

***Section 2***

***Bid Forms***

# LA UNION PORT DEVELOPMENT PROJECT

## Bidding Documents for Package C : Procurement of Floating Equipment

### Volume I

#### Section 2 Bid Forms

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## Form A1

### Declaration of Intent To Bid

To: Unidad de Adquisiciones y Contrataciones Institucional (UACI)  
Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador

Re.: **La Unión Port Development Project**  
**Package C: Procurement of Floating Equipment**

Dear Sir,

We have received the complete Bid Documents for the above referred Contract Package C, and would like to inform you that we intend to submit a Bid to you by the closing date for submission of bids as specified in the Bidding Documents.

Date: \_\_\_\_\_, 200..

\_\_\_\_\_  
Signature and Official Seal of Company

\_\_\_\_\_  
(Name of Signatory)

\_\_\_\_\_  
(Title of Signatory)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Name and Address of Company / Joint Venture

## Form A2

### Form of Bid

Name of Contract : Package C : Procurement of Floating Equipment for La Unión Port  
Development Project

To : Unidad de Adquisiciones y Contrataciones Institucional (UACI)  
Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador

Dear Sir,

1. Having examined the Bidding Documents including the Instructions to Bidders, Conditions of Contract, Specifications, Bill of Quantities and Addenda No. \_\_\_\_\_ for the execution of the above-named Contract, and having satisfied ourselves as to all conditions under which the said Contract works must be performed, we, the undersigned, hereby offer to design, build and deliver the Floating Equipment under Package C (hereinafter referred to as "the Goods") in conformity with the Bidding Documents for the total Bid Price of:

US Dollars \_\_\_\_\_

(amount in words in block capitals or typed)

( \_\_\_\_\_ )

(amount in figures)

as detailed in the Bill of Quantities attached hereto.

2. The enclosed completed Bid Forms and other information required by the Bidding Documents shall be read and construed as forming an integral part of this Bid and binding upon us.
3. We undertake, if our bid is accepted, to complete the supply and delivery of the whole of the Goods in accordance with the Bidding Documents and within a total period of \_\_\_\_\_ ( \_\_\_\_\_ ) days.  
(number of days in words) (in figures)
4. We also undertake, if our Bid is accepted:
  - (a) to send a representative having our Power of Attorney to negotiate the Contract with you on the date and time specified in your letter of invitation;
  - (b) to enter into and execute the Contract Agreement with you within twenty eight (28) days from the date of issuance of your Letter of Acceptance; and
  - (c) to commence the Works immediately upon receipt of the Engineer's Notice to Proceed.

Signature of Bidder \_\_\_\_\_

5. We agree to abide by this Bid until \_\_\_\_\_, 200., and it shall remain binding upon us and may be accepted at any time before that date.
6. Unless and until a formal Agreement is prepared and executed, this Bid, together with your written acceptance thereof, shall constitute a binding Contract between us.
7. We understand that you are not bound to accept the lowest or any bid you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 200..

Signature: \_\_\_\_\_

in the capacity of \_\_\_\_\_

duly authorized to sign Bids for and on behalf of

\_\_\_\_\_  
*(in block capitals or typed)*

Address

\_\_\_\_\_

\_\_\_\_\_

Witness

Address

\_\_\_\_\_

\_\_\_\_\_

Occupation

\_\_\_\_\_

Signature of Bidder \_\_\_\_\_

### Form A3

## Bid Security (Bank Guarantee)

WHEREAS, \_\_\_\_\_ (name of Bidder)  
(hereinafter called "the Bidder") has submitted his Bid dated \_\_\_\_\_ for the  
execution of Package C: Procurement of Floating Equipment for La Unión Port Development Project

KNOW ALL PEOPLE by these present that We \_\_\_\_\_ (name of Bank)  
of \_\_\_\_\_ (name of country) having our registered office at

\_\_\_\_\_ (hereinafter called "the Bank" ) are bound unto the Comisión Ejecutiva Portuaria Autónoma  
(hereinafter called "the Purchaser") in the sum of \_\_\_\_\_  
\_\_\_\_\_ /1

for which payment well and truly to be made to the said Purchaser, the Bank binds himself, his  
successors, and assigns by these presents.

SEALED with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 200...

THE CONDITIONS of this obligation are:

- (1) if the Bidder withdraws his Bid during the period of Bid validity specified in the Form of Bid;  
or
- (2) if the Bidder refuses to accept the correction of errors in his Bid;  
or
- (3) if the Bidder fails within the specific time to send a representative having full Power of Attorney to negotiate the Contract Agreement with the Purchaser;  
or
- (4) if the Bidder interferes in the processing of bids or award decisions,  
or
- (5) if the Bidder, having been notified of the acceptance of his Bid by the Purchaser during the period of Bid validity;

*11 The Bidder shall insert the amount of the security in words and figures denominated in the currency prescribed in Clause 17.1 of the Instructions to Bidders. Attention of joint venture Bidders is drawn to Clause 17.4 of the Instructions to Bidders.*

Signature of Bidder \_\_\_\_\_

- (a) fails or refuses to execute the Contract Agreement in accordance with the Instructions to Bidders, if required; or
- (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Bidders.

We undertake to pay to the Purchaser up to the above amount upon receipt of his first written demand, without the Purchaser having to substantiate his demand, provided that in his demand the Purchaser will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date 28 days after the date of expiration of the Bid Validity as stated in the Instructions to Bidders, or as it may be extended by the Purchaser, notice of which extension(s) to the Bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.

Date \_\_\_\_\_ 200..

Name of the Bank: \_\_\_\_\_

Signature : \_\_\_\_\_ Seal \_\_\_\_\_

Name and Position of Signatory: \_\_\_\_\_

Witness \_\_\_\_\_

\_\_\_\_\_  
(signature, name, and address)

Witness \_\_\_\_\_

\_\_\_\_\_  
(signature, name, and address)

Signature of Bidder \_\_\_\_\_

## Form A4

### Power of Attorney (a. for Independent Bidders)

To: Unidad de Adquisiciones y Contrataciones Institucional (UACI)  
Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador

**Re: La Unión Port Development Project  
Contract Package C : Procurement of Floating Equipment**

KNOW ALL PEOPLE by these presents, that we \_\_\_\_\_  
\_\_\_\_\_  
(name of company) duly organized and existing under the laws of  
\_\_\_\_\_  
(name of country) hereby duly authorize and extend complete  
POWER OF ATTORNEY to the following named person to sign for and on behalf of the company,  
all documents concerning the Bid, proposals, negotiations, contract and other documents as may be  
necessary

Name in full: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

In Witness Whereof, the undersigned made this Power of Attorney under legal signature and  
Company seal on this \_\_\_\_\_ day of \_\_\_\_\_ 200.

\_\_\_\_\_  
(Name of Company and Seal)

Signature: \_\_\_\_\_

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

Certified by Public Notary

\_\_\_\_\_  
(Name and Title)

\_\_\_\_\_  
(Signature and Seal)

Signature of Bidder \_\_\_\_\_



**Form A4**

**Power of Attorney  
(b. for Joint Venture/Consortium Bidders)**

To: Unidad de Adquisiciones y Contrataciones Institucional (UACI)  
Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador

**Re: La Unión Port Development Project  
Contract Package C: Procurement of Floating Equipment**

KNOW ALL MEN by these presents that we, the undersigned, authorised representatives of the respective companies named below who are partners of the Joint Venture/Consortium submitting a bid for the above-mentioned Package C, hereby duly authorize and extend complete POWER OF ATTORNEY to the following named person to sign for and on behalf of our companies, all documents concerning the Bid, proposals, negotiations, contract and other documents as may be necessary.

Name in full: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

In Witness Whereof, we executed this Power of Attorney under our legal signature and Company seal on this \_\_\_\_\_ day of \_\_\_\_\_ 200...

For: \_\_\_\_\_

(Name of 1<sup>st</sup> Company)

Name and title of signatory:

\_\_\_\_\_

Signature & Seal: \_\_\_\_\_

For: \_\_\_\_\_

(Name of 2<sup>nd</sup> Company)

Name and title of signatory:

\_\_\_\_\_

Signature & Seal: \_\_\_\_\_

Signature of Bidder: \_\_\_\_\_

Certified by Public Notary

\_\_\_\_\_  
(Signature and Seal)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

Signature of Bidder \_\_\_\_\_

## Form A5

### Updated Prequalification Information

In accordance with the Instructions to Bidders Sub-Clause 4.1, the Bidder shall update information and supported documents submitted at the Prequalification stage. The Bidder's attention is drawn to the fact that:

- (a) the following conditions shall remain unchanged from the Prequalification stage:
  - (i) Shipbuilders of the Bidder;
  - (ii) Members of the Joint Venture or Consortium; and
  - (iii) Shipbuilding yard.
- (b) the financial status of the Bidder shall be equal to or better than that at the Prequalification stage.

