

THE REPUBLIC OF ECUADOR

C. R. M.

Centro de Rehabilitación de Manabí


WATER TRANSBASIN PROJECT FOR THREE PORTOVIEJO RIVER BASINS

TENDER DOCUMENTS
FOR
MECHANICAL AND ELECTRICAL EQUIPMENT
FOR
SEVERINO PUMPING STATION, CONGUILLO INLET AND
POZA HONDA INLET

PACKAGE 3

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C R M

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PACKAGE 3

VOLUME - I

-
- CONVOKING
 - INSTRUCTIONS TO TENDERERS
 - DRAFT CONTRACT, GENERAL DISPOSITIONS AND SPECIAL CONDITIONS
 - PRINCIPLES AND CRITERIA FOR THE EVALUATION OF THE TENDERS
 - COMMITMENT, TRANSFER AND REIMBURSEMENT PROCEDURES OF OECF
 - LIST OF MINIMUM EQUIPMENT REQUIRED
-

MARCH 1995



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REPUBLIC OF ECUADOR

OECF LOAN No. _____

CENTRO DE REHABILITACIÓN DE MANABÍ

CRM

WATER TRANSBASIN PROJECT FOR CHONE-PORTOVIEJO RIVER BASINS

INTERNATIONAL TENDERING No. _____

TENDER DOCUMENTS
FOR
MECHANICAL AND ELECTRICAL EQUIPMENT
FOR
SEVERINO PUMPING STATION, GONGUILLO INLET AND POZA HONDA INLET
(CONTRACT PACKAGE - 3)

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TENDER DOCUMENTS

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MECHANICAL AND ELECTRICAL EQUIPMENT

FOR

SEVERINO PUMPING STATION, CONGUILLO INLET AND POZA HONDA INLET
(CONTRACT PACKAGE - 3)

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VOLUME - I

CONVOKING

REPUBLICA DEL ECUADOR

OECF LOAN No. _____

CENTRO DE REHABILITACION DE MANABI

CRM

**WATER TRANSBASIN PROJECT
FOR
CHONE-PORTOVIEJO RIVER BASINS**

INTERNATIONAL TENDERING No. _____

**MECHANICAL AND ELECTRICAL EQUIPMENT
FOR
SEVERINO PUMPING STATION, CONGUILLO INLET AND POZA
HONDA INLET**

(CONTRACT PACKAGE - 3)

C O N V O K I N G

The Contracting Committee of the Centro de Rehabilitación de Manabí, CRM, in accordance with the resolution taken in the session of _____ invites participant firms to present tenders in order to participate in the International Tendering No. _____, that will be executed with resources from a loan granted by the OVERSEAS ECONOMIC COOPERATION FUND OF JAPAN (OECF), for Supply and Installation of Mechanical and Electrical Equipment in Contract Package-3 for Severino Pumping Station, Conguillo Inlet and Poza Honda Inlet of the Water Transbasin Project for Chone-Portoviejo River Basins.

Package 3

1. SCOPE OF WORKS

The Works covered in this Tendering comprises the following works:

- Six units of 3.2 m³/sec-2,400 kW pumping facilities including pumps and valves, electric motors, transformers, static condensers, switchgear and control equipment, and ancillary equipment for the Severino pumping station, including extension of outdoor switchgear and control equipment at the Daule-Peripa hydroelectric power station.
- One set of power line carrier telephone equipment between the Daule-Peripa hydroelectric power station and the Severino pumping station.
- One circuit of 138 kV transmission line on a single circuit tower approx. 32.6 km in length between the Daule-Peripa hydroelectric power station and the Severino pumping station.
- Intake trash racks and rake, intake gates and gantry crane and discharge penstocks for the Severino pumping station.
- Outlet facilities at the Conguillo inlet.
- Outlet facilities at the Poza Honda inlet.

Further details of the Scope of Works are presented in the General and Technical Specifications, and Tender Drawings.

2. PROJECT LOCATION

The Project to be tendered, is located in the central part of Manabí province, one of the provinces in the Costa region facing to the Pacific Ocean. The Chone-Portoviejo river basins has an area of 4,871 km², consisting of the Bahía area (Lower basin of Chone river) of 544 km², the Chone river basin of 2,267 km² and the Portoviejo river basin of 2,060 km².

The Daule-Peripa dam is located on the Daule river at about 15 km upstream of Pichincha and the La Esperanza dam is located on the Carrizal river at about 11 km upstream of Calceta. The diversion tunnel will connect the existing Daule-Peripa reservoir and the La Esperanza reservoir which will impound in 1996.

The Project site is accessible to the La Esperanza dam now under construction by means of paved roads and to the vicinity of the Conguillo inlet site through the future reservoir area via Membrillo by means of jeepable roads only in the dry season, but before 1996. Therefore, the permanent access roads must be constructed from Buenaventura to the Conguillo inlet site via Membrillo and Guasmo works adit site.

The Severino pumping station is provided at Río Severino, one of tributary flowing to La Esperanza Dam, to pump up water from la Esperanza dam to Poza Honda dam via open channel and tunnel, by furnishing six units of 3.2 m³/sec pump-2,400 kW motor with

control equipment, transformers and switchgears. Power supply to this pumping station is from Daule-Peripa hydropower station through 138 kV transmission line. The inlet facilities are provided at both Conguillo and Poza Honda Inlets.

3. TENDERING REGIME

This International Tendering No. _____, since it is financed by the OECF, a Credit Institution of the Government of Japan, will be in accordance with what is established in the Article 58 of the Public Contracting Law published on the Official Registry No. 501 of August 16, 1990 and to the dispositions contained in the Loan Agreement No. _____ between the OECF and the Government of the República del Ecuador, and as for matters not foreseen in the Loan Agreement, the prevailing laws of Ecuador will be applied.

4. METHOD OF PAYMENT

The payment of the tendered works will be done with charge to the funds proceeding from the loan granted to the Ecuadorian State by the OECF.

Such payments will be carried out by the method of Advance Payment, equivalent to twenty percent (20%) of each price category of the Contract value, and the balance by means of Shipping Certificates and monthly site progress invoices basis duly approved, subject to the accepted total prices and work satisfactorily made.

The payments that the Contractor is entitled for the fulfillment of the Contract will be done in Japanese Yens or U.S.Dollars for the foreign currency portion and in Sucre for the local currency portion. The Tender can be stated in Sucres and Japanese Yens or U.S.Dollars. According to the nature of the expense and the respective amounts of each one, the payment will constitute as a set, each price category of the total value of the Tender. The Tenderer will have to consider that for payment purposes Japanese Yens will always be used, so no price readjustment will be considered.

5. GETTING THE DOCUMENTS

The documents for the presentation of the Tender will be available for those interested in the Secretariat of the Contracting Committee of CRM, in the address indicated below, from the day _____ upon payment of _____ not reimbursable, value that will serve to cover the registration and participation rights in the Tender.

6. SUBMITTAL OF TENDERS

Each participant will have to submit a complete Tender, original and two copies, in the Secretariat of CRM's Contracting Committee till the 15:00 hours of _____ in the following address: 18 de Octubre y Sucre, Portoviejo, Provincia de Manabí. The Secretary of the Committee will confer the corresponding reception record, writing down the date and hour of submittal.

The Tenders will be presented in the Spanish language in a closed envelope with due securities of the case which will avoid knowing its content before the official opening of the envelopes, which will contain the documents up-to-date that demonstrate the technical and economic solvency requested in the Tender Documents, as well as the Tender Bond, for an amount equivalent to two percent (2%) of the referential budget established by the institution.

7. OPENING OF TENDERS

The Contracting Committee will meet in the day and hour indicated as deadline for the submittal of the Tenders and one hour later will proceed to publicly open the envelopes containing the Tenders. The Tenderers could assist to the said session, leaving on written record in acts of what has been done.

8. PERIOD OF COMPLETION

The Contracting Committee will not accept Tenders with a period of completion longer than Forty Two (42) months reckoning from date indicated in the commencement order.

9. AWARDING

The Contracting Committee will resolve within the term of ten (10) days counted from the deadline date, for the Tenderers to formulate the clarifications regarding the report from the Technical Commission and will award the Contract to the Tenderer that had submitted the most convenient Tender for the national and institutional interests, with previous consent of the OECF.

10. INVITED

In order to carry out this Tendering, CRM's Contracting Committee, after consent of the OECF, will make an invitation to participant firms that belong to all the countries and area, but will evaluate based on the qualifications specified in the Tender Documents.

CRM's Contracting Committee reserves the right to award the Contract, to reject any proposal or to declare the present Tender deserted in accordance with what is established in the Article 32 of the Public Contracting Law and to reject all the Tenders at any given time, prior to the awarding of the Contract, without incurring in any responsibility, regarding the Tenderer, or the Tenderers affected by this decision and without having any obligation to communicate the reason for it.

Portoviejo,

Ab. Antonio Zabala

President

Contracting Committee of CRM

VOLUME - I

PART - I, SECTION - 1

INSTRUCTIONS TO TENDERERS

PART - I, SECTION - 1

INSTRUCTIONS TO TENDERERS

I.1.1 GENERAL

The Manabi Rehabilitation Center, (hereinafter referred to as "CRM"), as the Executing Agency, invites a tender for Contract Package-3 for Supply and Erection of Mechanical and Electrical Equipment for the Severino Pumping Station, Conguillo Inlet and Poza Honda Inlet for the Water Transbasin Project for Chone-Portoviejo River Basins (hereinafter referred to as " the Project").

The Project is planned to supply water for domestic and irrigation water to Chone and Portoviejo river basins. The Project involves three (3) water transbasin schemes which are summarized as tabulated below:

Transbasin Scheme	Capacity	Remarks
1st Transbasin: Daule-Peripa to La Esperanza	18 m ³ /s	Gravity flow
2nd Transbasin: La Esperanza to Poza Honda	16 m ³ /s	Pumping up
3rd Transbasin: Poza Honda to Mancha Grande	4 m ³ /s	Gravity flow

The Severino pumping station is provided for pumping up water from La Esperanza dam to Poza Honda dam via open channel and tunnel. The Severino pumping station has six (6) units of 3.2 m³/sec pump-2,400 kW motor with control equipment, transformers and switchgears. The power supply to this pumping station is from the Daule-Peripa hydroelectric power station with extension of outdoor switchgear and a single circuit 138 kV transmission line therefrom. The outlet facilities are provided at both Conguillo and Poza Honda inlets.

For the realization of the Project, CRM has applied for a loan from the Overseas Economic Cooperation Fund, Tokyo, Japan (hereinafter referred to as "the OECF") to cover the foreign exchange cost of the Project. The portion of the Contract Price to be financed by the OECF (hereinafter called as "Foreign Currency Portion") covers the CIF Price, Insurance and the off-shore portion of the erection works of the Mechanical and Electrical Equipment for the Severino pumping station, Conguillo inlet and Poza Honda inlet. The remaining portion of the Contract Price (hereinafter called as "Local Currency Portion") will be financed by the Government of the Republic of Ecuador and the OECF.

The Tenderers will have to comply with all the instructions described herewith. The lack of knowledge or incorrect interpretation of these instructions does not liberate the Tenderer of the responsibility to comply. The submittal of the Tender will constitute a statement that the Tenderer has checked them and is completely familiarized having accepted and obliged to comply with all the parts of these Documents. The Contracting Committee of CRM reserves the right to reject the Tenders that do not fulfill the requirements demanded in the Documents of this Tendering.

The words and expressions used in the Tender Documents shall have the meanings assigned to them, vide Clause I.1.41 herein.

I.1.2 TENDER OBJECTIVE

This tender is called for the designing, manufacturing, supplying, testing before shipment, finishing, painting, packing for export, insuring, shipping, delivering to the port of destination, landing, customs clearing, transporting from the port to the site, site storing, erecting, installing, site testing and cooperation in the commissioning and maintaining of the following facilities:

- (1) Six units of 3.2 m³/sec-2,400 kW pumping facilities including pumps and valves, electric motors, transformers, static condensers, switchgear and control equipment, and ancillary equipment for the Severino pumping station, including extension of outdoor switchgear and control equipment at the Daule-Peripa hydroelectric power station.
- (2) One set of power line carrier telephone equipment between the Daule-Peripa hydroelectric power station and the Severino pumping station.
- (3) One circuit of 138 kV transmission line on a single circuit tower approx. 32.6 km in length between the Daule-Peripa hydroelectric power station and the Severino pumping station.
- (4) Intake trash racks and rake, intake gates and gantry crane and discharge penstocks for the Severino pumping station.
- (5) Outlet facilities at the Conguillo inlet.
- (6) Outlet facilities at the Poza Honda inlet.

All works to be performed under the Contract shall be in conformity and accordance with the Specifications and Schedules and subject to the Conditions of Contract set forth herein.

Works covered by CRM himself or other contractors will include, but shall not be limited to:

- (1) Civil works for the inlets, conduit tunnels, open channels, access roads, etc.
- (2) Construction of pumping station and appurtenant facilities
- (3) Other associated works

Details of the Scope of Works and Contract Terminal Points shall be referred to Clause GS.1.2 (Scope of Works) and GS.1.4 (Contract Terminal Points) of the General Specifications in Volume - III.

I.1.3 ELIGIBILITY OF TENDERERS

CRM has applied for a loan from the OECF toward the Foreign Currency Portion and part of Local Currency Portion of the Works covered by this Contract, and intends to apply the proceeds of this loan to the eligible payments under the Contract for which this invitation is issued.

