignment of its contractual position without the prior and 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 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, by the CONCESSIONAIRE, of the Concession Assets in a form and manner other than that established in the Contract, without the prior and written authority 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 Concession Assets or a substantial portion of those of the CONCESSIONAIRE, 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 service, due to the fault of 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 Commissioning and Standards, within the established terms, in accordance with the provisions set forth in Section VI of this Contract.
- 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, prior opinion of the REGULATOR, which must be issued within a term of no more than thirty (30) Days.

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 the Port Terminal of El Callao, 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 State Institution of the Republic of Peru, legally authority to address such a problem of public interest.

During these six (6) months, the CONCESSIONAIRE will not be obliged to meet 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, riot, insurrection, civil riot, acts of terrorism or civil war, that prevent the fulfillment of the Contract.
- b) The destruction of the works 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 total destruction of the works 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 workers strike that does 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 Section XVI.

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

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

- a) For Works, Equipment and Minimum Complementary Investment, the lowest amount between the Works Budget submitted by the CONCESSIONAIRE in its Technical File and the Works and Equipment Official Estimated Budget shall be considered.
 - b) One hundred percent (100%) of the Additional Complementary Investment (ICA, in Spanish) effectively 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 forfeiture 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 amount resulting from applying the works progress percentage amount established in Paragraph a) of Article 15.3, 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 Contract Termination date, the following shall hold:
- a) The CONCESSIONAIRE shall submit the corresponding settlement statements, duly verified by the Works Supervisor;
 - b) The Works Supervisor 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 Works Supervisor or to modify the settlement statement.
 - d) The Works Supervisor 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 weighted average cost of the different capital sources shall be calculated as:

$$r = \%D * k_d * (1 - T) + \%C * k_e$$

Where:

r = weighted average cost of different capital sources

%D = debt percentage, as proportion of one, calculated as a function of the Permitted Guaranteed Indebtedness, concerning PMAB obtained in Article 15.3

k_d = Monthly Effective Rate of Permitted Guaranteed Indebtedness

T = Income Tax Rate

%C = Capital Percentage, in proportion for one, 1- %D

k_e = Monthly Return Effective Rate for the investor. It varies according to the grounds for termination and is specified in Articles 15.15 to 15.17

- 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 we add the cash investments specified in Paragraphs b) and c) of Article 15.3, we obtain the Budgetary Limits per type of Investment (Li).
- 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 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 all the areas comprised within the Concession Area, as well as the Concession Reversible Assets to the GRANTOR, as per Section V.

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 Reversible 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.

For this case, the Ke Rate of Paragraph a), Article 15.6 shall be ...% equivalent to a financing rate acceptable to the State.

- g) 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:

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

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.

For this case, the Ke Rate of Paragraph a), Article 15.6 shall be ...% equivalent to an acceptable return rate for the capital.

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 the 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 CONCESSIONAIRE, 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 mutual agreement termination:

- 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 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.

16.6.- 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.

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.

DEFINITION OF PARTIES FOR THIS SECTION

16.11.- For the purposes of the entire Section XVI, when the Parties are mentioned, this term shall indistinctly comprise the CONCESSIONAIRE and the GRANTOR. The conflicts referred to in the section herein may arise between the CONCESSIONAIRE and the GRANTOR.

DIRECT DEALING

16.12.-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 involved 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 16.13, 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 16.13, 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 16.13, Paragraph b).

ARBITRATION

16.13.-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 no longer than 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's 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 within sixty (60) Days following the Arbitration Court installation. Exceptionally, the award may be issued outside this term when the Arbitration Court considers it indispensable to produce means of proof such as expert's appraisals or eye inspection outside the city where the arbitration procedure takes place, for a term no longer than ten (10) Days.

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 sixty (60) 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 of no more than ten (10) Days.

COMMON PROCEDURAL RULES

16.14.-Both for the Equitable Arbitration referred to in Article 16.13, Paragraph a) and for the De Jure Arbitration referred to in Article 16.3, 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 Article 73 of the Peruvian Arbitration Law.
- 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 arbitrator's fees, shall be covered by the losing Party. The same rule applies in case the defendant or counterclaimant 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. 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.

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 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, provided that the damage has not been covered by the insurances referred to in Section XI.
- 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 non-compliance or violation, by the CONCESSIONAIRE, of the obligations detailed in this Contract shall give rise to the application of the contractual 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 third parties.

19.2 In the event that the CONCESSIONAIRE fails to comply with its obligations, the REGULATOR shall notify the CONCESSIONAIRE of the violation detected and the Parties shall attempt to solve the discrepancies that gave rise to the violation, according to the Direct Dealing procedure foreseen in the Contract. If applicable, they shall impose the penalties indicated in Exhibit 17 to the Contract.