Failure to comply with the above requirements shall result in rejection of the bid.

Signature of Bidder \_\_\_\_\_

## Form A6

### Joint Venture/Consortium Agreement

**WHEREAS:**

1. The Comisión Ejecutiva Portuaria Autónoma (hereinafter called "the Purchaser") has issued the Bidding Documents for the Contract Package C : Procurement of Floating Equipment for La Unión Port Development Project;
2. And the parties to the present Joint Venture (or Consortium) Agreement, comprising:

\_\_\_\_\_

\_\_\_\_\_

and

\_\_\_\_\_

being represented by the Joint Venture (or Consortium) representative designated in Clause E below, desire to participate jointly in Bid for the above Contract Package C: Procurement of Floating Equipment.

**NOW IT HAS BEEN JOINTLY AGREED UPON AND DECIDED:**

- A. To appoint \_\_\_\_\_ (*Name of a partner*) as Sponsoring Member/Leading Company to represent and to act "for and on behalf" of the Joint Venture (or Consortium) and to sign in its name all documents, including the Bid and the Contract Agreement.
- B. That \_\_\_\_\_ as Sponsoring Member/Leading Company, shall hold itself responsible for the execution of the Contract, if awarded, and shall hold the Purchaser blameless for all consequences and damages in case of any claim by any third party, forthcoming from the execution of the Contract.
- C. That the above named partners of the Joint Venture (or Consortium) shall be jointly and severally liable for their respective and joint obligations pursuant to the Contract, if awarded.
- D. That the share of each company in the Joint Venture (or Consortium) will be as follows:

Member: \_\_\_\_\_ Share : \_\_\_\_\_ per cent (..... %)

Member: \_\_\_\_\_ Share : \_\_\_\_\_ per cent (..... %)

Member: \_\_\_\_\_ Share : \_\_\_\_\_ per cent (..... %)

Signature of Bidder \_\_\_\_\_

and that each company will participate in these same proportions in the expense and in the profit and loss of the Joint Venture (or Consortium). These partnership proportions will not be modified throughout the whole period of the Contract except with prior written consent of the Purchaser and joint written agreement of the participating companies. Irrespective of the relative size of the partnership proportions shown above, each of the companies, and also the Purchaser when necessary, shall have the right to fully supervise all aspects of the implementation of this Agreement, including the right to full access to all documentation relevant to the execution of the Contract such as financial records, purchase orders, receipts, lists of plant, equipment and personnel, subcontract agreements, correspondence, fax, etc.

- E. That the power to sign for and on behalf of the Joint Venture (or Consortium) shall vest in the person of \_\_\_\_\_ in his capacity as \_\_\_\_\_ of \_\_\_\_\_.
- F. That this Agreement will become effective immediately upon receipt of the Letter of Acceptance issued by the Purchaser.
- G. That this Agreement shall automatically be null and void if the Contract is not awarded to the Joint Venture (or Consortium).

In Witness Whereof the participating parties have hereto placed their signature and seals at \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_ 200..

For: \_\_\_\_\_  
(Name of 1<sup>st</sup> Company)

Name and title of signatory:

\_\_\_\_\_

Signature & Seal: \_\_\_\_\_

For: \_\_\_\_\_  
(Name of 2<sup>nd</sup> Company)

Name and title of signatory:

\_\_\_\_\_

Signature & Seal: \_\_\_\_\_

For: \_\_\_\_\_  
(Name of 3<sup>rd</sup> Company)

Name and title of signatory:

\_\_\_\_\_

Signature & Seal: \_\_\_\_\_

Signature of Bidder \_\_\_\_\_

Certified by Public Notary

\_\_\_\_\_  
(Signature and Seal)

\_\_\_\_\_  
(Name of signatory)

\_\_\_\_\_  
(Title of signatory)

Signature of Bidder \_\_\_\_\_

## Form A7

### Subcontracting Agreement

This Agreement made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2001 by and between \_\_\_\_\_  
(Name and address of the bidder) (hereinafter referred to as "the Bidder") of the one part and \_\_\_\_\_  
(Name and address of the subcontractor) (hereinafter referred to as "the Subcontractor") of the other part;

WHEREAS the Bidder is desirous to submit a bid for Package C: Procurement of Floating Equipment for the La Unión Port Development Project, as invited by the Comisión Ejecutiva Portuaria Autónoma (hereinafter called "the Purchaser"), and has requested the Subcontractor to (build/manufacture/deliver/test, etc.) the equipment described in Clause 1 hereafter on a subcontracting basis, if his bid is accepted;

AND WHEREAS the Subcontractor has agreed to (build/manufacture/deliver/test, etc.) the said equipment the said Plant in accordance with the terms and conditions set forth herein;

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The equipment to be (built/manufactured/delivered/tested, etc.) by the Subcontractor will comprise the following:  
\_\_\_\_\_  
\_\_\_\_\_  
(Describe the Plant in detail)
2. The value of the equipment mentioned in Clause 1 above will be:  
\_\_\_\_\_  
(Amount in words) (\_\_\_\_\_) (Amount in figures),  
equivalent to \_\_\_\_\_ percent (\_\_\_\_\_% ) of the Bid Price.
3. The schedule and procedure of Payment for the equipment under this Agreement shall follow the payment terms and conditions set forth in the Contract between the Bidder and the Purchaser and shall be decided by mutual agreement between the Bidder and the Subcontractor after signing of the said Contract.
4. The Subcontractor shall not sublet the whole or part of (build/manufacture/deliver/test, etc.) work under this Agreement to any third party.
5. The Subcontractor shall, in the performance of his duties under this Agreement, comply with all such terms and conditions of the Contract referred to in Clause 3 above as applicable to the equipment to be (built/manufactured/delivered/tested, etc.) by the Subcontractor, and shall bear full responsibility towards the Bidder for due compliance with such terms and conditions.

Signature of Bidder \_\_\_\_\_

6. The Bidder shall be fully responsible towards the Purchaser, if his bid is accepted, for the acts, defaults and neglects of the Subcontractor, his agents or employees, in the execution of the Contract referred to in Clause 3 above.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed with their respective signature and seals placed hereupon the day and year first above written.

For THE BIDDER:

For THE SUBCONTRACTOR:

\_\_\_\_\_  
(Signature & Seal)  
\_\_\_\_\_  
(Name of Signatory)  
\_\_\_\_\_  
(Title of Signatory)

\_\_\_\_\_  
(Signature & Seal)  
\_\_\_\_\_  
(Name of Signatory)  
\_\_\_\_\_  
(Title of Signatory)

Certified by Public Notary

\_\_\_\_\_  
(Signature and Seal)  
\_\_\_\_\_  
(Name of signatory)  
\_\_\_\_\_  
(Title of signatory)

Signature of Bidder \_\_\_\_\_



## Form B1

### List of Bid Supplementary Documents

The following supplementary documents are submitted along with the Bid as prescribed in the Instructions to Bidders Sub-Clause 4.2:

Form No.	No. of Sheets	Remarks
B1	_____	_____
B2	_____	_____
B3	_____	_____
B4	_____	_____
B5	_____	_____
B6	_____	_____
B7	_____	_____
B8	_____	_____
Others: (cite)	_____	_____

Date: \_\_\_\_\_, 200..

\_\_\_\_\_  
Signature and Official Seal of Company

\_\_\_\_\_  
(Name of Signatory)

\_\_\_\_\_  
(Title of Signatory)

## Form B2

### Work Program

Provide a bar chart / GANTT/CPM chart showing the activities relating to the building, delivery and test/trials of the Goods under the Contract, including:

- A. Design of vessels
- B. Building of vessels
- C. Shipyard tests and trials
- D. Delivery preparation works
- E. Delivery on site
- F. Site demonstration trial
- G. Training on operation and maintenance

The program shall show clearly the expected duration, sequence and relation of all major operations and the breakdown of work activities, and highlight all critical operations which directly affect the Time for Completion. The program shall provide sufficient details and milestones for effectively monitoring the work schedule and evaluation of responsiveness.