The Tender is open to any Tenderer which are from all countries and areas, but subject to evaluation on the qualifications specified herein. The goods and services to be provided may be from all countries and area as the OECF's general untied loan.

I.1.4 TENDER DOCUMENTS

The Tender Documents (Contract Package - 3) are composed of the following:

(1) VOLUME-I

- : CONVOKING
- PART-I, SECTION I : INSTRUCTIONS TO TENDERERS
- PART-II, SECTIONS-1, 2 & 3 : DRAFT CONTRACT, GENERAL DIS-
POSITIONS AND SPECIAL
CONDITIONS
- PART-III : PRINCIPLES AND CRITERIA FOR THE
EVALUATION OF THE TENDERS
- PART-IV : COMMITMENT, TRANSFER AND
REIMBURSEMENT PROCEDURES OF
OECF
- PART-V : LIST OF MINIMUM EQUIPMENT
REQUIRED

(2) VOLUME-II

- : PRESENTATION AND COMMITMENT
LETTER
- : FORMS OF TENDER

(3) VOLUME-III

- PART-I : GENERAL SPECIFICATIONS
- PART-II : TECHNICAL SPECIFICATIONS

(4) VOLUME-IV

- : TENDER DRAWINGS

These Tender Documents, and the clarifications and/or modifications of the Tender will be complementary among themselves and any matter mentioned in one of them and not in the others, must have the same effect as if it was in all of the Tender Documents.

I.1.5 TENDER

The Tender will be the Documents presented to CRM by the Tenderer in order to state his commitment to assume the execution of the Works described and defined in the Drawings, Specifications and other Documents that accompany it, in case to be awarded with the Contract.

I.1.6 LANGUAGE

The Tender, the documents related to it and all of the correspondence, that is exchanged between the Tenderer and CRM will have to be written in Spanish language; however, it will be accepted that the technical information printed in catalogs and/or brochures, that will allow a better understanding of the Tender, be submitted in another language as long as the outstanding parts are translated to the Spanish language.

I.1.7 SUBMITTAL OF TENDERS

The Tenders, original and two simple copies, must be submitted in the Secretariat of the Contracting Committee, in Portoviejo, not later than the date and hour stipulated in the Convoking, within a sealed envelope with all due securities so to avoid knowing its content before the official opening, which will have on the outside the name of the participant with the following description:

CRM

WATER TRANSBASIN PROJECT FOR CHONE-PORTOVIEJO RIVER BASINS

INTERNATIONAL TENDERING No. _____

**MECHANICAL AND ELECTRICAL EQUIPMENT
FOR**

SEVERINO PUMPING STATION, CONGUILLO INLET AND POZA HONDA INLET

(CONTRACT PACKAGE - 3)

18 de Octubre y Sucre, Portoviejo, Provincia de Manabí.

Tenders sent by fax, telex or mail, will not be accepted.

Package 3

The Tenderers are responsible for the picking up the Tender Documents and also for the submittal of the Tender in the designated reception place.

Neither the Tenders received in another place, nor those received after the set hour for the submittal of the same will be considered, even in the case where the delay is due to factors out of the control of the Tenderer. In this case, the immediate devolution will be in order to the corresponding reason for it set on record.

The documents included in the Tender will have to be submitted in original or certified copies.

The documents will have to be submitted orderly, numbered progressively each and all of the pages, in order to avoid loss or confusion of the same. All of the pages of the Tender must be signed by the Tenderer or his Legal Representative. A content index will have to be included in the envelope as Schedule-XVI of Volume-II.

The Secretary of CRM's Contracting Committee, will issue receipts for the reception of each Tender and will write down, on the receipts as well as on the Tender envelopes, the numeric order, date and hour of reception.

I.1.8 PRICING REQUIREMENTS

(1) General

The Tender Prices shall be entered completely in the Form of Summary of the Tender and the respective Schedules of Tender Prices. The Prices quoted for each item of them shall be reasonable in the judgement of CRM. Under no circumstances manifestly unbalanced Tender will be considered.

No Tender shall be considered for part or portion of the Schedules of Tender Prices. Tenders with part or portion of the Schedules of Tender Prices shall be rejected by CRM.

Tenderer shall state the Tender Prices in Japanese Yen or U.S. Dollars for the Foreign Currency Portion and in Ecuadorian Sucres for the Local Currency Portion, provided that no quotation in U.S. Dollars shall be accepted from Japanese Tenderers for Foreign Currency Portion.

The Contract Prices in both currency portions will be paid in the currencies which have been stated in the successful Tender and concluded in the Contract.

Tenderer shall not fill up such spaces and columns in the Schedules as specified for the entry of "Conversion Rate of Currencies", "Sucres Equivalent" in Schedule-I-A' SUMMARY OF TENDER PRICES, but shall leave them blank, because such space and columns will be used for the tender evaluation purposes of CRM.

(2) Fixed Prices

Tenderer shall quote the fixed prices for all items of the Works and if CRM accepts the Tender, the prices shall remain firm throughout the whole life of the Contract and no adjustment shall be made to the Contract Price in respect of rise or fall in cost of labour and/or materials or transport or any other matters affecting the cost of execution of the Works.

(3) Price Schedules

The Tender prices shall be divided and split as specified in the relevant Schedules specified in Volume-II.

(a) Schedule I-A 'Summary of Tender Prices'

The Schedule I-A for Summary of Tender Prices shall be filled up by the total prices quoted in the Schedule I-B (Itemized Tender Prices), Schedule I-C (Breakdown of Tender Prices for 138 kV Switchgear, 138 kV Transmission Line, Power-Line Carrier Telephone System and Others), Schedule-II (A & B for Spare Parts), Schedule-III (A & B for Maintenance Tools), Schedule-IV (Employer's Shop Inspection) and Schedule-V (Instruction to Project Staff).

In addition, the Erection All Risk Insurance, Third Party Liability Insurance, Workmen's Compensation Insurance and Automobile Liability Insurance for the Works shall be quoted in local currency.

The Tenderer shall not fill up such spaces for entry of "Conversion Rate of Currency" and "Sucres Equivalent", but shall leave them blank.

(b) Schedule I-B 'Itemized Tender Prices'

The Schedule I-B comprising the following for each item of the Plant, shall be completed with those mentioned in the respective Schedules I-C, II-A, II-B, III-A and III-B.

Foreign Currency Portion

- Supply of the Plant
 - Total FOB Price (Column (a))
 - Ocean Insurance (Column (b))
 - Freight of Goods to the Port of Destination (Column (c))
 - Total CIF Price (Column (d))
- Inland Transportation
 - Foreign Portion (Column (e))
- Erection
 - Foreign Portion (Column (g))

- Total
 - Foreign Portion (Column (j))

Local Currency Portion

- Inland Transportation
 - Local Portion (Column (f))

- Erection
 - Local Portion (Column (h))

- Total
 - Local Portion (Column (k))

- (c) Schedule I-C, 'Breakdown of Tender Prices for 138 kV Switchgear, 138 kV Transmission Line, Power-Line Carrier Telephone System and Others'

The Schedule I-C for Breakdown of Tender Prices shall be filled up with respective unit prices and total amounts respectively.

It is to be noted that the quantities for 138 kV transmission line materials indicated on the Schedule are tentative quantities, which shall be adjusted and finalized after due check survey to be made by the Contractor for approval of the Supervisor and/or CRM.

- (d) Schedule II-A 'Tender Price of Mandatory Spare Parts' and Schedule III-A 'Tender Price of Mandatory Maintenance Tools'

- Unit FOB Price
- Total FOB Price
- FOB total of all spare parts and/or maintenance tools

- (e) Schedule II-B 'Tender Price of Recommended Spare Parts' and Schedule III-B 'Tender Price of Recommended Maintenance Tools'

- Items and Quantities recommended by the Tenderer
- Unit FOB price
- Total FOB Price
(FOB total of all recommended spare parts and/or maintenance tools)
- Ocean Freight
- Marine Insurance
- Total CIF Price
- Inland Transportation

- (f) Schedule IV 'Tender Price of Employer's Shop Inspection'

- (g) Schedule V 'Tender Price of Instruction to Project Staff'

1.1.9 QUALIFICATION OF TENDERERS

In order to prove the Tenderer's qualification and capacity to perform the Works smoothly and efficiently, the Tenderer shall furnish the following information/documents together in Schedules-X and XVI of Volume-II. CRM may reject directly a Tender which is not accompanied by full information required.

- (1) Complete details of the past experience with due completion certificates in design, manufacture, supply and erection of Main Pumps and Motors, Intake Gates and Gantry Crane, Transformers and Transmission Line which capacities shall be the same or larger than those to be provided under this Contract for the Project.

More than two (2) experiences in design, manufacture, supply, installation and completion with at least 2 years successful operation of all the following:

(a) Main Pumps and Motors

- Pump type : 3.2 m³/sec/unit-vertical shaft, single stage volute pump type
- Pump inlet diameter "D" : more than 1.1 m
- Design head "H" : more than 60.0m
- 'D x H' value : more than 66.0 m²
- Motor output "kW" : more than 2,400 kW

(b) Intake Gate and Gantry Crane

- Gate size in square meter : more than 18.0 m²
"A", multiplying clear span (6.0 m) by clear height (3.0 m)
- Design head "H" : more than 26.9 m
- "A x H" value : more than 484.2 m³

(c) Transformers

- Capacity : more than 10,000 kVA

(d) Transmission Line

- Line voltage : higher than 138 kV
- ACSR conductors : bigger than 170 mm²
- Route length : more than 32.6 km

Tenders having less experience than those mentioned above shall be rejected by CRM directly

1.1.10 TENDER CONTENTS

The sole envelope will contain the following documents. CRM may reject a Tender which is not accompanied by full information required.

- (1) Presentation and Commitment Letter according to the Form No. 1 in Volume-II of the Tender Documents (hereinafter indicates only Form No.).
- (2) State Comptroller's Office Certificate, regarding contracts celebrated and fulfilled by the Tenderer with Ecuadorian State or Public Sector Entities.
- (3) Financial condition statements and outcome of the last fiscal year in Schedule-X, Form No. 15, duly legalized by the accountant and the Tenderer or Legal Representative, according to each case; and, notification of the main variation occurred between the balance sheets and the one before the last month prior to the presentation of the Tender, that could affect the financial situation of the Tenderer, which must be duly legalized by the parties mentioned before.

In case that there are no significant variations, an affidavit in such sense will be submitted, legalized by the accountant and the Tenderer or his Legal Representative, according to what the case may be.

- (4) Certificate of legal existence and of complying with obligations, issued by the Company's Superintendence or by the respective entity in control, for the case of juridical persons constituted in Ecuador, or by the Consul of Ecuador, based in the statement of the competing authority from the country where the foreign Tenderer has his main domicile, regarding the legal existence and the capacity of it for contracting in Ecuador.
- (5) For the case of juridical person, nomination of the Legal Representative or power of attorney nominating the empowered person in Ecuador, duly legalized and inscribed and with validity date on the date of the Tender presentation.

For case of an Association, all members of which shall be jointly and severally responsible for all obligations of the Tender and the coming Contract if any, additionally the Association Contract or the Commitment Letter and Financial Condition Statement of (3) above for each one will have to be presented, which will contain:

- (a) Name, nationality and domicile of each firm.
- (b) Social object of the Association.
- (c) Duration of the Association, which can not be less than the period of completion of the Works, up to the final reception certificate date, inclusive.

- (d) Election of the Common Attorney of the Association, that one person is authorized to act for all.
 - (e) Determination of the rights, share of works, obligations and responsibilities of each one of the companies that form the Association, documents subscribed by the Representative of each one of the firms composing the Association.
- (6) Information regarding lawsuits, administratives, tributaries and/or contract liquidation, accompanied by a certified copy of the executorial sentence if any or of the respective final resolution.
- (7) Tender Bond in accordance with the Form No. 2.

The original of the Tender Bond will be attached so as to assure the Contract celebration, two percent (2%) of the estimated value by the Institution, which will be unconditional, and irrevocable and payable upon demand, this Bond must be submitted in the same currency and percentage registered as the value estimated by CRM.

The Tenderer could submit bond for any of the Items a, b, c, d and e of the Article 77 of the Public Contracting Law, complying with what is stipulated in the Article 79 of said Law.

The Bond must have a validity period of thirty (30) days after the Tender validity. In special circumstances, before the expiration date of the bond, the contracting entity could request by writing or by cable, that the validity period of the Bond be extended. The Tenderer will have the option to reject such request, and the Bond will not be executed by not doing so. The Tenderer that accepts the request of extension will not be able to modify his Tender, but will extend the validity period of the Bond in the manner requested.

- (8) Summary of the Tender according to the Form No. 3.
- (9) Statement of acknowledgment of Addenda (if any) according to the Form No. 4, vide Clause I.1.17 herein.
- (10) Valued Schedule showing budgetary requirements for local and foreign currencies including Advance Payments, according to the Form No. 5.
- (11) Summary, Itemized and Breakdown of Tender Prices in Schedules-I-A, I-B and I-C according to the Form No. 6, referring to instructions in Clause I.1.8 "Pricing Requirements" herein.
- (12) Tender prices of mandatory and recommended spare parts in Schedules-II-A and II-B according to the Form No. 7, referring to instructions in Clause I.1.23 herein and the requirements in Clause GS.10.2 of the General Specifications.