19.3 The amount of the penalties shall be paid by the CONCESSIONAIRE to the REGULATOR within a term of ten (10) Days from the date the notice is received from the REGULATOR.

The term established in the preceding paragraph 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 once the imposition of the penalty is confirmed by the competent authority.

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 In everything not provided for in this Section, the Regulations on Penalties and Sanctions of the Supervisory Body of Investment in Transport Infrastructure for

Public Use (OSITRAN) in effect on the date of non-compliance shall be applied on a supplementary basis.

- 19.7 Under the assumption that it is verified that a breach of contract is contemplated in OSITRAN Regulations on Penalties and Sanctions, or any replacing provisions, only the respective sanction shall be imposed. 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: _____
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 on ____ day of the month of _____ 2006, by the CONCESSIONAIRE and APN, acting on behalf of the GRANTOR.

By _____, acting as legal representatives:

By APN, acting as representative of the GRANTOR:

UNOFFICIAL TRANSLATION

EXHIBIT 1

CONCESSION AREA

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

- **Idle time at berth:** No more than one (1) hour in total, counted from the moment in which the ship is moored to the dock and the start of its loading or unloading operations and from the end of such operations and the starting time for its undocking.
- **Loading or Unloading Operation Performance (Yield of Operation):** An average of no less than thirty (30) containers per hour and per dock Gantry Crane of Dock:

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

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 of operation, calculation will be made on a quarterly accumulation basis, with a minimum rate of twenty-five (25) containers per hour and per Gantry Crane of Dock.

- **Service time to Users for removing the merchandise:** No more than thirty (30) minutes² 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 six (6) months of operation have elapsed, the Terminal shall hand the merchandise to the User within a term of no more than fifteen (15) minutes.

² NOTE: Effective operation time is established from the start of loading and unloading operation and when they conclude. If we add “idle time at the berth” the total time of stay at the berth is obtained.

- **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 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. At the beginning of operation, 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 new gantry cranes per berth, with an effective average annual capacity of 30 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) cranes within the Concession term. The transfer and yard equipment 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.

EXHIBIT 5

STANDARD RATE INDEX

The rate levels considered in the Concession Contract shall have a validity of up to five (5) years and then may be updated every two (2) years, upon prior request of the CONCESSIONAIRE, and with the approval of APN and the REGULATOR.

UNOFFICIAL TRANSLATION

EXHIBIT 6 TERMS OF REFERENCE

I. GENERAL ISSUES

The CONCESSIONAIRE shall design, build, maintain 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.

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.- Metering Grid

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

2.5.- Unit Price Analysis

It will be made for each one of the headings 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 heading 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 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.- Metering Grid

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

3.5.- Unit Price Analysis

It shall be made for each one of the headings making up the works Value. No heading 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 heading 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.

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. - Metering Grid

It will be based on the necessary headings 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 headings 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 heading'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. 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.

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 Conservaton 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.- Interior 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.- Exterior Works:

Propose the maintenance program of:

- Operational depth: knowledge on the sedimentation behavior of the access canal and Port Grounds.
- Programming of the possible dredging works.
- Navigational aids: Buoys course, alignment towers, beacons, change of light lamps and other navigational aids.
- Defense works: Inspection plans and breakwater maintenance.

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.- Interior 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.- Exterior 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 canal, maneuver area and Berths.
- Buoys, position lights, alignment inspection and maintenance.
- Breakwater stability inspection.

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) Interior 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) Exterior Works:

- Dredger for maintaining design depth.
- Defense works maintenance.
- Maintenance and course of buoys and nautical signs support structures.

Corrective Maintenance: Occasionally performed tasks aimed at recovering a function or integrity of Port Infrastructure when lost due to the usual Port Infrastructure wear and tear.

UNOFFICIAL TRANSLATION

EXHIBIT 8
PUBLIC ENTITIES

UNOFFICIAL TRANSLATION

EXHIBIT 9

**COMPLEMENTARY INVESTMENT AMOUNT
CONDITIONS AND PURPOSE OF TRUST FUND**

UNOFFICIAL TRANSLATION

EXHIBIT 10
FORM OF WORK EXECUTION PERFORMANCE BOND
(Copy of the Work Execution 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), 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 of the execution of works according to the Technical Proposal and Concession Contract for the New Container Terminal at El Callao Port Terminal – Southern Zone, entered into by and between the State of the Republic of Peru and our clients.

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 your 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 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 at El Callao Port
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. 28 de Julio 800
Lima 1, Lima – Perú

Permitted Creditor:.....

Reference: Concession Contract for the New Container Terminal at El Callao Port Terminal – Southern Zone.