### Form B3

## Details of Suppliers / Subcontractors

Supplier / Subcontractor		Work or equipment sublet
Name	Address	

Also include:

Full details (as required at the time of applying for Prequalification for any proposed Sub-contractor / suppliers / manufacturers, including brochure or other document to illustrate and describe the firm and its experience.

The Bidder's attention is drawn to Sub-Clause 4.3 of the Instructions to Bidders.

## Form B4

### **Documentary Evidence of Goods' Conformity to Bidding Documents**

Provide in this Form the documentary evidence establishing the Goods' conformity to the technical specifications in the Bidding Documents, as prescribed in Sub-Clause 16 of the Instructions to Bidders. The evidence may be in the form of literature, drawings, photos, catalogues and data, including:

- (a) a detailed description of the Goods' essential technical and performance characteristics;
- (b) a list giving full particulars, including available sources and current prices, of all spare parts, special tools, etc. for proper and continued functioning of the Goods for 2 years; and
- (c) a clause-by-clause commentary on the Specifications, demonstrating the Goods' responsiveness to those Specifications or explanation of any deviations or exceptions thereto.

## Form B5

### Shipbuilding/Manufacturing Details

Provide the list / location / details of the place or places (shipyard/factory) where the proposed components of the Goods will be built/manufactured. Give details of the quality control plan, including. Building/manufacturing inspection flow, list of inspections and trials at shipyard/factory and at site.

## **Form B6**

### **Spare Parts and Maintenance Service**

Provide details of spare parts and maintenance service in accordance with Sub-Clause 29.1 of the Special Conditions of Contract.

## **Form B7**

# **Training Program**

Provide details of the proposed training program in accordance with Sub-Clause 31.1 of the Special Conditions of Contract. The training program shall be conducted on the Goods in actual working / service conditions (both day and night) to cover all aspects of the equipment operation and maintenance, and shall be in accordance with Section 10017 of the Specifications in Volume II-C, Part II. The training program shall be implemented before the issuance of the Taking-Over Certificate.

***Section 3***

***Contract Forms***



# LA UNION PORT DEVELOPMENT PROJECT

## Bidding Documents for Package C : Procurement of Floating Equipment

### Volume I

<b>Section 3 Contract Forms</b>
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## Form C1

### Contract Form

No. \_\_\_\_\_

THIS CONTRACT made the \_\_\_\_\_ day of \_\_\_\_\_, 200.. between the Comisión Ejecutiva Portuaria Autónoma (hereinafter called "the Purchaser") of the one part and \_\_\_\_\_ of \_\_\_\_\_ with its registered business office at \_\_\_\_\_ (hereinafter called "the Supplier") of the other part.

WHEREAS the Purchaser is desirous that certain goods be provided by the Supplier, viz., the Floating Equipment under Package C for La Unión Port Development Project (hereinafter referred to as "the Goods"), and has accepted a Bid by the Supplier for the supply and delivery of those Goods.

NOW THIS AGREEMENT WITNESSETH as follows:

1. The Agreement shall consist of this Contract Form and the following documents, and the exhibits, drawings, specifications and other documents referred to therein (hereinafter referred to as "the Contract Documents"), all of which by this reference are incorporated herein and made part hereof:
  - (a) the Letter of Acceptance;
  - (b) the Bid submitted by the Supplier, dated \_\_\_\_\_ and comprising:
    - (i) Bid Forms;
    - (ii) Bid Supplementary Documents;
    - (iii) Priced Bill of Quantities
  - (c) the Conditions of Contract;
  - (d) the Specifications;
  - (e) clarification Addenda, and any other documents submitted by the Supplier during the bidding period;
  - (f) all codes, designations, standards, standard specifications, and other similar requirements which are referred to in the Conditions of Contract and Specifications.

This Contract sets forth the entire contract and agreement between the parties pertaining to the supply of the Goods described herein and supersedes any and all earlier verbal or written agreements pertaining to the supply of the Goods.

This Contract shall prevail over all other contract documents. In the event of any discrepancy or inconsistency within the Contract Documents, then the documents shall prevail in the order listed above.

3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to supply the Goods and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the supply of the Goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
5. The total Contract Price, obtained from the prices and the estimated quantities of the Goods as indicated in the Bill of Quantities is:  
US Dollars \_\_\_\_\_  
\_\_\_\_\_ (amount in words)  
( \_\_\_\_\_ ) (amount in figures).
6. The implementation of this Agreement shall start upon issuance of the Notice to Proceed to the Supplier as stipulated in Sub-Clause 3.1 of Section 4, Part II: Special Conditions.
7. The Contract shall extend and be binding upon the parties hereto, executors, successors and permitted assigns, who shall jointly and severally be entitled to the benefits of this Contract.
8. Any notice under this Contract shall be in the form of letter, cable or fax. Notices to either party shall be given at such address or addresses as such party shall specify from time to time by written notice to the other. In the absence of such notice to the contrary, notice to the Purchaser shall be properly addressed to:

Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador  
Tel. No.: .....  
Fax. No. ....

And notice to the Supplier shall be properly addressed to:

(Supplier's address and electronic transmission address)  
.....

A notice shall be effective when delivered or on the notice's effective date, whichever is later

IN WITNESS WHEREOF the parties hereto have caused this Contract to be executed in accordance with their respective laws the day and year first before written.

Signed, sealed, and delivered by THE PURCHASER:

COMISION EJECUTIVA PORTUARIA AUTÓNOMA

Binding Signature and Seal: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Title of Signatory: \_\_\_\_\_

In the presence of:

Signature of Witness: \_\_\_\_\_

Name & Title of Witness: \_\_\_\_\_

Signed, sealed, and delivered by THE SUPPLIER:

\_\_\_\_\_ (Name of Supplier)

Binding Signature and Seal: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_

Title of Signatory: \_\_\_\_\_

In the presence of:

Signature of Witness: \_\_\_\_\_

Name & Title of Witness: \_\_\_\_\_

## Form C2

### Performance Security

THIS AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_ 200., between  
\_\_\_\_\_ [name of bank]

with its head office at \_\_\_\_\_  
[address of bank] (hereinafter called "the Guarantor") of the one part and the Comisión Ejecutiva  
Portuaria Autónoma with its head office at Blvd. de Los Heroes, Edificio Torre Roble, San Salvador,  
El Salvador (hereinafter called "the Purchaser") of the other part.

#### WHEREAS

- (1) this Agreement is supplemental to the Contract No. .... (hereinafter called "the  
Contract") made between \_\_\_\_\_ [name of Supplier]  
of \_\_\_\_\_ [address of  
Supplier] (hereinafter called "the Supplier") of the one part and the Purchaser of the other  
part whereby the Supplier agreed and undertook to supply the Goods under Package C:  
Procurement of Floating Equipment for the La Unión Port Development Project for the  
Contract Price of:

US

Dollars \_\_\_\_\_ (amount in words)

( \_\_\_\_\_ ) (amount in figures).

- (2) the Guarantor has agreed to guarantee the due performance of the Contract in the manner  
hereinafter appearing.

NOW, THEREFORE, the Guarantor hereby agrees with the Purchaser as follows:

- (a) If the Supplier will in any respect fail to execute the Contract or commit any breach  
of his obligations thereunder then the Guarantor will indemnify and pay the  
Purchaser the sum of US Dollars \_\_\_\_\_  
\_\_\_\_\_ (amount of Guarantee in words)  
\_\_\_\_\_ (in figures), representing ten percent (10%) of the  
total equivalent Contract Price, provided that the Purchaser or his authorized  
representative has notified the Guarantor to that effect and has made a claim against  
the Supplier before the issuance of the Taking-Over Certificate.
- (b) The Guarantor shall not be discharged or released from his guarantee by an  
arrangement between the Supplier and the Purchaser, with or without the consent of  
the Guarantor, or by any alteration in the obligations undertaken by the Supplier, or  
by any forbearance on the part of the Supplier, whether as to the payment, time,

performance, or otherwise, and any notice to the Guarantor of any such arrangement, alteration, or forbearance is hereby expressly waived.

This Guarantee shall be valid until the date 28 days from the date of issuance of the Taking-Over Certificate by the Purchaser to the Supplier.

Given under our hand on the date first mentioned above.