- (13) Tender Prices of mandatory and recommended maintenance tools in Schedules-III-A and III-B according to the Form No. 8, referring to instructions in Clause I.1.23 herein and the requirements in Clause GS.10.1 of the General Specifications.
- (14) Tender Price of Employer's Shop inspection in Schedule-IV according to the Form No. 9, following the requirements in Clause GS.11.4 of the General Specifications.
- (15) Tender Price of Instruction to Project Staff in Schedule-V according to the Form No. 10, following the requirements in Clause GS.1.5 of the General Specifications.
- (16) Performance Guarantees of the Plant in Schedule-VI according to the Form No. 11, following the requirements in Clause GS.11 of the General Specifications.
- (17) Technical Particulars of the Plant in Schedule-VI according to the Form No.12, based on the requirements described in the relevant Clauses of the General Specifications, Technical Specifications and Tender Drawings.

The Tenderer shall prepare for and submit with the Tender in Schedule-XVI the detailed specifications of all Plant on which the Tender is based complete with drawings, pamphlets and catalogues, illustrations, principal features together with the manufacturer's assurance of supplying the Plant as given below, but not limited to:

- Pumping and Hydromechanical Equipment

- Connection diagrams
- Outline drawings of Pumps, Valves, Motors, Transformers, Switchgears and Control Equipment, Overhead Cranes and Hydromechanical Equipment showing outline dimensions
- Outline and general arrangement of foundation of Pump/Motor and Hydromechanical Equipment
- System diagrams of lubricating oil and cooling water

- Transmission line

- Outline and general arrangement of each type of transmission towers
- Outline and general arrangement of foundations
- Specifications of conductors and groundwire
- Drawings and specifications of suspension insulator discs
- General arrangement of all types of insulator sets and groundwire sets

- (18) Proposed minor deviations from the Specifications in Schedule-VIII according to the Form No. 13, referring to instructions in Clause I.1.21 herein.
- (19) Proposed alternatives in Schedules-IX according to the Form No. 14, referring to instructions in Clause I.1.22 herein.

(20) Information on qualification and capacity of the Tenderer on the following Items in Schedule-X according to the Form No. 15, following the requirements in Clause I.1.9 herein.

1. Main pumps and motors
2. Intake gates and gantry crane
3. Transformers
4. 138 kV transmission line
(for Item 5 "Balance Sheets", see Item (3) above)

The following evidence and/or data shall also be attached and incorporated into the Tender:

- Due completion certificates of the completed projects issued duly by the owner and/or the consultant engineer.
- General description of the Tenderer's shop(s), giving information concerning the capacity of production, manufacturing techniques used and quality control of materials and products.
- Catalogs, designs, drawings, manuals and other technical information that the Tenderer considers suitable to present for the Tendering and to adequately evaluate the Tender.

(21) Details of site erection force of the Tenderer on the following Items in Schedule-XI according to the Form No. 16, following the respective requirements specified in the Tender Documents.

1. Total monthly site force (to be indicated up to time of withdrawal).
2. Details of three most senior persons to be continuously engaged at Site.

In addition to the above, the following data shall also be prepared for and submitted with the Tender.

- Tenderer's headquarter and site organization with a list and professional records of proposed site representative and persons in charge of the site management and engineering to the level of the supervisors. The professional record of each person shall include at least date of birth, educational level, professional registration, and type, name and employer of the works in which he participated, exact position in each work and duration of the works and dates during which he was assigned to the position. The list shall also indicate the position that each person will be assigned in the Works, in case the contract be awarded to the Tenderer. The Tenderer shall also explain the manner in which he proposes to facilitate coordination of activities between the Site and the Tenderer's Headquarter.

- (22) Contractor's equipment to be used in the work fronts in Schedules-XII according to the Form No. 17, referring to the requirements in clause II.1.18 of the Draft Contract.
- (23) Erection/installation procedures and method of the Works proposed for the Tender in Schedule-XIII according to the Form No. 18, in which the following information shall be described.
1. Procedure and method on transportation, assembly and erection of the Plant.
 2. Overall construction time schedule for the Works in bar chart, showing the Tenderer's proposed sequence with the estimated time for each activity from design, manufacture, delivery, erection and installation and commissioning.
 3. Tenderer's requirements regarding work areas such as stock yards, camps, field shop if any, offices, store houses, etc. including those required for construction of 138 kV transmission line, vide Clause II.3.2 of the Special Conditions.
 4. Layout of temporary construction roads with type, grade and curvatures (if specially required at the Tenderer's account, vide Clause II.3.2.6 of the Special Conditions)
- (24) List of Subcontractor(s) that participates in the contractual Works in Schedule-XIV according to the Form No. 19.
- (25) Names and places of manufacturers, with which the Tenderer wishes to execute and complete the Works, in Schedule-XV according to the Form No. 20.
- (26) Lists of all information and data which have been prepared for and submitted with the Tender, vide Clause I.1.19 herein, in Schedule-XVI according to the Form No. 21.

Besides, the Certificate of legal existence and obligations fulfillment must be authenticated and/or legalized by a diplomatic agent or Consul of Ecuador nearest to the domicile of the foreign Tenderer.

I.1.11 TENDER FORMS

The Schedules of Tender Prices shall be filled in accordance with instructions in Clause I.1.8 (Pricing Requirements) herein. All tender forms shall be in accordance with those specified in Volume-II.

The forms utilized in the Tender must be completely filled out by typewriter or written in ink, with clear and legible lettering, in the manner prescribed. All the signatures or rubrics will be made by ink. The Tenderer shall initial or stamp each page of his documentations.

Besides this, all the forms where the Tenderer is requested to submit information, must be attended and incorporated to the Tender with minimum detail description; on the contrary, the Tenders that do not comply with this requirement will not be considered.

I.1.12 VALUE OF THE TENDER

The value of the Tender shall be the total prices quoted, by separately, in both Sucres and Foreign Currency Portions by the Tenderer, so as to execute the Works quantities at the total prices and/or lump sum prices tendered in accordance with the Tender Forms and Schedules in Volume-II.

The value of the Tender must cover all the expenses demanded by the execution of the Contract, according to the Specifications and Drawings.

The total prices and/or lump sum prices will serve to pay the Works actually and satisfactorily executed by him according to the Drawings and Specifications. It is established that the said prices will include all the execution costs of the works, including those works denominated as administrative and indirect and the utilities or remuneration of the Contractor. The total prices and/or lump sum prices must indicate, for each one of the items of work, along with the proposed value in Sucres so as to cover the corresponding local expenses.

In case that product of unit price of one item by the computation of such item, is not equal to the total quoted price, the unit price will be considered as correct and that the product of the unit price by the amount will be the total price proposed. If the addition of the quoted total prices for each item is not equal to the total value, the value adopted for it will be the total that results when adding the total prices for each item, that CRM will evaluate for that effect.

I.1.13 VALIDITY PERIOD OF THE TENDER

The value of the Tender will be valid for a period of one hundred and eighty (180) days counted from the Tender submittal date as established in the Convoking of this Tendering. The Tender whose validity period is less than the one required, will be rejected by the Committee, since it does not adjust itself to the Tender Documents.

In exceptional circumstances, the Committee could request that the Tenderers extend the validity period of their Tenders.

This request and the answers, will be done by writing, fax or telex. The Tenderer can say no to this request, but the Tender Bond will not be cashed if he says no.

I.1.14 EXECUTION TERM OF THE WORKS

The period of completion to execute the Works will not be longer than forty-two (42) calendar months starting from the date of the Commencement Order, which will be issued by CRM after the Contract Effectiveness vide Clause II.1.37 of the Draft Contract.

I.1.15 METHOD OF PAYMENT

The works object of this Tendering will be paid in Foreign Currency Portion (Japanese Yens or U.S. Dollars) and the Sucres Portion, according to the total prices and/or lump sum prices proposed in the Tender based on Clause I.1.8 herein and by means of establishing

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irrevocable letter of credit and approved monthly statements, both in accordance with the procedures established for that effect; and by actual works executed satisfactorily; the exchange rate in effect of which is on the day of the Tender submittal.

Therefore, no price readjustment will be made in any case as established in the Article 95 of the Public Contracting Law.

These payments will be carried out as indicated in Clause II.1.5 of the Draft Contract.

I.1.16 TENDER WITHDRAWAL

Any Tenderer could withdraw his Tender, notifying by writing to the Contracting Committee before the hour and date established as the deadline to receive the Tenders. From that date and hour, no Tenderer can withdraw his Tender, during the Tender validity period.

I.1.17 CONSULTATIONS, CLARIFICATIONS AND INTERPRETATIONS

All consultations of the Tenderers must be requested in writing to the Contracting Committee, at the latest by the middle of the period provided for the Tender submittal. Neither individual clarification or interpretation will be given to any Tenderer regarding any part of the Tender Documents, nor regarding the correction or clarification of any apparent ambiguity, inconsistency, discrepancy or possible error.

All the interpretations or clarifications of the Contracting Committee, will be considered as scope of the Tender Documents and will be put to knowledge of all the interested parties, by sending them to their respective domiciles with a maximum period of up to two thirds of the indicated term for the Tender submittal.

Only the clarifications or interpretations given in the indicated manner by the Contracting Committee will be considered as official as the Tenderers are warned that there is no other authorized source to provide the information related to the Tendering or to state explanations or interpretations regarding the text of the same. The Tenderers shall acknowledge receipt of them in the Tender with the Form No. 4 of Volume-II.

The consultations and their answers will not be considered cause to extend the Tender submittal term.

I.1.18 VISIT TO THE PROJECT SITE

The Tenderer will have to inspect the Project Site and its surroundings: so as to verify by himself the natural conditions of the Site, geotechnical conditions as well as hydrologic and climatic conditions; the quality and nature of the materials necessary to execute the Works; the availability of labor; access roads to the work sites; housing that could be required; and, in general, he will have to get by his own means all the information necessary to evaluate all the factors that could influence in his Tender.

The omission to visit the works site or the negligence to take the necessary measures to adequately verify the work nature and the general and local conditions will not exempt the Tenderer from his responsibility to duly evaluate the difficulties or the execution cost of the works and, besides, this can not be bases to later claims of any sort.

CRM will not be responsible for any expenditure made by the Tender. Under no circumstances trips, reconnaissances or any other preparatory expenses made during the Tender preparation will be reimbursed, it does not manner the matter how the Tender will be carried out or its outcome.

CRM will not be responsible for any expenditure made by the Tenderer. Under no circumstances trips, reconnaissances or any other preparatory expenses will be reimbursed, it does not matter the manner how the Tender will be carried out or its outcome.

1.1.19 INTEGRITY OF THE TENDER

The Tender must indefectibly include all the documents and forms requested in the Tender Documents and also must attach all information, data and communications made during the tender submittal process, sorting them in Schedule-XVI of Volume-II. It is understood that the Tenderer has verified on his own the accuracy and sufficiency of the Tender, in particular, the established values and prices that will cover all the obligations that correspond to him within the Contract and all the expenses necessary to adequately finish and commissioning of the Works, according to the Drawings and General/Technical Specifications of this Tendering.

1.1.20 ALTERATIONS OF THE TENDERING CONDITIONS

The Tenders that include exceptions in any part of these Documents, that in some form are conditioning or that contain items not requested or conditions that are not in accordance with the existing laws or changes to the Tender not specifically allowed in the Tender Documents, will be rejected since they are not prepared in accordance to what is requested.

1.1.21 MINOR DEVIATIONS FROM THE SPECIFICATIONS

(1) Minor Deviations

If the Tender does not substantially comply with the Specifications, it will be rejected. However, the Tender may include minor deviations from the Specifications, if such deviations shall require necessarily due to the Tenderer's manufacturing standards and are considered advantageous to CRM.

Minor deviations from the Specifications of this kind shall be clearly marked as such and shall be stated, in order of the relevant clauses, in the Schedule-VIII 'Proposed Minor Deviations from the Specifications' contained in Volume-II. Otherwise, the Tender shall be deemed to be substantially complied with the Specifications, even if deviations are proposed in any part of the Tender. Description, drawings and literatures shall be submitted for such Deviations from the Specifications.

(2) Conditions

The conditions of the Tender shall comply with the requirements of the Tender Documents (no conditional tender basis), however, the Tender may include minor conditions if such minor conditions are considered advantageous to CRM.

Such conditions shall be proposed on the Schedule-VIII of Volume-II, otherwise the Tender shall be deemed to be substantially complied with those of the Tender Documents. However, CRM reserves the right to evaluate it in monetary terms or reject such conditions without evaluation.

I.1.22 ALTERNATIVE TENDER

The Tenderer is not allowed to alter the principal arrangement of the Plant for his Tender (hereinafter referred to as original Tender). Together with the original Tender, however, the Tenderer may submit an Alternative Tender for alternative designs of the Plant unless this alters the principal arrangement of the Plant. Such Alternative Tender shall have the effect of reducing the total cost of the Plant and shall not sacrifice operating convenience and serviceability of the Plant. The Alternative Tender shall be complete in every respects and shall perform the same functions as the Plant specified herein.

The Tenderer shall propose his Alternative Tender in Schedule-IX of Volume-II and shall attach a description of his proposed Alternative Tender with complete scale drawings. CRM reserves the right to accept or reject such Alternative Tender, which will be considered only when his original Tender ranks as the lowest evaluated Tender among others.

I.1.23 SPARE PARTS AND MAINTENANCE TOOLS

The Tenderer shall offer the prices of spare parts and maintenance tools listed in Schedules II-A and III-A of Volume-II. Where spare parts and/or maintenance tools listed are not appropriate, the Tenderer may delete the item marking it "not appropriate".