Pursuant to Article 10.5 of the Concession Contract for the New Container Terminal at El Callao Port 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 at El Callao Port Terminal – Southern Zone.
- c) We comply with all requirements set forth in the Concession Contract for the New Container Terminal at El Callao Port 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.

UNOFFICIAL TRANSLATION

EXHIBIT 12

FORM OF APPROVAL LETTER IN FAVOR OF THE PERMITTED CREDITOR

_____ 2006

Messrs.
.....

Ref: Permitted Creditor _____; Concession Contract for the New Container Terminal at El Callao Port Terminal – Southern Zone.

As per Article 10.6 of the Concession Contract for the New Container Terminal at El Callao Port 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 at El Callao Port 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.

UNOFFICIAL TRANSLATION

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 EIA Objectives (include the main objectives of the assessment, both general and specific)
- iv Applied methodology to develop the EIA (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 Impact

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 EIA 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)		

<p>3.1 Works</p>	<p>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.).</p> <p>Status and progress regarding compliance with the Socioenvironmental Specifications set forth herein and Environmental Management Plans contained in the EIA, emphasizing:</p> <ul style="list-style-type: none"> • Implemented mitigation measures (solution proposals, measure application calendars, involved permits). • Follow-up and Monitoring Plan.
<p>3.2 Machinery Yard, shops</p>	<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.
<p>3.3 Dredged Material Deposits (DMD)</p>	<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.
<p>3.4 Warehouses and offices.</p>	<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.

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.a)		Failure to inform the Regulator on the capital stock increases and/or decreases.	Each time.
3.3.g)		Delay in the delivery of the Works Execution Performance Bond.	Each day of delay.
3.3.g)		Delay in the delivery of the Concession Contract Performance Bond.	Each day of delay
3.3.h)		Delay in the delivery of the contract entered into by and between the legal entities that make up the Strategic Partner.	Each day of delay.
3.3. i)		Delay in paying PROINVERSIÓN for the preparatory acts relating to the Concession delivery process.	Each day of delay.
3.3.j)		Delay in payment of the Additional Complementary Investment Amount.	Each day of delay.

Table 2: Penalties referred to Section V of the Contract: Property System

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.
5.14		Delay in the replacement of the Reversible Assets within the maximum term established.	Each day of delay.
5.21		Delay in effecting the insurance policy covering the Reversible Assets.	Each day of delay
5.29		Failure to exercise the possessory action.	Each time.
5.30		Delay in returning the Concession Assets upon the Concession Termination due to any cause.	Each day of delay.
5.43		Delay in submitting the lists of Reversible Assets	Each day of delay

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 Technical File to APN.	Each day of delay
6.2.		Delay in the delivery of the additional information required by APN.	Each day of delay
6.10.		Failure to have a Construction Workbook during Construction.	Each day of delay
6.12		Failure to give the Work Supervisor and the team designated by APN free access to the Concession Area to carry out their work without obstacles.	Each time.
6.12		Delay in the delivery of the original and copies of the Construction Workbook	Each day of delay
6.15.		Delay in the completion of the total Works	Each day of delay
6.16.		Delay in starting the Construction of the Works pursuant to the terms of the Contract.	Each day of delay
6.17		Failure to comply with the terms for the execution of the Critical Path activities contained in the Works Execution Schedule due to causes attributable to the CONCESSIONAIRE.	Each day of delay
6.28.		Delay in correcting defects that do not represent less than 1% of the Works Official Estimated Budget	Each day of delay
6.32.		Delay in the correction of irregularities or the release of the objections that caused the rejection of the works.	Each day of delay
6.35.		Delay in the submission of reports relating to the development of the Works execution to the Work Supervisor.	Each day of delay.
6.39.		Delay in certifying to the GRANTOR that the CONCESSIONAIRE has the necessary funds to comply with the Works Execution Schedule.	Each day of delay.
6.39.		Delay in the submission of the projected financial flow of the Concession	Each day of delay
6.40.		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 penalty	Application Criterion
7.5		Failure to give APN 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 APN 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
8.5		Failure to submit the documents and information required in Exhibit 3.	Each time
8.9.		Delay in informing the Regulator on the Internal Regulations.	Each day of delay
8.9.		Delay in the submission of the regulations outlined in Article 8.9 to APN for approval.	Each day of delay
8.16.		Delay in the payment of the monthly Compensations.	Each day of delay

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.	Each time
10.6.		Failure to submit in writing the request for approval to the GRANTOR and the REGULATOR.	Each time.
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
11.8.		Failure to pay the premiums of the insurance policies.	Each day of delay
11.8.		Delay in notifying the REGULATOR on the renewal dates of the insurance policies and delivery of the proposed policy.	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 XIII: General Socioenvironmental Considerations

Contract Article	Amount (US\$)	Description of the penalty	Application Criterion
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

BA/
0723K6
O.T. 34103