For and on behalf of THE GUARANTOR

For and on behalf of the PURCHASER:

(Name of the Bank)

**Comisión Ejecutiva Portuaria Autónoma**

Signature and Seal: \_\_\_\_\_

Signature and Seal: \_\_\_\_\_

Name & Title of Signatory: \_\_\_\_\_

Name & Title of Signatory: \_\_\_\_\_

in the presence of:

in the presence of:

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name & Title of Witness: \_\_\_\_\_

Name & Title of Witness: \_\_\_\_\_

## Form C3 Warranty Security

WHEREAS \_\_\_\_\_

\_\_\_\_\_ (name and address of Supplier)

(hereinafter referred to as "the Supplier") has entered into a contract with the Comisión Ejecutiva Portuaria Autónoma (hereinafter referred to as "the Purchaser") under the Contract No. \_\_\_\_\_ dated \_\_\_\_\_ for execution the Works under Package C: Procurement of Floating Equipment for the La Unión Port Development Project, whereby pursuant to Clause 11 of the Conditions of Contract thereof the Supplier shall deposit with the Purchaser a Warranty Security in an amount of US Dollars \_\_\_\_\_

\_\_\_\_\_ (guarantee amount in words)

(US\$ \_\_\_\_\_) (guarantee amount in figures) to guarantee his fulfillment of the contractual obligations specified in Clause 13 of Conditions of Contract during the Warranty Period;

NOW THEREFORE, by this Warranty Guarantee, we \_\_\_\_\_

\_\_\_\_\_ (name and address of the Warranty issuing Bank) (hereinafter referred to as "the Guarantor") hereby agree to pay the Purchaser up to a sum of US Dollars \_\_\_\_\_

\_\_\_\_\_ (guarantee amount in words)<sup>1</sup>

(US\$ \_\_\_\_\_) (amount in figures) if the Supplier refuses or fails to fulfill his obligations for remedying any defect of or damage to the Works as stipulated in Clause 13 of the Conditions of Contract. The conditions of this Warranty are as follows:

1. Payment of whole or part of the above-mentioned sum shall be made to the Purchaser within seven (7) days from receipt of a written request to do so from the Purchaser and without whatsoever right of objection on our part.
2. No change or addition to or other modification of the terms of the Contract or of Works to be performed thereunder or of any of the Contract documents which may be made between the Purchaser and the Supplier, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.
3. This guarantee shall remain valid and in full effect until the date 28 days from the date of expiration of the Warranty Period.

<sup>1</sup> The amount is to be inserted by the bank or financial institution representing the amount of guarantee equivalent to 10% of the total Contract Price at the date of Warranty Security.

IN WITNESS WHEREOF, we have caused these presents to be signed by our authorized officer and our corporate seal to be hereunto affixed.

Date: \_\_\_\_\_, 200..

Name of Bank: \_\_\_\_\_

Signature and Seal: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

in the presence of:

Signature of Witness: \_\_\_\_\_

Name and Title of Witness: \_\_\_\_\_



## Form C4

### Bank Guarantee for Advance Payment

To: Unidad de Adquisiciones y Contrataciones Institucional (UACI)  
Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble, 5th Floor  
Boulevard de Los Héroes  
San Salvador, El Salvador

Re.: Contract No. \_\_\_\_\_ dated \_\_\_\_\_, 200..  
La Unión Port Development Project  
Package C: Procurement of Floating Equipment

Gentlemen:

In accordance with the provisions of Clause 14 of the Conditions of the Contract No. \_\_\_\_\_  
for Package C: Procurement of Floating Equipment for La Unión Port Development Project  
(hereinafter called "the Contract") \_\_\_\_\_

(name and address of Supplier) (hereinafter called "the Supplier") shall deposit with the Comisión  
Ejecutiva Portuaria Autónoma, hereinafter called "the Purchaser", a bank guarantee for the Advance  
Payment in an amount of \_\_\_\_\_

\_\_\_\_\_ (Advance Payment amount in words)  
( \_\_\_\_\_ ) (amount in figures).

to guarantee his proper and faithful performance against the said Advance Payment.

We, the \_\_\_\_\_  
(name of the bank or financial institution), as instructed by the Supplier, agree unconditionally and  
irrevocably to guarantee as primary obligator and not as Surety merely, the payment to the Purchaser  
on his first demand without whatsoever right of objection on our part and without his first claim to  
the Supplier, in the amount not exceeding \_\_\_\_\_

\_\_\_\_\_ (guarantee amount in words)<sup>1</sup>  
( \_\_\_\_\_ ) (amount in words).

We further agree that no change or addition to or other modification of the terms of the Contract or  
of Works to be performed thereunder or of any of the Contract documents which may be made  
between the Purchaser and the Supplier, shall in any way release us from any liability under this  
guarantee, and we hereby waive notice of any such change, addition or modification.

<sup>1</sup> The amount is to be inserted by the bank or financial institution representing the amount of the  
Advance Payment, and denominated in the currency of the Advance Payment as specified in the  
Contract.

This guarantee shall remain valid and in full effect from the date on which the Advance Payment is received by the Supplier under the Contract until a date 56 days from the date of issuance of the Acceptance Certificate upon final delivery of the Goods, pursuant to Sub-Clauses 14.3 of the Special Conditions of Contract.

Yours truly,

Name of Bank or Financial Institution : \_\_\_\_\_

Signature and Seal : \_\_\_\_\_

Name of Signatory : \_\_\_\_\_

Position of Signatory : \_\_\_\_\_

Address : \_\_\_\_\_

Date : \_\_\_\_\_

***Section 4***

***Conditions of Contract***

# LA UNION PORT DEVELOPMENT PROJECT

## Bidding Documents for Package C : Procurement of Floating Equipment

### Volume I

#### Section 4 Conditions of Contract Part I General Conditions

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## Section 4 Conditions of Contract

### Part I: General Conditions

#### 1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of his contractual obligations.
- (c) "The Goods" means all the equipment, machinery, and/or materials which the Supplier is required to supply to the Purchaser under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "The Purchaser" means the organization purchasing the Goods, as named in the Special Conditions of Contract.
- (f) "The Purchaser's country" is the country named in the Special Conditions of Contract.
- (g) "The Supplier" means the individual or firm supplying the Goods and Services under this Contract.
- (h) "JBIC" means Japan Bank for International Cooperation.
- (i) "The Project Site", where applicable, means the place or places named in the Special Conditions of Contract.
- (j) "Day" means calendar day.

#### 2. Use of Contract Documents and Information

- 2.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof or any specification, drawings, pattern, sample of information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 2.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information specified in Clause 2.1 above, except for purposes of performing the Contract.
- 2.3 Any document, other than the Contract itself, specified in Clause 2.1 above, shall remain the property of the Purchaser and shall be returned (in all copies) to the Purchaser, on completion of the Supplier's performance under the Contract, if so required by the Purchaser.

### **3. Change Orders**

- 3.1 The Purchaser may at any time, by a written notice to the Supplier, make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser; or
  - (b) the method of shipment or packing; or
  - (c) the place of delivery.
- 3.2 Upon notification by the Purchaser of such change, the Supplier shall submit to the Purchaser an estimate of cost for the proposed change (hereinafter referred to as the Change) within ten (10) calendar days of receipt of notice of the Change, and shall include an estimate of the impact (if any) of the Change on the delivery dates under the Contract, as well as a detailed schedule for the execution of the Change, if applicable.
- 3.3 The Supplier shall not perform Changes in accordance with Clause 3.1 above until the Purchaser has authorized a Change Order in writing on the basis of the estimate provided by the Supplier as described in Clause 3.2 above.
- 3.4 Changes mutually agreed upon as a Change shall constitute a part of the work under this Contract, and the provisions and conditions of the Contract shall apply to said Change.

### **4. Contract Amendments**

- 4.1 Subject to Clause 3, no variation in or modification of the conditions and terms of the Contract shall be made except by written amendment signed by the parties.

### **5. Subcontracts**

- 5.1 The Supplier shall not subcontract all or any part of the Contract without first obtaining the Purchaser's approval in writing of the subcontracting and the subcontractor.
- 5.2 The Supplier guarantees that any and all subcontractors of the Supplier for performance of any part of the work under the Contract will comply fully with the terms of the Contract applicable to such part of the work under the Contract.

### **6. Eligibility of Goods**

- 6.1 Any contract under which Goods and Services are procured from countries other than the eligible source countries for the implementation of the project will be eligible for financing under JBIC ODA Loans if the combined costs of such Goods and Services are less than 40 percent of the price of the said contract.