The Tenderer may propose such items which are not included in the lists but appropriate to the equipment being offered. Such recommended spare parts and/or maintenance tools shall be offered in Schedules II-B and III-B of Volume-II, and shall allow for maintenance of the equipment for a period of two (2) years. Prices offered for such recommended spare parts and/or maintenance tools will not be considered for evaluation of Tenders, but will be considered at the time of negotiation of the Contract.

I.1.24 TENDER SIGNING

The Tender will be subscribed, by the Legal Representative of the Tenderer, whereas by the authorized representative of sponsor firm in an Association for the Tender.

1.1.25 MODIFICATIONS TO THE TENDERS

The modifications to the Tenders already submitted will be considered, only if they are received before the date and hour established as the deadline for reception of the Tenders. These modifications will be made in writing and will be signed and submitted following the norms stipulated for the submittal of the original Tender.

1.1.26 OPENING OF TENDERS

The Contracting Committee will proceed to open the envelopes that contain the Tenders on the day and at the hour indicated in the Convoking, the Tenderers could attend to this session and will be read; the main data of the Tenders, such as: name of the Tenderer, country of origin, value of the Tender, Tender Bond, period of completion and an act will be made that will certify what has been carried out during the opening of the envelopes.

The Secretary of the Contracting Committee, jointly with one of the delegated members for that effect, will sign all and each one of the documents that form part of the Tenders.

1.1.27 TENDER EVALUATION

The Contracting Committee will assign the study of the submitted Tenders to the Technical Commission established by such Committee. Such Commission, within the term of ten (10) days counted from the date of the opening of the envelopes and under its responsibility, will elaborate comparative charts of the submitted Tenders, in a global manner as well as a detailed manner with the unit prices that have relation with the Tender prices and will present a detailed Technical Report with the observations that would allow the Committee to have availability to the necessary information to award the Contract. The rate (selling rate) of the intervention market of the Banco Central prevailing on the day of the reception of the Tenders will be used to for effects of calculations for elaboration and comparisons of the Tenders. The Technical Commission will consider the aspects that are provided in Principles and Criteria for the Evaluation of the Tenders, in Part-III, Volume-I of the Tender Documents, having to comply what is provided in the Articles 27 and 28 of the Public Contracting Law and Articles 28, 38 and 40 of its General Regulations.

For effects of evaluation of the Tenders, the Technical Commission will consider only those values that are in it, without making projections due to concept of price readjustment. Recommended spare parts and maintenance tools are not used for tender evaluation purposes vide Clause 1.1.23 herein.

The Contracting Committee in accordance with the Law could request clarifications of documents that would prove what has been declared in the Tenders to any of the Tenderers; who in any case could not modify or expand the content of the Tender or unit or total prices.

1.1.28 CAUSES FOR REJECTION OF A TENDER

The Tenders, will be rejected fundamentally by:

- (1) Not fulfilling the demands determined in the Tender Documents.

- (2) Presenting of exceptions from the Technical Specifications.
- (3) The validity period of the Tender is less than 180 days or the execution period of the works is larger than 42 months.
- (4) No submittal of the Tender Bond or if this Bond does not satisfy the demands established in the Tender Documents.

I.1.29 Awarding of the Contract

The Contracting Committee will decide regarding the Tendering within the term of ten (10) days counted from the expiration date for the Tenderers to formulate the clarifications regarding the Technical Commission report and will award the Contract to the Tenderer whose Tender is evaluated as the lowest and also the most convenient to the national and institutional interests, with previous consent of the OECF.

I.1.30 NOTICE

The President of the Committee will notify by writing the result of the Tendering, within three (3) days counted from the date of awarding; and, he will return the corresponding bonds to the non-awarded tenders.

I.1.31 VALIDITY PERIOD OF THE TENDER BOND

The Awarded Tenderer will maintain the Tender Bond in force until the Contract signing, having to renovate it at least five (5) working days before its expiration. If it is not renovated on time, the Tender Bond will be cashed in without any other procedure.

I.1.32 DECLARATION OF REJECTION OF TENDERS

The Contracting Committee could declare the Tendering rejected in the following cases:

- (1) Due to the fact that no Tenders were presented;
- (2) For all Tenders or the only one presented having been disqualified or considered as inconvenient for the national and institutional interests;
- (3) For substantial violation of the Pre-contractual procedure; and
- (4) Whenever necessary to introduce a substantial reform, that changes the object of the Contract.

The Contracting Committee could order the re-opening of the Tendering or to convoke a new Tendering process.

I.1.33 BONDS

(1) Contract Performance Bond

The Awarded Tenderer, before signing the Contract, must submit in favor of CRM and to the satisfaction of it a bond of five percent (5%) of the Contract value, so as to assure the performance of the Contract and to assure of the obligations related with the Contract that he may get in favor of third parties. This document could be issued, by a bank, as well as a financial entity or insurer from Ecuador or directly by a foreign bank, financial entity or insurer acceptable to CRM, as long as it is backed up by a national entity.

(2) Advance Payment Bonds

Prior to paying the advance payments stipulated in Clause II.1.5 of the Draft Contract, the Contractor will have to present due bonds acceptable to CRM, for the total same amounts of the Advance Payments, which will be released proportionally after due shipping documents and/or monthly statements for the executed site works be delivered to CRM.

(3) Bond Fund

As an additional bond fund to assure duly execution and good quality of the Plant at the test on completion, CRM will retain five percent (5%) of the gross amount of each price category for CIF, Inland Transportation and Erection on Site in Sucres and Foreign Currency Portions up to issuance of the Partial/Total Provisional Reception Certificate with respect to the works.

This retention will be made in the currencies for the payment and will be refunded in the same currencies, vide Clause II.1.5 of the Draft Contract.

I.1.34 BONDS REFUND

Bonds refund will be done in accordance with Clause II.1.5 of the Draft Contract and the Article 83 of the Public Contracting Law.

I.1.35 CONTRACT SUBSCRIPTION

Once the requirements of the Law are fulfilled with the consent of the OECF and specially the previous reports determined in the Article 65 of the Public Contracting Law, the Contract subscription will take place. The Contract will have to be awarded by Public Deed within the term of twenty (20) days counted from the date when the term expires for issuing the due reports. In case that the Contract is not celebrated due to the successful Tenderer's fault, CRM will null the awarding, cash in the Tender Bond and proceed with previous consultation with the OECF, to award the Contract to the Tenderer whose Tender is evaluated as the lowest after the null one or will reopen the Tendering.

The successful Tenderer by whose fault the Contract is not celebrated will be sanctioned according to the Article 60 Item b. of the Public Contracting Law.

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The parties will act according to the provisions stipulated in the Article 67 of said Law.

I.1.36 PROHIBITION TO TRANSFER THE CONTRACT AND AWARDING

Regarding what is established in the Article 70 of the Public Contracting Law and the Article 93 of the Public Contracting Law Regulation, the Contractor can neither yield, to any title, assign nor transfer the Contract, totally or any part of this Contract or the rights and actions regarding himself. Neither a person that forms part of an Association can yield his rights in favor of the other members of such Association or to third parties.

The Awarding of the Contract neither is susceptible of cession. The awarded that pretends to yield his rights and does not celebrates the Contract will be considered as unable person to which the Item b. of the Article 60 of the said Law will be applied.

I.1.37 KNOWLEDGE AND SUBJECTION TO ECUADORIAN LAWS

The Contractor states that he knows and expresses his knowledge regarding the Labor Law, Public Contracting Law, Social Security Law, Law of Professional Exercise of Civil Engineering and other Laws and Regulations prevailing in the Republic of Ecuador, that could influence in the correct application of the Contract or determine future responsibilities of the Contractor. These laws are considered incorporated to the Tender Documents and to the Contract in all that may be applied.

I.1.38 UNQUALIFIED

Those people that are found incurring in the prohibitions of the Articles 60 and 61 of the Public Contracting Law, can not participate in this Tendering.

I.1.39 RETENTIONS

The Contractor, as established in the Articles 117 and 118 of the Public Contracting Law, will contribute with the equivalent to one percent (1%) of his main Contract and complementary contracts if any, to aid the functioning of the State General Comptroller's Office, the State General Attorney Office and National Council of Science and Technology and 1% for the financing of the category chart table of the Civil Engineers. Additionally, he will contribute, with the equivalent to one percent (1%) of the Readjustment price, which will be distributed among the National Institute of Statistics and Census INEC, and the three entities indicated before.

CRM, will retain the service rate of 0.5% in favor of CEBCA, in accordance with the resolutions of the Decree Number 2298 of December 13th. 1983.

I.1.40 ADDITIONAL INFORMATION

(1) The Tender Documents can be presented using the International Unit System, except in those cases expressly indicated in the documents. The Metric System will continue to

be used in all acts and documents that are produced during the execution of the Contract.

- (2) The Tenderer will have to clarify that he knows and becomes subject to all the laws and stipulations prevailing in Ecuador, particularly regarding the Work Code that regulates the maximum legal work day, the minimum remuneration for the laborers and the dispositions of Professional Defense and Social Security. Besides this the Tenderer must know that in accordance with the Ecuadorian legislation, it is considered null on that which infringes the Public Right.

I.1.41 TERMS DEFINITIONS

Wherever the following terms are used in the Tender Documents, its intentions and meaning will be interpreted in the following manner:

ASSOCIATION: Participant that is constituted by two firms or more.

AWARDED TENDERER: The successful Tenderer who has been favored with the awarding of the Contract.

APPROVED: Approved means the acceptance in writing, inclusive the confirmation written after a prior verbal approval, upon confirming the requirements in the Contract.

CRM: The Manab' Rehabilitation Center of the Government of the Republic of Ecuador, which have assigned as the executing agency for the Project.

CONTRACTING COMMITTEE: It is constituted by CRM, in charge of approval of the Tender Documents and procedures, with the object to qualify and award the Contract for Mechanical and Electrical Equipment works.

TECHNICAL COMMISSION: Technical Group designated by CRM's Contracting Committee for analysis of the Tenders.

CONTRACTOR: The Firm or Association of Firms that conclude the Contract with CRM.

CONTRACT: It is the agreement in writing on Public Deed between CRM and the Contractor, establishing the respective obligations of the contracting parties. The Forms included or mentioned in the Tenders will form part of the Contract and also all the other documents issued to provide what is necessary in order to complete the Works in an acceptable manner.

COMPTROLLER'S OFFICE: It is the State General Comptroller's Office.

VALUED SCHEDULE: It is the document elaborated by the Contractor, approved by CRM, in which it is established the detail of the execution term of the works.

CALENDAR DAYS: Every consecutive day including Saturdays, Sundays and Holidays.

WORK DAYS: Those are the calendar days, without Saturdays and Sundays and the Holidays approved by Ecuadorian Law.

CONTRACT DOCUMENT: The Documents that the Contract establishes as part of the same.

TENDER DOCUMENTS: Pre-contractual Documents that CRM delivers to the Tenderers for the preparation of the Tenders.

GENERAL MANAGER: Legal Representative of CRM.

PROJECT DIRECTOR: Officer of CRM designated for the administration of the Contract.

CONTRACTING ENTITY: It is the CENTRO DE REHABILITACION DE MANABI (CRM).

PLANT EQUIPMENT: They are all the machinery, tools, implements and spare parts required for the acceptable installation/erection and completion of the work.

TECHNICAL SPECIFICATIONS: All the instructions and technical requirements that rule the execution of the Works.

TEST: The laboratory or in situ process, mechanical, physical and/or chemical of comparison, characteristics of the materials utilized for the execution of the Works and the completed Works.

FUNDAMENTAL DATES: Fundamental dates are the calendar dates that are in the Execution Schedule that indicate the commencement and completion of activities and the commencement and completion of the Contract.

SUPERVISION: The organization or person assigned by CRM of which, in representation, audits and supervises the execution of the Project.

SUPERVISOR: The technical personnel assigned for the supervision so as to execute the technical functions of auditing and supervision of the Works in order to assure the proper execution.

RESIDENT SUPERVISOR: The Engineer stationing at Site or his Assistant who will represent the Supervisor in the work fronts.

BOND FUND: The five percent (5%) retention of each price category of the Contract amount that will retain up to issuance of the Partial/Total Provisional Reception Certificate with respect to the works, which will be done by CRM in fulfillment with what is established in the Article 76 of the Public Contracting Law.

ACTS OF GOD: It will be understood as it is defined in the Article 30 of the Ecuadorian Civil Code "The contingency that is not possible to resist".

ADVANCE PAYMENT BOND: The guaranty accepted by CRM that responds for twenty percent (20%) of each price category of the Contract amount, received by the Contractor, for this concept.

PERFORMANCE BOND: The guaranty given by the Contractor as bond for the fulfillment of the Contract before its subscription, equivalent to five percent (5%) of the total amount of the Contract.

TENDER BOND: The guaranty given by the Tenderer for an amount of two percent (2%) of the referential budget given by CRM, in order to assume the obligation to subscribe the Contract in the event to be successful.

IESS: Ecuadorian Institute of Social Security.

ENGINEER: The Supervision.

TEMPORARY INSTALLATIONS: These comprise the sites, camps, sanitary, electric and telephone facilities and installations of any other order that are used for the construction, assembling and conservation of the permanent installations until his Total Provisional Reception Certificate.

LABOR LAW: The Work Code of the Republic of Ecuador and other prevailing regulations of labor protection.

COMPANIES LAW: The prevailing Company Law in Ecuador.

PUBLIC CONTRACTING LAW: The prevailing law and its reforms that sets rules of Tendering and Bidding in Ecuador.

LAW OF PROFESSIONAL ENGINEERING EXERCISE: Official Registry 709 dated December 26, 1974.

LAW OF PROFESSIONAL CIVIL ENGINEERING EXERCISE: Official Registry 590 dated September 30, 1983.

WORKS BOOK: It is the document where the Supervision and Contractor observations and recommendations are registered, regarding such works in construction in the different work fronts.

ORDERS BOOK: Document where the orders and approvals by the Supervision of the works given to the Contractor are kept on record.

REQUESTS BOOKS: Document where the request regarding the Contract are made, these requests are made by the Contractor to the Supervision of the Works.

PAYMENT LINES: The guidelines adopted for the measuring and for the payment of work quantities in excavation, landfill, concrete, etc., where appropriate for construction of transmission line.

MATERIALS AND PERMANENT EQUIPMENT: The materials that are incorporated in the Works and the equipment to be installed in the permanent structures of the Project.

MOUNTING: All the installation phases of the equipment object of this Contract, till its reception.

WORKS: The group of work that comprises supply and installation of mechanical and electrical equipment for Severino Pumping Station, Conguillo Inlet and Poza Honda Inlet under Contract Package-3 of the Project.

OECP: The Overseas Economic Cooperation Fund of Japan, funding agency for the Project.

TEMPORARY WORKS: These are the constructions of temporary nature of any type that may be and that are required for the execution, completion and maintenance of the Works object of this Contract.

TENDERER: Read as Proposer.

ORIGIN: Country of origin of the participant.

PARTICIPANT: Firms or Associations of Firms that intervene in the Tendering.

MONTHLY STATEMENT: The monthly statements presented to CRM by the Contractor for payment of the work actually executed during one month at Site.

DRAWINGS: These are the Contractor's Design Drawings and Documents for manufacture and installation/erection as well as any modification to them that have been approved in writing by the Supervision; and all those drawings that in successive dates had been issued and/or approved by the Supervision.

TERMS: The duration time of design, manufacture, delivery and installation/erection of the Works, counting from the date when the Commencement Order is issued till the date when the Works as a whole, object of this Contract, must be completed.

ORIGINAL PRICES: Listed prices in the Price Schedules without readjustments.

WORK PROCEDURE: It consists of the operative methods, for execution of the Works, adopted by the Contractor in order to comply with the General and Technical Specifications that rule the Contract and the Valued Execution Schedule.

ATTORNEY'S OFFICE: The State Attorney General's Office (Procuradur'a General del Estado).

OWNER: CRM who acts as the Employer for the Project.

PROPOSER: Firm or Association of Firms that has presented his Tender.

TENDER: It is the written documentation, prepared and presented by the Tenderer, so as to execute all the works and provide all the services contained in the Drawings and General / Technical Specifications of this Tendering.

ACCEPTABLE TENDER: The Tender that according to CRM's criteria complies with all the terms and conditions of the documents.

PROJECT: Water Transbasin Project for Chone-Portoviejo River Basins.

PROVISIONAL RECEPTION: The total submittal of the works and supplies upon completion of the Works.

FINAL RECEPTION: That which will be done once twelve (12) months have passed from the date when the Total Provisional Reception Certificate is subscribed.

CONTRACTOR'S LEGAL REPRESENTATIVE: He is the Executive of the Contractor, with domicile in the city of Portoviejo, vested of all power for the execution of the Project and for responding in regard the contractual relationship borne from the Contract.

RETENTION: The deduction that CRM makes in all payments made to the Contractor, with lawful purposes.

WORKS SITE: Place or space where all works regarding the Works have to be carried out or executed, including the temporary works and surrounding or nearby places, to comply with the purposes related with the object of the Contract, required by the Contractor.

SATISFACTORY: Convenient or acceptable to the criteria of CRM and/or the Supervision.

SUBCONTRACTOR: It is that person be it natural or juridical that the Contractor has placed in charge of a Work or part of the same, with previous written consent from the Supervision, consent that will not exempt the Contractor from any of his responsibilities and obligations that emanate from the Contract.

GENERAL SUPERINTENDENCE: Person in charge of the execution of the Works as authorized representative of the Contractor and with the corresponding responsibilities.

PRICE SCHEDULES: The list of items of the Tender including the total prices and/or lump sum prices for the respective work items and services specified in the Tender Documents.

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PART - II, SECTION - 1

DRAFT CONTRACT

PART - II, SECTION - 1

DRAFT CONTRACT

The Centro de Rehabilitación de Manabí that from hereinafter will be named CRM, represented by his General Manager duly authorized by the Board of Directors, as it is on record in the Session Act dated _____ on one side and, on the other side _____ duly established in _____ that from hereinafter will be named Contractor, represented by _____ that for effects of this Contract has been constituted in _____ Legal Representative domiciled in Ecuador, as it is on record in the enabling documents attached herewith, agree to celebrate this Contract, contained in the following Clauses:

II.1.1 BACKGROUND

CRM is the responsible institution for the planning, designing, execution and maintenance of the hydraulic infrastructure works in the Manabí Province.

The Government of Japan and the Government of Ecuador, agreed the financing of the Water Transbasin Project for Chone-Portoviejo River Basins, hereinafter named as the Project, in the Province of Manabí, having subscribed the exchange note in _____ Based upon the Minutes of Discussion and Agreement of _____, respectively, between the Overseas Economic Cooperation Fund of the Government of Japan that from hereinafter will be named the OECF, and the Ministry of Finances, the Loan Agreement Number _____ was elaborated and said Loan Agreement was signed on the _____ by means of the Executive Decree Number, _____ dated _____, published on the Official Registry Number _____ dated _____. The Constitutional President of the Republic of Ecuador, authorized the Finance and Public Credit Minister so that in representation of the Ecuadorian State, proceed with the subscription of the Credit Agreement and other documents derived from it with the OECF, for _____ J. Yens (¥. _____) for the Project.

By reformative law No. 57 to the CRM constituent law published in the Supplement No. 476 of the Official Registry of July 5, 1994, CRM as the executing agency of the Project.

The Contracting Committed of CRM, after having obtained the approval on the Tender Documents of the OECF, and on the day, _____ convoked to Tendering so that participant firms present tenders for the Contract Package-3 of the Project aforementioned.

Once the tenders were received and the corresponding evaluations were made, CRM's Contracting Committee resolved that the tender of the Contractor, is the most convenient for the institutional and national interests, therefore, the Contracting Committee resolved to award him the Contract for the execution of the Contract Package-3 of the Project works.

This decision was put on record in the Act of Session of CRM's Contracting Committee that was held on _____.

A favorable report was attained from the State Comptroller's Office, by means official letter Number _____ dated on _____ of _____ 199__ ; from the State Attorney General's Office, by means of an official letter Number _____ dated on _____ of _____ 199__ , from the Ministry of Finance and Public Credit by means of the official letter Number _____ dated on _____ of _____ 199__ , and from the Overseas Economic Cooperation Fund (OECF) by means of an official letter Number _____ dated on _____ of _____ 199__.

II.1.2 CONTRACTUAL DOCUMENTS

The following Documents, duly signed by the parties protocolized, form part of this Contract:

- (1) Certified Copy of the appointment letter of CRM General Manager and the take over Minute.
- (2) Certificate that proves the legal existence of the Contractor.
- (3) Appointment letter of the Legal Representative of the Contractor in Ecuador.
- (4) Certified Copy of the Awarding Minute of the Contract by CRM's Contracting Committee.
- (5) Certified Copy of the Proceeding of CRM's Directory Board in which the General Manager gets the authorization for the subscription of the Contract.
- (6) Payment receipt for contribution of one per thousand (1 0/00) of the Contract value, according with the Article 10 of the Civil Engineering Professional Exercise Law.
- (7) The General Conditions for the International Tendering No.
- (8) Presentation and Commitment Letter (Form Number 1 in Volume - II).
- (9) Summary of Total Prices reviewed by CRM.
- (10) Total Prices and Lump Sum Prices Breakdown
- (11) The Tender submitted by the Contractor.
- (12) Execution and Valued Schedule of the Works.

- (13) Detail of the Equipment to be used in the Works.
- (14) Certificate that the Legal Representative of the Contractor is registered in the Association of Civil Engineers of Ecuador, in accordance with the Engineering Professional Service Law.
- (15) The cross communications correspondence that occurred during the tender process, between CRM and the Tendered.
- (16) State General Comptroller's Office certificate regarding the fulfillment of contract(s) held by the Contractor with the State.
- (17) Resource existence and availability of funds certificate granted by the Finance Director of CRM.

Form part of the Contract without the necessity to be protocolized, the completion schedule of drawings of final design, and of areas, besides the Bonds required by Law.

The Contractor accepts that the intention manifested in the Contract Documents is to include all the goods, services and stipulations required for the proper execution of the contracted works. Any omission by CRM, in the details necessary for the completion of the works, neither can be interpreted as if the Contractor has to omit them nor an understood authorization for the Contractor not to execute the whole work. In such cases, the compensation or payment due to the Contractor will be made by means of the corresponding Unit Prices, if there isn't any, by means of a previous subscription of new complementary contract(s) or by means of the method of "cost plus percentage" in the terms established by the Public Contracting Law.

II.1.3 OBJECT OF THE CONTRACT

The works object of this Contract and that the Contractor is obliged to supply and install under his own responsibility and according to the General and Technical Specifications, General Dispositions and Special Conditions, Drawings and other stipulations that appear in these Documents, are mentioned below.

The Works incorporated in the Contract Package-3 of the Project shall consist of design, supply and installation of the mechanical and electrical equipment for the Severino Pumping Station, Conguillo Inlet and Poza Honda Inlet which comprise the following:

- Six units of 3.2 m³/sec-2,400 kW pumping facilities including pumps and valves, electric motors, transformers, static condensers, switchgear and control equipment, and ancillary equipment for the Severino pumping station, including extension of outdoor switchgear and control equipment at the Daule-Peripa hydroelectric power station.
- One set of power line carrier telephone equipment between the Daule-Peripa hydroelectric power station and the Severino pumping station.

- One circuit of 138 kV transmission line on a single circuit tower approx. 32.6 km in length between the Daule-Peripa hydroelectric power station and the Severino pumping station.
- Intake trash racks and rake, intake gates and gantry crane and discharge penstocks for the Severino pumping station.
- Outlet facilities at the Conguillo inlet.
- Outlet facilities at the Poza Honda inlet.

In case of any discrepancy or inconsistency among the Contract's components, the following ruling order is established:

1. Contract
2. General Dispositions and Special Conditions
3. Technical Specifications
4. Drawings
5. Tender

Furthermore it is established that the Contractor shall be governed by the figured dimensions than those scaled on the Drawings. But in case such required dimensions are not shown in the figures, the Contractor shall obtain such dimensions from the Supervision. In case any difference between the written part of the Specifications and Drawings, the former shall prevail.

II.1.4 CONTRACT VALUE

The Contract amount is the sum of : _____ in foreign currency and in local currency, according to the total Tender Prices indicated in the Tender submitted by the Contractor and concluded in the Contract through the Contract Negotiation.

CRM will pay the Contractor for the Works executed according to this Contract, the values that result from the Total Prices and/or the Lump Sum Prices tendered in the Price Schedules for the actually executed shipment and site works according to the Drawings and Specifications and to the satisfaction of CRM.

The parties agree that these total and lump sum prices shall include the direct and indirect costs that the Contractor will have to incur for completion of the object of this Contract, plus his profit; therefore, no claims will be accepted for any additional payment. However, if the stipulations agreed upon in this document, were modified without any fault on the Contractor's side, causing suspensions, ceasing, accelerations, reduction of the work rhythm established in the Valued Schedule of Works Execution, CRM will acknowledge the corresponding payment of the cost he incurred, if any.

The Total Prices and/or Lump Sum Prices set in the respective Price Schedules, are understood as elaborated by the Contractor based upon the evaluated costs carried out by himself and, therefore, they are his sole and own responsibility.

II.1.5 METHOD OF PAYMENT

CRM will pay the Contractor the values of the Works executed in J. Yen or U.S. Dollars in foreign currency portion and Ecuadorian Sucres in local currency portion, exchanging the amounts from Japanese Yen to U.S. Dollars and Ecuadorian Sucres, using the prevailing exchange selling rate in the intervention market of the Banco Central del Ecuador on the day of the tender submittal, in accordance with the Price Schedules of his Tender. CRM will use for such effect the funds proceeding from the Loan Agreement granted by the OECF for this Works, in the following basic manner:

- By means of submitting an Advance Payment Bond, an Advance Payment equivalent to 20% of the Contract value in local currency Portion.
- By means of the Monthly Statements per the actually executed site Works in local currency portion, in accordance with the procedures established in Clause II.2.8 of the General Dispositions that form part of this Contract.
- By means of presentation of Advance Payments Bonds, Shipping Documents per each shipment and Monthly Statements per the actually executed site Works, due payments in foreign currency portion, upon establishing an irrevocable at sight Letter of Credit, non-transferable effective only for acquisition in a foreign country of goods to be incorporated permanently in the Works, also complying with all requirements determined by the Law for such effect.

For the payment of the values aforementioned, in accordance with the Loan Agreement the commitment, transfer and reimbursement procedures of the OECF will be applied; the details of which are as seen in Part-IV hereof.