### **7. Inspection and Tests**

- 7.1 The Purchaser or his representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Specifications. The Special Conditions of Contract and/or the Specifications shall specify what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing of the identity of any representatives retained for these purposes.

- 7.2 The inspections and tests may be conducted on the premises of the Supplier or his subcontractor(s), at point of delivery and at the Goods' final destination. Where conducted on the premises of the Supplier or his subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data shall be furnished to the inspectors at no charge to the Purchaser.
- 7.3 Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject them, and the Supplier shall either replace the rejected Goods or make all alterations necessary to meet the requirements of the Specifications, free of cost to the Purchaser.
- 7.4 The Purchaser's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival in the Purchaser's country shall in no way be limited or waived by reason of the Goods' having previously been inspected, tested and passed by the Purchaser or his representatives prior to the Goods' shipment from the country of origin.
- 7.5 Nothing in this Clause 7 shall in any way release the Supplier from any Warranty or other obligations under the Contract.

## **8. Packing**

- 8.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.
- 8.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the Special Conditions of Contract and in any subsequent instructions ordered by the Purchaser.

## **9. Delivery and Documents**

- 9.1 The Supplier in accordance with the terms specified in the Technical Specifications shall make delivery of the Goods. The details of shipping and/or other documents to be furnished by the Supplier are specified in the Special Conditions of Contract.
- 9.2 For purposes of the Contract, "EXW", "FOB", "FCA", "CIF", "CIP", and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the International Chamber of Commerce, Paris, in the current edition of its publication commonly referred to as Incoterms.

## **10. Patent Rights**

- 10.1 The Supplier shall indemnify and hold the Purchaser harmless against all third-party claims of infringement of patent, trademark or industrial design rights arising from use of the Goods or any part thereof.



## **11. Performance Security**

- 11.1 The Supplier shall cause performance security to be furnished to the Purchaser in the amount indicated in the Special Conditions of Contract. Such performance security shall be provided, in a form satisfactory to the Purchaser and as indicated in clause 11.3 below, within thirty (30) days after the Supplier's receipt of the notification of award of contract.
- 11.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete his work under the Contract. The Supplier shall cause the validity period of the performance security to be extended for such period(s) as the contract performance may be extended pursuant to Clause 16.2.
- 11.3 The performance security shall be denominated in a currency of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the following forms:
- (a) a bank guarantee, issued by a bank acceptable to the Purchaser, or in such other form as is acceptable to the Purchaser; or
  - (b) a cashier's check, certified check, or cash, and/or
  - (c) Retention Money.
- 11.4 The performance security will be discharged/returned by the Purchaser not later than the warranty period as stated in Sub-Clause 13.2.

## **12. Insurance**

- 12.1 All Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery, in the manner specified in the Special Conditions of Contract.

## **13. Warranty**

- 13.1 The Supplier warrants to the Purchaser that the Goods supplied under the Contract will comply strictly with the Contract, shall be first class in every particular case and shall be free from defects. The Supplier further warrants to the Purchaser that all materials, equipment and supplies furnished by the Supplier or his subcontractors for the purpose of the Goods will be new, merchantable of the most suitable grade, and fit for their intended purposes.
- 13.2 This Warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof, as the case may be, have been delivered and commissioned or for eighteen (18) months after the date of shipment from the port of loading in the country of origin, whichever period concludes earlier, unless specified otherwise in the Special Conditions of Contract.
- 13.3 The Purchaser shall promptly notify the Supplier in writing of any claim arising under this Warranty.
- 13.4 Upon receipt of such notice, the Supplier shall promptly repair or replace the defective Goods or parts thereof, without cost to the Purchaser other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from the port of entry to the final destination.

13.5 Without prejudice to Clauses 13.2 and 13.4 above, the Supplier shall promptly correct, at no cost to the Purchaser, any defect in any work of correction performed pursuant to Clauses 13.2 and 13.4 above, upon receipt of written notice of defect within twelve (12) months from acceptance of the corrected defect.

13.6 If the Supplier, having been notified, fails to remedy the defect(s) in accordance with the Contract, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's expense. The Supplier's Warranty pursuant to this Clause 13 is without prejudice to any other rights or remedies, which the Purchaser may have against the Supplier under the Contract.

#### **14. Payment**

14.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the Special Conditions of Contract.

14.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to Clause 9 and upon fulfillment of other obligations stipulated in the Contract.

14.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.

14.4 The currency or currencies in which payment is made to the Supplier under this Contract will be made in the currency or currencies specified in the Bid Form.

#### **15. Prices**

15.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in his bid, with the exception of any change in price resulting from a Change Order issued in accordance with Clause 3, or if applicable, adjustments authorized in accordance with the price adjustment provisions specified in the Special Conditions of Contract.

#### **16. Extensions in the Supplier's Performance**

16.1 Delivery of the Goods shall be made by the Supplier in accordance with the Contract Execution Schedule, pursuant to the Special Conditions of Contract.

16.2 The Supplier may claim extension of the time limits as set forth in the Contract Execution Schedule in case of:

- (a) changes in the Goods ordered by the Purchaser pursuant to Clause 3;
- (b) delay of any materials, drawings or services which are to be provided by the Purchaser; services provided by the Purchaser shall be interpreted to include all approvals by the Purchaser under the Contract;
- (c) Force Majeure pursuant to Clause 23; and
- (d) delay in performance of work caused by orders issued by the Purchaser.

The Supplier shall demonstrate to the Purchaser's satisfaction that it has used his best endeavors to avoid or overcome such causes for delay, and the parties will mutually agree upon remedies to mitigate or overcome such causes for delay.

- 16.3 Notwithstanding Clause 16.2 above, the Supplier shall not be entitled to an extension of time for completion unless the Supplier, at the time of such circumstances arising, immediately has notified the Purchaser in writing of any delay that it may claim as caused by circumstances pursuant to Clause 16.2 above; and upon request of the Purchaser, the Supplier shall substantiate that the delay is due to the circumstances referred to by the Supplier.

#### **17. Liquidated Damages**

- 17.1 Subject to Clause 23, Force Majeure, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to his other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the Special Conditions of Contract of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery of performance, up to a maximum deduction of the percentage specified in the Special Conditions of Contract. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to Clause 18, Termination for Default.

#### **18. Termination for Default**

- 18.1 The Purchaser may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate the Contract in whole or in part:

- (a) If the Supplier fails to deliver any or all of the Goods within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser, pursuant to Clause 16; or
- (b) If the Supplier fails to perform any other obligation(s) under the Contract; and
- (c) If the Supplier, in either of the above circumstances, does not cure his failure within a period of ten (10) calendar days (or such longer period as the Purchaser may authorize in writing) after receipt of a notice of default from the Purchaser specifying the nature of the default(s).

- 18.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to Clause 18.1 above, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar goods. Notwithstanding the above, the Supplier shall continue performance of the Contract to the extent not terminated.

#### **19. Termination for Insolvency**

- 19.1 The Purchaser may at any time terminate the Contract by giving written notice to the Supplier, without compensation to the Supplier, if the Supplier becomes bankrupt or otherwise insolvent. Notwithstanding the above, such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.

## **20. Termination for Convenience**

- 20.1 The Purchaser may, by written notice sent to the Supplier, terminate the Contract, in whole or in part, at any time for his convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.
- 20.2 The Goods that are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination shall be purchased by the Purchaser at the Contract prices and on the other Contract terms. For the remaining Goods, the Purchaser may elect:
- (a) to have any portion thereof completed and delivered at the Contract prices and on the other Contract term; and/or
  - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and for materials and parts previously procured by the Supplier for the purpose of the Contract, together with a reasonable allowance for overhead and profit.

## **21. Resolution of Disputes**

- 21.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 21.2 If, after thirty (30) days from the commencement of such informal negotiations, the Purchaser and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution by arbitration by the mechanism described in the Special Conditions of Contract. The award shall be final and binding on the parties.

## **22. Applicable Law**

- 22.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser's country.

## **23. Force Majeure**

- 23.1 In the event that the Supplier or any of his subcontractors or the Purchaser is delayed in performing any of their respective obligations under the Contract, and such delay is caused by Force Majeure, including but not limited to war, civil insurrection, fires, floods, epidemics, earthquakes, quarantine restrictions and freight embargoes, such delay may be excused as provided in Clause 16, and the period of such delay may be added to the time of performance of the obligation delayed.
- 23.2 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform his obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**24. Assignment**

24.1 The Supplier shall not assign, in whole or in part, his obligations to perform under the Contract, except with the Purchaser's prior written consent.