For the payments by CRM to the Contractor against both Foreign and Local Currency Portions of this Contract Package-3, the following Terms of Payment shall be applied:

(1) Payment of Foreign Currency Portion

For the payment of foreign currency portion of the Contract Price, CRM will establish an irrevocable at sight Letter of Credit (hereinafter referred to as L/C) to be established by the Bank of Tokyo, Ltd. in Tokyo, Japan at the request of the Banco Central del Ecuador, within ninety (90) days after the Contract Effectiveness vide Clause II.1.37 hereof. The L/C shall be valid for the full period of time necessary to effect the payment.

(a) CIF Price of the Plant

- (i) CRM shall pay to the Contractor within sixty (60) days after establishing the L/C an Advance Payment equivalent to twenty (20) per cent of the total CIF Price of the Plant against submission of a simple receipt of the Contractor and an Irrevocable Unconditional Advance Payment Bond for the same amount in a form acceptable to CRM. The Bond for the advance

payment shall be proportionally released after receipt of the shipping or delivery documents by CRM.

- (ii) CRM shall pay to the Contractor, within sixty (60) days after submission of the payment application of the Contractor, seventy-five (75) percent of the total CIF Price of each shipment for the Plant against submission of at sight bill of exchange drawn under the L/C by the Contractor accompanying by the following shipping or delivery documents.

- Clean on board ocean vessel bill of lading or charter party bill of lading.
- Contractor's detailed invoice showing commodity description, quantity, unit price, total price and basis of delivery.
- Inspection Certificate (Quality Certificate) issued by the Supervision.
- Packing list and weight certificate.
- Insurance policy or certificate.
- Manufacturer's inspection certificate issued by each manufacturer.

(b) Prices of Inland Transportation and Erection on Site

- (i) An advance payment equivalent to twenty (20) percent of the total prices of inland transportation and erection on site in the foreign currency portion shall be paid to the Contractor under the L/C within sixty (60) days against a submission of a simple receipt of the Contractor, and Irrevocable Unconditional Advance Payment Bond for the same amount in the form acceptable to CRM and an arrival notice of the first group of the Contractor's personnel at Quito for erection and/or inland transport. The Bond for the advance payment shall be proportionally released after the presentation of due Monthly Statement.

- (ii) Within sixty (60) days after submission of each Monthly Statement per the actually and progressively executed works, a sum so certified therein and equal up to seventy-five (75) percent of the total prices of inland transportation and erection on Site in the foreign currency portion shall be paid to the Contractor under the L/C.

- (c) In the event of the Contractor being required to provide services defined under Clause GS.1.5 (Instruction to Project Staff) and Clause GS.11.4 (Employer's shop inspection) of the General Specifications, CRM shall pay to the Contractor under the L/C a sum certified in the Monthly Statement and equal up to ninety-five (95) percent of each price of the executed such services within sixty (60) days after submission of the Monthly Statement.

- (d) CRM shall pay to the Contractor the prices for the additionally contracted equipment, materials, transportation and/or erection work to be ordered under the Provisional Sums in the following manner:

- (i) Work ordered under the Provisional Sums, within sixty (60) days, ninety-five (95) percent of CIF price of each shipment or delivery against presentation of the shipping or delivery documents stated in the Item (1)-(a)-(ii) above and copy of the signed order issued by the Supervision and countersigned by CRM.
- (ii) Work ordered under the Provisional Sums, within sixty (60) days, ninety-five (95) percent of the sum of inland transportation and/or erection on Site after submission of Monthly Statement per the executed works and copy of the signed order issued by the Supervision and countersigned by CRM.
- (e) CRM shall pay to Contractor, within sixty (60) days, upon issuance of the Partial/Total Provisional Reception Certificate with respect to the Works, the remaining five (5) percent of the Contract Prices or of the Contract Price of such portion if the said Certificate be issued more than one (1) in number under the Contract, which is being retained as Retention Fund under Clause II.1.8 herein.

(2) Payment of Local Currency Portion

The Payment to the Contractor of the local currency portion of the Contractor Price shall be made from the Budget provided by CRM through the Government of the Republic of Ecuador and/or the OECF in the following manner:

(a) Price of Inland Transportation and Erection on Site

- (i) An advance payment equivalent to twenty (20) percent of the total prices of inland transportation and erection on site in the local currency portion shall be paid to the Contractor within sixty (60) days against submission of a simple receipt of the Contractor, and Irrevocable Unconditional Advance

Payment Bond for the same amount in the form acceptable to CRM and an arrival notice of the first group of the Contractor's personnel at Quito for erection and/or inland transport. The Bond for the advance payment shall be proportionally released after the presentation of due Monthly Statement.

- (ii) Within sixty (60) days after submission of each Monthly Statement per the actually and progressively executed works, a sum so certified therein and equal up to seventy-five (75) percent of the total prices of inland transportation and erection on Site in the local currency portion shall be paid to the Contractor.

- (b) In the event of the Contractor being required to provide services defined under Clause GS.1.5 (Instruction to Project Staff) of the General Specifications, CRM shall pay to the Contractor a sum certified in the Monthly Statement and equal up to ninety-five (95) percent of price of the executed such services within sixty (60) days after submission of the Monthly Statement.

(c) CRM shall pay to the Contractor the prices for the additionally contracted equipment, materials, transportation and/or erection work to be ordered under the Provisional Sums in the following manner:

(i) Work ordered under the Provisional Sums, within sixty (60) days, ninety-five (95) percent of the sum of inland transportation and/or erection on Site after submission of Monthly Statement per the executed works and copy of the signed order issued by the Supervision and countersigned by CRM.

(d) CRM shall pay to Contractor, within sixty (60) days, upon issuance of the Partial/Total Provisional Reception Certificate with respect to the Works, the remaining five (5) percent of the Contract Prices or of the Contract Price of such portion if the said Certificate be issued more than one (1) in number under the Contract, which is being retained as Retention Fund under Clause II.1.8 herein.

II.1.6 PERIOD OF COMPLETION

The Contractor agrees upon to execute the total amount of works contained in the Drawings and Specifications of the Tendering object of this Contract within the maximum term of 42 months stipulated in the Execution Schedule of the Works, presented with his tender and approved by CRM. This execution period will be increased with the extensions that according to the Contract may take place, in accordance with the stipulations of this Contract.

The total period of completion will begin from the date indicated in the Commencement Order which will issue after the Contract Effectiveness vide Clause II.1.37 hereof.

CRM could extend the period of completion established in the following cases as long as the Contractor request by writing and with the justification of the motives for doing so, within the fifteen (15) following days of the fact, which is the reason for the request:

- (1) For causes beyond his control or Acts of God duly justified by the Contractor and verified by CRM, in accordance with what is established in the pertaining Ecuadorian Laws and what is indicated in Clause II.2.9 of the General Dispositions.
- (2) When CRM orders the amplifying, modification or complementarity of the Works and/or the execution of additional or complementary works and/or when there is a larger volume of Work that affects the critical route. In these cases any term extension be it partial or total resulting from the execution of the additional or complementary works to what was agreed will be calculated, once the effect is determined over the critical route of the Project in the schedule CPM, in a proportional manner to the larger Work volume in respect to the total or partial term originally provided in the Execution Schedule of the Works.
- (3) Due to the delay in the payments that could cause the total or partial paralization or decrease in the work rhythm, or by other suspensions, paralizaciones and/or decreasing in the work rhythm which can not be blamed on the Contractor in the Execution Schedule of the Works ordered by CRM and/or Supervision.

- (4) Due to delay in the submittal to the Contractor of the work areas required according to what is stipulated in Sub-Clauses II.2.7.1 and V.2.3 of the General Dispositions.

As consequence of what has been established in the paragraphs above, the Contractor will elaborate for approval of CRM a new "Execution Schedule" and the corresponding "Valued Execution Schedule" that, once subscribed by the parties, will substitute the ones before and will have the same contractual value as the Original Schedules which will have to be protocolized. CRM will have a term of thirty (30) calendar days to approve it or reject it, according to the parameters contained in this Contract, the Schedules presented will have to indicate in concrete the reasons of the rejection. In case of rejection, CRM will have a new term of ten (10) days to revise and approve the Schedules that had been presented attending the observations.

As long as the procedures are not fulfilled for the approval of the modified Schedules presented by the Contractor, these will become effective temporarily for all effects of this Contract.

II.1.7 FINES

For each calendar day of delay in the completion of the contracted works, regarding the indicated term indicated in Clause II.1.6, including their extensions, CRM will apply a fine for an amount equal to one third of one per thousand (1 ‰) of the total original Contract amount, vide Clause II.2.10 of the General Dispositions.

For delays in the fulfillment of the monthly installation/erection works in the rate of 80 % of the scheduled activities to be executed in that period and that have not been completed 100 % in the prior month as stated in the prevailing Valued Execution Schedule for the Work, CRM will apply a fine of zero point zero three per thousand (0.03 ‰) of the works quantities not executed in the corresponding month. Other fines are included in The General Dispositions, clauses II. 2.10.2, II. 2.10.3, II. 2.10.4 and II. 2.10.5.

The fines will not be refunded under any circumstance.

If the total amount of fines surpasses the performance bond (5 %) of the Contract, CRM will be able to cancel the Contract in accordance with what is established in Clause II.1.26 of the Draft Contract and to what is established in the Articles 109 and 110 of the Public Contracting Law.

II.1.8 CONTRACT BONDS

(1) Performance Bond

In order to assure the performance of the Contract and to answer for the obligations to third parties regarding this Contract, the Contractor shall submit to CRM before the Contract signing a performance bond, equivalent to five percent (5%) of the Contract value in each currency. This bond will be refunded to the Contractor at the moment of the final reception.

(2) Advance Payment Bond

Before the advance payments established in the Clause II.1.5 of the Draft Contract are done, the Contractor will have to submit due bonds acceptable to CRM, for an equal amount of each advance payment.

These bonds may be released proportionally after due shipping documents and/or monthly statement be delivered to CRM. For the Letter of Credit, see Clause II.1.5 herein, and they must submit to what is established in the Article 74 of the Public Contracting Law.

(3) Bond for Good Use of the Letter of Credit

(This Clause II.1.8, (3) is not Applicable for Contract Package-3 vide Clause II.1.5 herein).

When the payments for imported goods are made by means of the issuing of a Letter of Credit, the Contractor will have to submit at first this bond for the total value of the Letter of Credit.

This bond could be amortized at the same rate that the supplies are being provided and will be refunded to the Contractor once that CRM has provisionally received the goods paid by means of the Letter of Credit, whose good use is covered by the bond in question taking into account the Article 75 of the Public Contracting Law.

(4) Bond Renewal

The Contractor is obliged to maintain in force the bonds submitted according to their nature and the Contract terms. The renewal of the bonds will be done at least five (5) days before its expiration date, so to preserve the validity during the prevailing periods stipulated. If the Contractor does not to do so, CRM will cash the bonds.

The expenses incurred by getting and renewing the bonds will be borne by the Contractor.

(5) Retention Fund (Bond Fund)

As an additional bond fund to assure the proper execution and the good quality of the Plant at the test on completion, CRM will retain five percent (5%) of the gross amount of each price category for CIF, Inland Transportation and Erection on Site, in Sucres and Foreign Currency Portion up to issuance of the Partial/Total Provisional Reception Certificate with respect to the Works.

This retention will be made in the currencies for the payment, and will be refunded in the same currencies, vide Clause II.1.5 herein. The refund of the Retention Fund will be made at the provisional reception, real or presumptive.

To refund the Retention Fund, it will be enough for the Contractor to request CRM the issuance of the Total Provisional Reception Certificate under the terms of the Contract.

The values referred in the aforementioned paragraph will not be object of retention, sequestration or embargo by third parties.

The retention fund will be used to repair or change those parts of the Works where installation defects, bad quality or non compliance of the specifications by the Contractor are discovered.

II.1.9 KNOWLEDGE OF THE WORKS

The Contractor shall declare that he is fully informed and that knows plenty of all related with the nature of the Project, characteristics of the Works and installations and facilities required, before or during the Contract and of any other matter that could affect it in any form or manner.

Any fault, carelessness, error or omission of the Contractor to get the information does not exempt him from the responsibility to appreciate and solve adequately the difficulties and to comply with the obligations derived from the Contract.

The Contractor shall declare as well that he is informed by CRM by means of the pre-contractual documents of all that is related with the nature and location of the Works, and with its general and local conditions that could influence in its execution, conservation and costs, the access roads to the Site, the topographic, geological, geotechnical, climatic conditions and the hydrologic variations, the characteristics of the local materials, the port facilities, the communication networks, acquirement and storage of the equipment and materials. Also the Contractor shall declare that knows and commits himself to use the best engineering techniques applicable to the execution of the Project.

II.1.10 SUPERVISION

In all relation with the Contractor, CRM will be represented by the Supervision, in according with what is indicated in Clauses II.2.1 and II.2.2 of the General Dispositions, CRM will notify its nomination to the Contractor in writing.

The Supervision will verify the accuracy and quality of the Works executed by the Contractor, by means of the watchfulness for strict compliance with the Drawings and General/Technical Specifications. It will also demand that the works be carried out within the contractual terms.

If during the execution process, the Supervision detects deficiencies, it will make them known to the Contractor, who will be obliged to introduce the necessary corrections.

II.1.11 CONTRACTOR'S RESPONSIBILITY

The Contractor shall assume total responsibility for the performance of the obligations of the Contract, becoming subject to the Drawings and General/Technical Specifications and to the Supervision's Instructions up to the Final Reception of the Works.

The Contractor will provide the technical, administrative, and auxiliary personnel necessary, as well as the equipment, labor, and other indispensable elements for the execution of the Contract.

The labor and social relations derived from the works related with the execution of this Contract, are the sole responsibility of the Contractor.

During the Construction and up to the Total Provisional Reception of the Works, the Contractor will adopt the adequate measures for the care and conservation of the Works; CRM will not be responsible of damages, defects or destruction occurred in this period.

All the activities that the Contractor carries out, directly or indirectly and that are related to the supply and installation/erection of the Works, will have to be developed within the technical standard specified in the General/Technical Specifications, and that are established in the Ecuadorian Laws and in case that by any circumstance it is not so, the damages and losses produced by noncompliance will be the sole responsibility of the Contractor.

The Contractor shall bear all the charges derived from reason of this Contract, that legally prevail in Ecuador at the date of the tender submittal, such as, taxes, municipal, provincial and national rates and contributions that may be applicable; taxes and rates to the mercantile transactions; income tax; custom duties; import taxes; duties to the Ecuadorian Institute of Social Security and Profit Sharing.

II.1.12 CONTRACT TRANSFER AND SUB-CONTRACTS

The Contractor could neither transfer to any title, nor assign, nor transfer the total or any part of this Contract or the rights and actions implied in it to him. No person that forms part of the Association could transfer his rights in favor of other members of such Association or in favor of third parties.

The Contractor will be able to sub-contract, up to an amount equivalent to the 25% of the Works determined in the Contract, with previous written authorization from CRM. He will be able to substitute the Subcontractors presented and accepted by CRM, with other equally qualified, as long as it is duly authorized so by CRM.

The Contractor will be wholly responsible before CRM by the actions and omissions of his Subcontractors and the people directly or indirectly employed by them, in the same manner as if these were his own employees.

CRM reserves the right to request the Contractor the anticipated fulfillment of any sub-contract, if at CRM's criteria the execution of such contract is affecting the normal development of the Works object of this Contract.

Neither of the constant stipulations of this Contract, nor in the Documents of the same will give place to contractual relationship between the Subcontractor and CRM. Neither the authorization given by CRM, for sub-contracting one or more parts of the Works nor the approval of a subcontractor, will exempt the Contractor of any of his obligations acquired by

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virtue of this Contract, nor can be interpreted as suspension of any of the stipulations of the Contract.

It is to be kept on record that the salaries of the laborers that belong to the Contractor and Subcontractor can not be less than the minimum wages established by Law. In the same manner, it is clarified that the Subcontractor will have to comply with all pertinent laws. The noncompliance of this stipulations will be considered, for all effects, as noncompliance of the Contract.

II.1.13 CONTRACTOR'S CLAIM

All claims that the Contractor may have by reason of actions and omissions from the Supervision, must be presented by the Contractor to the Supervision before passing fifteen (15) days counted from the date of the facts or series of facts or the decision that gave reason for the non conformity of the Contractor; if the Contractor does not do so within said term, it will be understood that he is in agreement with it. Once the claim is submitted, the Supervision will verify the available information and will answer the Contractor within the fifteen (15) following days, asking for additional information, supplying clarifications to the Contractor or modifying or revoking or confirming the decision taken already. The Contractor will have the right for an appeal in first instance to the Director of the Project within the fifteen (15) following days of the rejection from the Supervision and in second instance to the General Manager of CRM. While he appeals, the Contractor can not suspend the execution of the Works unless CRM orders it so, in such case, he will proceed with the orders received.

The appeals that the Contractor presents to the General Manager of CRM will have to be attached to a copy of the corresponding correspondence crossed between him and the Supervision and will have to back it up with documents so to facilitate the study of the case by the General Manager of CRM. This one will notify his decision to the Contractor, within the thirty (30) following days after receiving such appeal, being the decision of the General Manager without appeal for CRM.

If the resolutions adopted by CRM regarding a claim from the Contractor establishes differences or controversies that can not be solved by mutual agreement between the parties, the Contractor can appeal to the competing judicial organisms, according it is established in Clause II.1.3. of the Draft Contract.

II.1.14 ORIGIN OF GOODS AND SERVICES AND EQUIPMENT AND MATERIALS IMPORTS

(I) General

The goods and services to be provided are from all countries and areas as expected in the General United Loan Agreement of the OECF, vide Clause I.1.3 of the Instructions to Tenderers.

The Contractor will have to try to use a maximum of resources, materials as well as equipment produced locally in accordance with the technological desegregation (CEBCA).

The loading and transport and maintenance works are the sole responsibility of the Contractor, at the satisfaction of CRM, of the equipment and materials necessary for the execution of the Works.

(2) Customs and Import Duties

- (a) The Contractor shall be entitled to import free of customs charges machinery, equipment, tools, construction materials or other kind of materials, fuels, explosives, cars, metallic structures, self-propelled vehicles, instruments, spare parts and accessories, office supplies, stationery household furnishings to be used by construction personnel and/or for the construction, installation and operation of camp(s) and other articles, accessories or fixtures necessary in the work covered by this Contract. The importation of the goods covered under the Contract will not be subject to any duty, assessment, tax or charge due to importation and likewise will be exempt of charges for consular visas on the documents required by Customs Authorities except that port charges for storage and handling shall be paid by the Contractor.
- (b) The Contractor shall take the necessary steps with the proper authorities to obtain the customs exemptions. The Contractor shall submit to CRM a complete list of the goods to be imported into the country under the Contract prior to making application for customs exemption. CRM will stamp the lists of goods to be imported to assist the Contractor.
- (c) Goods imported under the Contract shall not be used for purposes other than those expressly stated in the Contract. The Contractor shall not sell, cede, transfer, not relinquish possession in any manner within the boundaries of Ecuador any of the goods imported under the Contract, even though this Contract shall have been rescinded, resolved, lapsed or terminated, without previously paying all taxes thereof. The Contractor shall post a bond equal to the value of import duties, taxes etc. from which he has been exempted in order to assure that the goods will be re-exported. The bond term shall be sufficient to cover the period which the goods are likely to be in Ecuador.
- (d) The goods imported under the Contract and which have not been consumed or destroyed may be exported free of duties, provided that such re-exported takes place within the 12 months following the date when for any legal reason the Contract is terminated. After this 12th months period the Contractor will have to pay the corresponding taxes.
- (e) At intervals of 6 months after signing the Contract, the Contractor shall submit statements listing all the equipment and materials imported in accordance with the Contract stipulated in this paragraph and still available for use in Ecuador. The final payment may be withheld until the Contractor submits valid proof that the

equipment and any excess material have been disposed of in accordance with the requirements stipulated herein.

- (f) The Contractor will be subject to pay all the taxes, levies, fees and other fiscal charges not specifically exempted herein. Prospective Tenderers shall satisfy themselves of corporation, personal, income and all other taxes not covered herein. This information is usually available at the office of the Commercial Attaché at the Embassy of Ecuador in the Contractor's countries.
- (g) If CRM is unable to obtain the right to import the items covered by Paragraph (a) of this Clause, free of custom charges, CRM shall pay these charges.

II.1.15 IMPORT PROCEDURE

The Contractor must submit to CRM the necessary documentation to get the import authorization and to get the import tax exemption when applicable, of all the equipment and materials that have to be imported and of those that have to be brought in temporarily for the execution of the Works.

The documentation that the Contractor presents must include the transport insurance policy, this policy will cover the risk of transport of the equipment and material between the loading place and the Site where the Works are to be carried out.

All the procedures and transactions and other inputs that pertain to the import or temporary bringing in of equipment and materials for the Project, including the import or bringing in permit, tax exemptions, authorizations, custom procedures and other inputs as well as all that may be necessary until the imported or brought in equipment and materials are in the works site will be the responsibility of the Contractor. In the same manner, the Contractor will have to get, by his own account, the corresponding exporting permits from the source country for all the necessary machinery and equipment for execution of the Works.

Each time for the processing, CRM will have to issue an authorization, sign a document or submit a request, it is obliged to do it in the term of eight (8) working days as long as the documentation submitted by the Contractor is complete, elaborated correctly and to the satisfaction of CRM. In the event that such documentation is incomplete or that requires corrections, the mentioned term will run from the date that the Contractor satisfactorily submits to CRM the documentation.

The delays and losses incurred due to delays in the import or bringing process of equipment and materials for the Project, that are not imputable to CRM, will be under total charge and responsibility of the Contractor and will not give right to increment of terms, except if they are the result of action or omission of CRM or other Ecuadorian governmental entities related to attaining the import permits and or tax exemption of the corresponding import rights.

The Contractor is under the obligation to prove to the Supervision in writing and duly documented that all delays incurred are not his responsibility within three days of beginning such delays.

All the expenses related with the transactions for importing, including insurance, taxes, surcharges, fiscal stamps, rates, insurance policies, etc., and the custom clearance charges such as port rates, taxes, storage, container rental, transport, insurance enlarging and bonds, if necessary, will be borne by the Contractor.

Notwithstanding that the supply of the materials for the execution of the Works, as well as any imported element that has to be incorporated to the Works is of sole responsibility of the Contractor, CRM, in the measuring of his possibilities, will collaborate with the

Contractor, requesting the State Institutions an speedy procedure for the import of materials and elements to be required.

II.1.16 INSPECTIONS, TEST AND RECEPTIONS

(1) Inspections and Test

In any moment and during the execution of the Contract, CRM and the Supervision will have the right to inspect and test the materials, equipment and the constructed Works, in order to verify its conformity with the Drawings and Specifications of the Contract.

With this purpose in mind, the Contractor will provide all the facilities and reasonable assistance, at no additional charge to CRM.

If the inspected or tested materials, equipment or Works are not accordingly to the Drawings and/or Specifications, CRM could reject them and the Contractor will have to, at no additional cost to CRM, rectify them in the necessary measure, so to comply with the Specifications.

Nothing of what is prescribed in this Clause will exempt the Contractor of his obligations regarding the bond or any other matter ananged in the Contract.

(2) Provisional Reception

Once completed the total amount of the contracted Works and concluded at satisfaction the test to said Works, the Contractor will notify the completion of the Works and will request to CRM to carry out the Total Provisional Reception

In accordance with what is established in the Article 86 of the Public Contracting Law, CRM at the Contractor's request will carry out the Partial Provisional Receptions.

CRM will set the date and the hour when the Total Provisional Reception requested will be carried out, the same that will have to start within fifteen (15) days counted from the date the request from the Contractor was received, for such effect, CRM will designate a Commission so to jointly participate with the Supervision in the Provisional Reception. In case that CRM refuses to carry out the diligence or does not state any pronouncement in such respect, it will be proceeded accordingly to what is stipulated in the Article. 85 of the Public Contracting Law.

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If during the verifying of the Works, it is found certain parts to be incomplete, defective or non acceptable, the Supervision will notify the Contractor the defects or omissions that have to be corrected or repaired as well as their period. Once such deficiencies are surpassed, the Contractor will notify the Supervision so to proceed with a new verification in the term of seven (7) days once the new notification is received. If after the verification carried out accordingly the Supervision considers that the Works are satisfactory the Total Provisional

Reception Certificate will be subscribed for all the Works object of this Contract.

From the date of the Total Provisional Reception Certificate, real or presumptive, CRM assumes the total control, dominion and safekeeping of the Works object of this Contract, as well as the maintenance costs. Excepting the cost of the executed works to repair the defects due to the use of material or labor that is not in accordance with the Contract, which will be borne by the Contractor.

(3) Final Reception

Twelve (12) months after the Total Provisional Reception Certificate, real or presumptive, is subscribed, with a pervious request made by the Contractor and if during this time there were no evidence in the Works of any deficiency or non compliance of the technical characteristics, then the procedure for the Final Total Reception Certificate will take place.

Once the Final Total Reception Certificate is subscribed, CRM will refund the Performance Bond to the Contractor.

If during the period mentioned above it was established, by means of inspection by the Final Reception Commission, that some of the contractual Works do not correspond to the technical characteristics specified or are object of a claim according to the Contract Documents, the Contractor is obliged to correct it at his own expense, previous to the subscription of the Final Reception Certificate. In case that the Contractor refuses to comply, CRM will be able to cash in the Performance Bond.

In any event, the Final Reception Certificate will only be signed when all and every one of the contracted Works be found completed, tested and functioning to the entire satisfaction of CRM. All the technical tests that the Supervision may consider to carry out in addition to those stipulated in this Contract will be borne by CRM.

All the maintenance expenses of the Works, from the beginning of them up to the Provisional Reception real or presumptive, will run at the expense of the Contractor, who, besides will be responsible of the maintenance and vigilance that may have to be done in the period between the Provisional Reception and the Final Reception, as long as such repairs be attributed to defects in the execution of the Work, as it is indicated in Sub-clause II.2.11.5 of the General Dispositions.

The Provisional and Final Certificates will be subscribed by the representatives of the Contractor, the member commissioned by CRM, the Supervision that will act as observer and other officers that the Entity determines. The Commission that carries out the Final

Receptions will be conformed within the 15 working days after the Contractor's notice, and is so has, the Supervision accepted and will proceed according what is stipulated in this Clause and the Articles 85, 87 and 88 of the Public Contracting Law and the Articles 121, 122, 123, 124 and 125 of the Regulations of the mentioned Law.

The Commission members that subscribe the Certificates of Submittal-Reception will be civil and criminal liable by what is contained in them.