**25. Contract Language**

25.1 The Supplier hereby represents that it has sufficient knowledge of the English language fully to understand the Contract. The Contract shall be in the English language, and all documentation related hereto will also be in the English language, except if otherwise specifically agreed in writing between the parties.

25.2 The Supplier shall bear all costs of translation to English and all risks of the accuracy of such translation.

**26. Taxes and Duties**

26.1 The Supplier shall be entirely responsible for all taxes, stamp duties and other such levies imposed outside the Purchaser's country.

**27. Headings**

27.1 Headings, whether of clauses or of other parts of the Contract, are for reference only and are not to be construed as part of the Contract.

**28. Waiver**

28.1 Failure of either party to insist upon strict performance by the other party of any provision of the Contract shall in no way be deemed or construed to affect in any way the right of that party to require such performance.

# LA UNION PORT DEVELOPMENT PROJECT

## Bidding Documents for Package C : Procurement of Floating Equipment

### Volume I

#### Section 4 Conditions of Contract Part II Special Conditions

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## Section 4 Conditions of Contract

### Part II: Special Conditions

#### 1. Definitions

1.1 Supplement sub-paragraphs 1.1 (e), (f), (i) as follows:

- (e) "The Purchaser" is the Comisión Ejecutiva Portuaria Autónoma (CEPA) of the Republic of El Salvador.
- (f) "The Purchaser's country" is the Republic of El Salvador.
- (i) "The Project Site", where applicable, means the Cutuco Port in La Unión Province, about 185 km to the east of the Capital City of San Salvador.

Add the following subparagraphs:

- (k) "The Engineer" is ....., who is appointed by the Purchaser to act on behalf of the Purchaser for the purposes of the Contract, as defined in Clause 2 hereof.
- (l) "Foreign Currency" means the US Dollar; US\$ is the abbreviation of the US Dollar
- (m) "Local currency" means the US Dollar; US\$ is the abbreviation of the US Dollar.
- (n) "The Government" means the Government of the Republic of El Salvador.
- (o) "The Project" means the La Unión Port Development Project
- (p) "Date" and "Time" means El Salvador Standard Date and Time.

#### 2. Engineer Acting on behalf of Purchaser

2.1 The Purchaser has appointed and delegated power to the Engineer named in Sub-Clause 1.1 (k) to act on behalf of the Purchaser in all matters related to the execution of the Contract.

The Engineer shall have authority to give decisions, instructions or approvals to the Supplier. Any such decisions, instructions or approvals shall have the same effect as though they had been given by the Purchaser. The Supplier shall proceed with the decisions and instructions by the Engineer in accordance with these Conditions of Contract.

Unless expressly stated otherwise in the Contract Documents, the word "the Purchaser" may also mean "the Engineer".

#### 3. Contract Execution Schedule

##### 3.1 Commencement Date

The "Commencement Date" for the supply and delivery of the Goods and services under the Contract is the date of the Notice to Proceed issued by the Engineer within 14 days after the signed Contract Agreement has been approved by JBIC.

### **3.2 Time for Completion**

The supply and delivery of the whole of the Goods under the Contract shall be completed within a period of eighteen (18) months from the Commencement Date mentioned in Sub-Clause 3.1, including two (2) months of training as specified in the Specifications.

## **4. Change Orders**

Add following Sub-Clause 3.5 to Part I:

- 3.5 The Engineer will be authorized to give Change Orders provided that he shall get prior written approval by the Purchaser for any modifications involved in such Change Orders.

## **5. Subcontracts**

Add the following sentence at the end of Sub-Clause 5.2:

The Supplier shall supervise his Subcontractors and shall bear full responsibility for their work and actions which shall be deemed as done or taken by the Supplier himself.

Add the following Sub-Clause 5.3 to Part I:

- 5.3 In the event of approved subcontracting, the Supplier shall make sure that the subcontractors shall not further sublet their subcontract, and that the combined cost of the work to be carried out by local subcontractors and the locally produced materials shall in no case exceed 25% of the Contract Price.

## **6. Eligibility of Goods**

Substitute Sub-Clause 6.1 of Part I as follows:

- 6.1 Goods and Services from all source countries are eligible for procurement under the Contract.

## **7. Inspections and Tests**

Substitute Sub-Clause 7.1 of Part I as follows:

- 7.1 The Engineer's and/or the Purchaser's representatives shall have the right to inspect and/or test the Goods to confirm their conformity to the Specifications. Specific inspections and tests required, testing methods, and dates and places where inspections and/or tests shall be carried out are prescribed in Section 10012 of the Specifications (Volume II-C, Part II of the Bidding Documents). The Engineer shall notify the Supplier in writing of the identity of any representatives designated for these purposes.

Add the following at the end of Sub-Clause 7.2 of Part I:



All transportation and accommodation charges for the Engineer's and/or the Purchaser's Representatives to attend such inspections and/or tests outside the Site or outside the Republic of El Salvador shall be borne by the Supplier.

Immediately after any test or trial, the Supplier shall submit to the Engineer's or Purchaser's Representative who attends the test the test raw data and written preliminary test result / conclusion endorsed by the Supplier's qualified and authorized personnel. Within 7 days thereafter, the Supplier shall submit to the Engineer a formal test report indicating whether the test or trial has been successful or not and showing the final detailed results thereof, in the form and number of copies as instructed by the Engineer.

Add the following sentence at the end of Sub-Clause 7.3 of Part I:

As soon as the Goods or any section thereof have passed the tests, the Engineer shall issue a Test Certificate to the Supplier with a copy to the Purchaser.

## **8. Delivery and Documentation**

Substitute Sub-Clause 9.1 of Part I as follows:

9.1 The Supplier shall make delivery of the Goods in accordance with the terms stipulated in the Specifications and the prescriptions below:

(a) For Goods supplied from outside the Republic of El Salvador (CIF):

Upon shipment, the Supplier shall notify the Purchaser and Insurance Company by fax, with a copy to the Engineer, the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company and a copy to the Engineer:

- (i) Copies of the Supplier's invoice showing the Goods' description, quantity, unit price, and total amount;
- (ii) The original and three copies of negotiable, clean on-board bill of lading marked "freight prepaid" and three copies of non-negotiable bill of lading;
- (iii) Copies of the packing list identifying contents of each package;
- (iv) Insurance certificate;
- (v) Shipbuilder/Manufacturer's or Supplier's warranty certificate;
- (vi) Inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report; and
- (vii) Certificate of origin.

The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier shall be responsible for any consequent expenses.

(b) For Goods from within the Republic of El Salvador (EXW):

Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser, with a copy to the Engineer:

- (i) Copies of the Supplier's invoice showing the Goods' description, quantity, unit price, and total amount;
- (ii) Delivery note, railway receipt, or truck receipt;
- (iii) Shipbuilder/Manufacturer's or Supplier's warranty certificate;
- (iv) Inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection reports; and
- (v) Certificate of origin.

The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier shall be responsible for any consequent expenses.

Add Sub-Clause 9.3 as follows:

- 9.3 Before the Goods are taken over the Supplier shall supply operation and maintenance manuals together with drawings of the Goods delivered. These shall be in such details as will enable the Purchaser to operate, maintain, adjust and repair all parts of the Goods.

All manuals and drawings shall be prepared in the English language. In addition, Spanish translations of operation and maintenance manuals as prescribed in Sub-Section 10009.4 of the Specifications for major Goods shall also be furnished.

The Supplier shall propose for the Engineer's prior approval the format of his drawings and operation and maintenance manuals.

The drawings and operation and maintenance manuals shall be submitted in one original and three copies for each component of the Goods and the identity of the Goods shall be clearly indicated on such documents.

Add Sub-Clause 9.4 as follows

- 9.4 After delivery of the Goods or any section of Goods together with all required spare parts and tools associated therewith, and after:

- (a) issuance of the Test Certificate for such Goods or section of Goods pursuant to Clause 7 hereof;
- (b) delivery of all documents and certificates required in Sub-Clause 9.1 above;
- (c) delivery of any required approval, permission, authorization, license, patent, copyright or any other intellectual property right relevant to the operation and possession of such Goods or section of Goods; and
- (d) approval of the drawings and operation and manuals pursuant to Sub-Clause 9.3 above;

the Supplier may apply in writing to the Engineer for issuance of an Acceptance Certificate for such Goods or section of Goods.

The Engineer shall within 14 days after receipt of the Supplier's application either:

- (a) issue the Acceptance Certificate to the Supplier with a copy to the Purchaser stating the date on which the Goods or section of Goods were delivered and accepted; or

- (b) reject the application giving his reasons and specifying the replacement or repair to be done by the Supplier to enable the Acceptance Certificate to be issued.

If the Engineer fails to take either of the actions mentioned above within 28 days, he shall be deemed to have issued the Acceptance Certificate on the last day of that period.

Partial deliveries of the Goods to be supplied under the Contract will not be permitted.

## 9. Performance Security

Substitute Sub-Clauses 11.1 to 11.4 of Part I as follows:

11.1 Within 28 days from the date of the Letter of Acceptance, the Supplier shall provide to the Purchaser a security for the proper performance of his duties under the Contract. The Performance Security shall cover an amount in US Dollar equal to 10% of the total equivalent Contract Price in this currency.

11.2 The Performance Security shall be established in the form provided in Section 3 (Form C2), and issued as a bank guarantee by a reputable bank or a bonding or insurance company authorized by the Financial System Superintendence (Superintendencia del Sistema Financiero) of the Republic of El Salvador. The Supplier shall notify the Engineer when providing the Performance Security to the Purchaser.

The Performance Security of a joint venture shall be in the name of the joint venture.

11.3 Without limitation to the provisions of Sub-Clause 11.1, whenever the Engineer determines an addition to the Contract Price as a result of a variation amounting to more than 20% of the Contract Price, the Supplier, at the Engineer's written request, shall promptly increase the value of the Performance Security by an equal percentage.

11.4 The Performance Security shall be valid until a date 28 days from the date of issuance of the Acceptance Certificate issued by the Engineer upon final delivery of the Goods. It shall be returned to the Supplier within 14 days after expiration of its validity period.

## 10. Insurance

Add following Sub-Clauses 12.2, 12.3 and 12.4 to Clause 12 of Part I:

12.2 The insurance shall cover all risks involving the supply and delivery of the Goods, the use and operation of plant and equipment at site and the labor and personnel engaged in the works under the Contract. The premium for all insurance prescribed herein shall be borne by the Supplier.

The insured amount for all risks for the Goods and equipment shall be equivalent to 110% of the full replacement cost plus profit and that of third party liability insurance shall not be less than US\$ 50,000, per occurrence, with the number of occurrence unlimited.

12.3 The insurances under the Contract shall be in the joint name of the Supplier and the Purchaser and can be placed with any major local insurers or foreign insurers that are associated with or represented by local insurers or are registered in El Salvador. The Supplier shall inform the name of insurer to and get the Purchaser's consent before placing any insurance.

- 12.4 The Supplier shall notify the insurance company of any change in the nature and extent of the supply work to ensure the adequacy of the insurance coverage at all times during the period of the Contract. The Supplier shall also be responsible for including a provision in each policy of insurance effected by the Supplier for the purpose of the Contract that the insurance company shall have a duty to give notice in writing to the Supplier and the Purchaser:
- (a) of the date when a premium becomes payable not more than thirty (30) days before the date and the policy shall remain in force until thirty (30) days after the giving of such notice;
  - (b) when the Supplier intends to make alternations to the terms of any insurance.

## 11. Warranty

Substitute Sub-Clause 13.2 of Part I as follows:

Upon issuance of the Acceptance Certificate upon final delivery of the Goods, and prior to the expiration of the Performance Security pursuant to Sub-Clause 11.4, the Supplier shall provide a Warranty Security in an amount in US Dollar equivalent to 10% of the total Contract Price at the time of its issuance, to guarantee the fulfillment of his contractual obligations during the Warranty Period of two (2) years from the date of final delivery of the Goods. The Supplier shall notify the Engineer when providing the Warranty Security to the Purchaser.

The Warranty Security can be issued in the form of a bank guarantee issued by a reputable bank or a bonding or insurance company authorized by the Financial System Superintendence (Superintendencia del Sistema Financiero) of the Republic of El Salvador.

The Warranty Security shall be valid until a date 28 days from the date of issuance of the Taking-Over Certificate for the whole of the Goods. The Warranty Security shall be returned to the Supplier within 14 days of expiration

The Warranty Security of a joint venture shall be in the name of the joint venture

The cost of complying with the requirements of this Clause shall be borne by the Supplier.

Substitute Sub-Clause 13.4 of Part I as follows:

- 13.4 Upon receipt of such notice, the Supplier shall promptly repair or replace the defective Goods or parts thereof, without costs to the Purchaser.

Add the following Sub-Clause 13.7:

- 13.7 Within 14 days after expiration of the Warranty Period specified in 13.2 above, and provided that the Supplier has completed the training program and obtained the Training Certificate in accordance with Clause 20 hereof, the Engineer shall issue a Taking-Over Certificate to the Supplier to enable him to receive the Final Payment and to release him from all duties and obligations under the Contract.

## 12. Payment

Substitute Sub-Clauses 14.1 - 14.4 of Part I by the following:

14.1 Payments to the Supplier for the Goods and Services under the Contract shall be made in US Dollar in accordance with the following terms and conditions:

- (a) Advance Payment: Twenty percent (20%) of the Contract Price, upon approval by JBIC of the signed Contract Agreement and provision of the Performance Security;
- (b) First Interim Payment: Sixty percent (60%) of the Contract Price, upon shipment of the Goods.
- (c) Second Interim Payment: Ten percent (10%) of the Contract Price, upon acceptance: of the Goods; and
- (d) Final Payment: Ten percent (10%) of the Contract Price, upon issuance of the Taking-Over Certificate at the expiration of the Warranty Period specified in Clause 13 of the Conditions of Contract.

14.2 The Supplier shall submit to the Engineer applications for payment in one original and five (5) copies each, in accordance with the terms of payment set forth in Sub-Clause 14.1 above and accompanied by the following documents and by such documents as the Engineer may require:

- (a) Advance Payment:
  - copy of the signed Contract Agreement, approved by JBIC
  - copy of the Performance Security specified in Clause 8 hereof; and
  - the unconditional Advance Payment Security established in accordance with Sub-Clause 14.3.
- (b) First Interim Payment:
  - the shipping documents specified in Clause 8 of the Special Conditions.
- (c) Second Interim Payment:
  - the Acceptance Certificate issued by the Engineer for the Goods received.
- (d) Final Payment:
  - the Taking-Over Certificate issued by the Engineer at the expiration of the Warranty Period as specified in Clause 11 of the Special Conditions.

Any applications for payment shall state the amounts claimed and the detailed particulars in respect of which the application is made.

14.3 The Bank Guarantee for Advance Payment stipulated in Sub-Clause 14.2 shall be established in the form provided in Section 3 (Form C3) and issued by a bank or a bonding or insurance company authorized by the Financial System Superintendence (Superintendencia del Sistema Financiero) of the Republic of El Salvador. It shall be valid until a date 56 days from the date of issuance of the Acceptance Certificate upon final delivery of the Goods.

The Bank Guarantee for a joint venture shall be in the name of the joint venture

14.4 Within 14 days after receiving an application for payment which the Supplier was entitled to make, the Engineer shall issue a Payment Certificate to the Purchaser showing the amount due, with a copy to the Supplier.

14.5 Payment to the Supplier shall be made in US Dollar in the amounts determined in Sub-Clause 14.1 above, by means of an irrevocable confirmed Letter of Credit (L/C) to be established by the Purchaser in favour of the Supplier under the commitment procedure for JBIC ODA loans. The cost of confirmation of the L/C shall be borne by the Supplier.

The Purchaser shall pay the amount certified within 28 days from the date of issuance of each Certificate of Payment, and within 56 days from the date of issuance of the Final Certificate of Payment. Within 14 days of receipt of each payment, the Supplier shall deliver to the Purchaser by hand or by registered mail a cash receipt signed by the Supplier with a copy to the Engineer.

14.6 A retention of ten percent (10%) shall be made on the amounts of the 1<sup>st</sup> and 2<sup>nd</sup> Interim Payments mentioned in Sub-Clause 14.1 in the relevant Interim Payment Certificates issued by the Engineer pursuant to Sub-Clause 14.4.