II.1.17 DEFINITIONS AND INTERPRETATIONS

The terms contained in this Contract or in any document that forms part of it or that refers to it, will have the following scope and meaning:

- (1) When the terms are defined by the Ecuadorian laws, such definitions will be of compulsory acceptance.
- (2) The lack of legal definition will be subject to what is established in the Contract Documents, Clause I.1.41 of the Instructions to the Tenderers.
- (3) The lack of legal of definition and/or of the documents will be subject to the natural and obvious meaning of the term in the Republic of Ecuador.

It is clearly agreed that the Clauses contained in this Contract prevail over any divergence that may arise in the other documents that form part of the same.

When there is a contradiction, difference or discrepancy between the Clauses of this Draft Contract or the interpretations of the terms used in it and its documents, it will be subject to what is decided by CRM and the resolution given by CRM, will be compulsory for the Contractor. Nevertheless, the Contractor, could appeal it in the terms established in this Contract.

Regarding the interpretation of the terms of technical order related to the compliance with the Specifications and Drawings, they will be subject to the what is provided in Clause II.1.3 of this Draft Contract.

II.1.18 MINIMUM EQUIPMENT FOR THE EXECUTION OF THE WORKS

(1) General

The minimum equipment that the Contractor commits to place in the Work site, is the one that is listed in the Annex-1 to this Draft Contract. This equipment, in quantity and quality, could be modified by agreement between the Contractor and the Supervision, only in average of the Technical Conditions of the Works execution.

It is clearly established that, the Supervision when approving the quantity and quality of the equipment, does not imply any responsibility to CRM, neither by it assumes any

responsibility regarding results from the use of the Contractor's equipment, being such responsibility entirely of the Contractor.

The equipment for the execution of the Works will have to satisfactorily answer the conditions prescribed by the Technical Specifications and/or the standards in them; be it regarding the characteristics of the equipment or regarding what is related to the works or results attained in its use.

The Supervision could demand the substitution of the equipment units that to his judgment are not satisfactory. He could also, in the same manner, demand the Contractor to complete the equipment units that he may consider necessary for due compliance of the Execution Schedule of the Works.

Neither could the Contractor be able to carry out any reduction or modification on available equipment authorized by the Supervision, nor in the equipment that he may have in use and that is in listed in the Schedule Item 13 of Clause II.1.2 of this Draft Contract, without the express authorization from the Supervision.

The Contractor could not be able to withdraw from the Work Site, before its completion, any temporary installation, nor any equipment unit or material, without the authorization from the Supervision.

(2) Equipment Approval

The Contractor will present to the Supervision, within the thirty (30) days following the subscription of the Contract, an up-to-date Schedule for utilization of the construction equipment, indicating the stages for entering the equipment and the units to be imported with the funds of the Advance Payment. Once the Supervision gives the approval for such program, the Contractor will elaborate a detail listing, required to obtain the import permits, which will transacted by the Contractor with the previous authorization of CRM, which will be issued in a maximum period of eight (8) days from the Contractor's request.

(3) Contractor's Responsibility

The approval for the type, capacity and number of equipment units proposed in the Equipment Program Utilization and the submittal of import permits for these equipment or for the additional equipment that the Contractor proposes to use in the execution of the Works, will not exempt him from the exclusive responsibility, regarding its utilization and performance to comply with the terms established in this Contract.

(4) Sufficiency of the Equipment

With the due anticipation and satisfaction of the Supervision, the Contractor will have to have the works sites, duly installed and ready to work, the equipment that is required in each work front in accordance with the dates indicated in the Execution Schedule, for the commencement of the due labors. The Contractor, without infringing what is stipulated in this Clause, will have to increase, add or substitute with another of similar quality and

power, said equipment whenever necessary to assure the completion of each one of the work phases, within the terms provided.

(5) Prohibition to Enrapture or Encumber Equipment

Additionally to the limitations regarding enrapture equipment as indicated in Clause II.1.14, it is also expressly established that the equipment bought with the Advance Payment Funds, submitted by CRM to the Contractor, could not be object to enrapture, encumber or limitation of dominion in favor of any other person, without the express authorization of CRM.

II.1.19 ADDITIONAL WORKS AND WORKS MODIFICATIONS

CRM could introduce modifications in the form, quality and quantity of the Works or in any part of them, that to his criteria considers necessary. Therefore, CRM could provide as indicated in the Sections 1 and 2 of the Chapter VII of the Title VI of the Public Contracting Law, with previous authorization of the OECF.

II.1.20 IMPROPER PAYMENTS

CRM reserves the right to claim the Contractor at any time, before or after the completion of the Works, regarding any improper payment carried out by calculation error or any other reason. The Contractor is obliged to satisfy this by solving the claim that by this motive may be introduced by acknowledging besides the interest accrued applicable in the construction sector, in force in the Banking System legally established in Ecuador, from the date when the improper payment was made.

The payments that CRM makes to the Contractor will not exempt him from complying with his obligations that are corresponding by reason of this Contract. The lack of claim from CRM by any violation of the Contract, will not be considered as condonation or forgiveness of the same.

II.1.21 RELATIONS BETWEEN THE PARTIES

(1) General

In all relations with the Contractor, CRM will be represented by the Supervision, of whose members, organization and eventual changes will be notified by CRM by writing to the Contractor.

During the execution of the Works the Contractor will be represented by the General Superintendent of the Works, who will be an engineer of high solvency and professional experience, in charge of obligatory presenting the monthly work programs to the Supervision and will have the responsibility to provide the information regarding the progress of the Works, the anomalies of the program if any, and to suggest the corrective measures to be taken.

All the Project personnel employed by the Contractor will be under the exclusive laboral dependency of him. The Contractor assumes all the duties of employer without any responsibility of CRM, as expressly is stated and accepted by the Contractor.

CRM through the Supervision, at any moment, could demand the substitution of any person employed by the Contractor. The substitution will not give place for any claim by the Contractor, neither will be considered as modification in the terms of the Contract.

The Contractor is obliged not to substitute by his own initiative, during the development of the works at the Site, the key technical personnel approved at the moment of the Contract signing. Nevertheless, the Contractor could substitute his technical personnel with the previous qualifying and approval of the substitute by the Supervision.

The Contractor, on the other hand, is obliged to increment his personnel without any additional cost to CRM, if the Supervision considers that the progress of the works demands it so according to the Execution Schedule of the Works.

All the orders and communications, of any nature, between the Supervision and the Contractor, will only be done by writing in the Spanish Language and will be transacted in the prescribed manner in this Contract and/or its documents. Consequently, every time the words such as "communicate", "notify", and similar are found in the Contract, it is understood that it is in a written manner. These communications will be carried out by means of the Orders, Requests and Works Books by means the forms designed by the Supervision and approved by CRM.

(2) Orders Book

The Supervision will notify the Contractor the written orders, recommendations and approvals to the Contractor and according to the terms and stipulations of this Contract. These communications, which will be done in triplicate and the pages will have to be duly numbered, will constitute the Orders Book.

The end destiny of the order will be as follows: the original for the Contractor, the duplicate for the Supervision and the triplicate for CRM. The Contractor is obliged to keep in his field office all the orders issued by the Supervision.

The Orders Book, could be signed by the Project Supervision Director or by the Resident Supervision.

(3) Requests Book

The requests and ordinary correspondence of the Contractor to CRM, regarding the work execution, will be made using the Requests Book that will have the pages numbered in the same manner as the Orders Book. The original will be for the Supervision, the duplicate for the CRM and the triplicate for the Contractor's files.

In the same manner as the Contractor according to what is established in Clause II.1.13 of this Draft Contract, the Supervision will have a term of fifteen (15) days counted from the reception day of the Requests Book to order, approve, express disagreement, disapprove, reject or clarify, according to the terms of this Draft Contract the matter in question contained in the Requests Book. If the Supervision does not answer in such term, it will be understood that the matter is accepted and/or approved, as it may correspond the arguments or requests or claims made by the Contractor.

The Contractor is obliged to keep the Requests Book office with the triplicates of all the request notes utilized by him.

(4) Works Book and Field Authorizations

The Works Book are destined to keep on record the observations and field comments of the Supervision and the Contractor.

The Works Books must be kept with the pages duly numbered, each book numbered, with original and three copies. The original will remain in each Book, the first copy will be for the Contractor, the second copy for CRM and the third copy for the Supervision.

Each Works Book will have to have an opening minute indicating the commencement of it and the Work parts which it refers to, duly signed by authorized representatives from the Supervision and Contractor.

The Works Book and Forms will be kept in the Contractor's field office, under his responsibility with access to the Supervision at any time.

After totally being filled up each Works Book and Forms, these will have to be filed by the Contractor so as to afterward send all the originals to the Supervision, at the completion and at the Total Provisional Reception of the Works.

The record of the Works Book and Forms must be legible, dated and signed with the name of the sender, duly authorized by the representatives of the parties at the Work Site.

(5) Other Correspondence

The parties could in the same manner mutually send each other correspondence regarding special matters of the Contract, which will have to be signed by the Director of the Project, by General Manager of CRM or by who substitutes him and by the General Superintendent of the Contractor.

All matters related with the execution of the Contract, will be technically and administratively subject to the instructions and orders from the Supervision, which will demand the performance of the stipulations of the Contract and the instructions issued during the work execution.

CRM by means of the Supervision, will have under charge the revision and approval of the drawings presented by the Contractor, interpreting the Drawings and Specifications, and will do all that may be necessary so to assure that the work execution be carried out smoothly in accordance with the stipulations of the Contract.

CRM directly through the Supervision will provide the following Drawings and backgrounds:

(6) Tender Drawings

The Tender Drawings will have the object to establish the scope of the contracted Works and the initial design of the different project components and to facilitate determining the total prices for execution of the Works of this Contract.

(7) Detailed Design

After the Contract signing, the Tender Drawings, due to the fact that they do not contain an adequate detailing, will be replaced by the Detailed Design Drawings elaborated by the Contractor according to the submittal schedule for Drawings that is stipulated in Sub-clause II.2.5.8 of the General Dispositions.

Additionally the Contractor will prepare the drawings of the temporary and auxiliary works that he requires for the adequate execution of the Works. Copy of these drawings and statements will be submitted by the Contractor to the Supervision, for his approval.

If the Contractor desires to propose modifications to the Detailed Design Drawings, he must notify the Supervision before commencing the corresponding works. The Supervision will have the power to accept the modifications proposed by the Contractor or to reject them and to answer the observations and clarifications in the term of fifteen (15) days. These changes or modifications will not imply increment in the execution terms of the Works object of this Contract, and consequently, the Contractor will not alter neither will suspend the construction sequence of the Works, except when the Supervision otherwise states.

If a result of the timely and documented observations formulated by the Contractor, that might have been rejected or disesteemed by the Supervision result in defect or damage, the Contractor will be exempt of responsibility for such damages or defects.

The Contractor will have to submit to the approval of the Supervision, the drawings elaborated by him for the construction of the Works, as well as the details of supplies and special facilities that he might be obliged to provide. The approval of such drawings by the Supervision does not exempt the Contractor from any of his responsibilities that correspond to him by virtue of this Contract.

(8) Location, Alignments and Levels

The locations, alignments and levels of reference that are required by the Works, will be given by the corresponding outlines of structures, tunnels, open channels, roads, buildings,

etc. by the Supervision, which will set the benchmarks and landmarks to have a permanent reference; according to what is specified in the General Dispositions. It will be the obligation of the Contractor the care of the stakes and references since the obligation of CRM is limited to give the stakes and references only once. The replacement of data and alignments will be made by the Contractor at his own expense, notifying the Supervision so that it can be revised in the manner he considers convenient in order to give his approval. In special cases, he so considers necessary, the Supervision may authorize in writing the Contractor to carry out some replacing, which will have to be approved by the Supervision.

All the other topographic or replacement operations required to perform the Works will be carried by the Contractor at his own expense.

The Contractor will have to timely request, with at least ten (10) days ahead of time and by writing to the Supervision the laying out for the works that he is going to execute and the Supervision will have to provide at least ten (10) days ahead of time to the programmed date for the execution of such works. The execution term that may correspond to this part of the Work will be extended in the same number of days that, the Supervision delays in providing the required information after the indicated term, having the Contractor to send a notice of communication to the Supervision in this regard. This extension of the term will not give the Contractor the right for additional payment.

CRM will not be responsible of the time loss that the Contractor may have due to the lack of data, lines and levels that had not been requested by him with the due detail and in time.

(9) Right to Modify the Location, Alignments, Drawings and Specifications

At any time, during the development of the Works, and by reason of the information attained regarding the foundation, quality of materials for the performing the Works or due to any other motive, CRM will be able to freely change the locations, alignments, dimensions, details or Specifications, object of the Contract and will proceed with all rights to order those modifications and the Contractor is obliged to execute such works according to the modifications so ordered, without getting the right to additional payment or extension in the terms, unless the stipulated above.

When the changes ordered by CRM produce an increment of costs and/or term that will make non applicable the terms and/or contract prices, the Contractor, in the claim that he presents, must demonstrate to the Supervision, by means of a conscientious analysis and founded on reliable data, such increment of cost and/or term. The aforesaid has no application for lump sum prices, neither to the total prices of the tender executed in base to the Drawings and Specifications of the tender which shall remain fixed, nor will they be cause to temporarily suspend the works by the Contractor, while the claims are solved due to such concepts.

The lack of fulfillment of the orders and stipulations arisen from the Supervision in compliance with the clear contractual stipulations, will be enough motive for the Supervision to set the sanctions indicated in Sub-clause II.2.10.3 of General Dispositions and for it to