The sum of the retention money thus deducted from the above-mentioned payments shall be certified by the Engineer in the Final Certificate of Payment upon expiration of the Warranty Period, for payment along with the amount of the Final Payment mentioned in Sub-Clause 14.1 and other additions to or deductions from the Contract Price as have been agreed between the two parties until the date of issuance of the Taking-Over Certificate specified in Sub-Clause 13.7.

### 13. Prices

Substitute Sub-Clause 15.1 of Part I as follows:

15.1 Prices stated in the Contract shall be fixed for the duration of the Contract and any extension thereto as may be granted by the Supplier. There shall be no adjustment of any rates and costs in the Bill of Quantities, with the exception of any change in price resulting from a Change Order issued in accordance with Clause 4 of the Special Conditions.

### 14. Liquidated Damages

Supplement Sub-Clause 17.1 of Part I as follows:

A reduction in the following percentages shall be applied for each day of delay in the delivery of the Goods after the Time for Completion prescribed in Sub-Clause 3.2 hereof:

- 0.1% per day for the first 30 days of delay
- 0.125% per day for the next 30 days of delay
- 0.15% per day from the 61st day of delay

The reduction shall in no case exceed a maximum of 12% of the Contract Price.

### 15. Resolution of Disputes

Delete Sub-Clause 21.2 of Part I and substitute as follows:

- 21.2 Any dispute in respect of which an amicable settlement has not been reached within thirty (30) days after the commencement of such informal negotiations, shall be finally settled by an Arbitration Committee composed of three law arbitrators (Arbitros de Derecho) as follows: One will be designated by each party within fifteen (15) working days following the date in which either party communicates to the other his decision to submit the controversial matter to arbitration; and the third, who will act as President of the Arbitration Committee, will be designated by the other two arbitrators within fifteen (15) working days following the date of designation of the second arbitrator. If either party does not designate his arbitrator within the period established, the designation will be made by a judge or by the President of the Supreme Court of Justice of El Salvador, or by any person delegated by him. No person having personal interest in the matter of the controversy, including the project financing agency, shall be a member of the Arbitration Committee. The Committee resolutions will be taken by simple majority and will not be subject to appeal.

The Arbitration Committee shall make its decision known within twenty eight (28) calendar days of the date of designation of the third arbitrator.

- 21.3 Costs related to the arbitration shall be borne by the parties in the manner decided by the Arbitration Committee.
- 21.4 The arbitration process shall be governed by the law in force of the Republic of El Salvador. The place for arbitration shall be San Salvador City, El Salvador.
- 21.5 Arbitration may be commenced prior to or after completion of the Contract, provided that the obligations of the Purchaser and the Supplier shall not be altered by reason of the arbitration being conducted during the progress of the supply work under the Contract.

## 16. Contract Language

Add the following paragraph to Sub-Clause 25.1 of Part I:

If another language is used in any document, an English translation shall be incorporated in such document, in which case the English text shall prevail.

## 17. Taxes and Duties

Delete Clause 26 of Part I in its entirety and substitute as follows:

### 26.1 Foreign Taxation

All taxes, duties, levies and other charges imposed outside the Republic of El Salvador on the production, manufacture, sale and transport of the Goods and Supplier's equipment, plant, materials and supplies to be used on or furnished under the Contract, and on the services performed under the Contract, shall be deemed as included in the Contract Price rates and prices entered in the Bill of Quantities

### 26.2 Local Taxation

The amount of taxes and duties entered in the Bill of Quantities shall be deemed as inclusive of all local taxes and duties such as IVA (Impuesto al Valor Agregado), municipal tax, business income tax, import tax and customs duty, and others that may be levied in

accordance with the laws and regulations in the Republic of El Salvador on the Goods and the Supplier's equipment, plant, materials and supplies (permanent, temporary and consumable) acquired for the purpose of the Contract and on the services performed under the Contract.

The municipal tax will be borne by the Purchaser. Customs and import duties levied on temporarily imported equipment and materials for the purposes of the Contract are exempted in accordance with Decree No. 43 dated May 18, 1994 of the Central American Uniform Customs Code (CAUCA). Payment or exemption of IVA and other taxes and duties shall be decided during the contract negotiation between the Purchaser and the successful bidder, and incorporated in the final Contract Price.

Notwithstanding the above provisions, it is the responsibility of the Supplier to inquire himself with Tax authorities about all taxes and duties to which he shall be subjected in the execution of the supply work under the Contract. Nothing in the Contract shall relieve the Supplier and his Subcontractors from their responsibility to pay any taxes and duties that may be levied on them in the Republic of El Salvador in respect of the Contract.

### **26.3 Income Tax on Staff**

The Supplier's staff, personnel and labor will be liable to pay personal income tax in the Republic of El Salvador in respect of such of their salaries wages and benefits as are chargeable under the laws and regulations for the time being in force, and the Supplier shall perform such duties in regard to such deduction thereof as may be imposed on him by such laws and regulation.

## **18. Spare Parts and Maintenance Service**

Add Sub-Clause 29.1 as follows:

29.1 The spare parts to be provided under the Contract shall include:

- (a) Compulsory spare parts as set out in the Specifications for the respective Goods;
- (b) Optional spare parts proposed by the Supplier and which the Purchaser might purchase in addition to the compulsory spare parts, in part or in whole.

Prior to the issuance of the Acceptance Certificate, the Supplier shall submit to the Engineer for approval a schedule of spare parts and service facilities for all items of the Goods to be provided under the Contract. In each case, the named stockists and agents must be capable of ensuring the delivery of a spare part to the Cutuco Port within a period of 5 working days from the date on which the Purchaser's notification of the need for such spare parts or service reaches the Supplier. The schedule shall comprise a list of all items of Goods, and at least the following information shall be provided for each item:

- (a) names and addresses of spare part stockists;
- (b) extent (value or other relevant indicator) of spare parts held in stock;
- (c) names and addresses of service agents;
- (d) the number of years that each spare part stockist and/or service agent has been representing the company supplying the Goods.



In addition to the above, the Supplier shall attach a letter guaranteeing that all essential spare parts which affect the operation and performance of any or all of the Goods to be provided under the Contract will be available at all times for a period of at least 15 years from the date of the Acceptance Certificate.

#### **19. Licenses and Permits, and Customs Clearance**

Add Sub-Clause 30.1 and 30.2 as follows:

30.1 The Supplier shall obtain, at his own responsibility and cost, all licenses and import permits required for any part of the Goods to be provided under the Contract. Delay in obtaining such documents by the Supplier will not in any case be considered as a valid cause for extension of time for delivery of any part of the Goods.

30.2 The Supplier or his designated agent shall be solely responsible for the completion of all formalities for customs clearance of all Goods, materials, plant, machines, and equipment required for the purposes of the Contract.

#### **20. Training of Purchaser's Personnel**

Add Sub-Clause 31.1 as follows:

31.1 A training program for the Purchaser's operation and maintenance personnel in accordance with Section 10017 of the Specifications shall be prepared by the Supplier and submitted for the Engineer's approval. This program shall be carried out by qualified experts who shall be subject to approval by the Purchaser. They shall be experienced in the work on which training is to be provided and in explaining/ demonstrating in English or Spanish language (if necessary through a competent interpreter to be provided by the Supplier) to the personnel to be trained. The training program shall cover at least the items stipulated in the Specifications. The training program shall include a final evaluation session to demonstrate the effectiveness of the training program for each trainee. The evaluation session shall cover both technical knowledge and practical skills in operation and maintenance of all Goods in actual working condition, in both day and night working hours. The criteria for the evaluation shall be submitted for the Engineer's approval prior to implementation of the training program.

The Supplier shall provide all necessary facilities to effectively conduct the training program. All expenses in connection with the training program, including traveling and accommodation charges and per-diem of trainees, shall be borne by the Supplier.

As soon as the training evaluation results have passed the basis set out in the approved criteria, the Engineer shall issue a Training Certificate to the Supplier, with a copy to the Purchaser.

#### **21. Use of Local Service and Materials**

Add Sub-Clause 32.1 as follows:

32.1 Foreign suppliers and subcontractors are advised to use local materials, plant, subcontractors and supplies to the largest extent possible according to the existing production, processing and service capacity in the Republic of El Salvador, but in any case the total value of such local materials and services shall not exceed 25% of the Contract Price.

**22. Monthly Progress Reports**

Add Sub-Clause 33.1 as follows:

33.1 Within the first week of every month from the 2<sup>nd</sup> month of execution of the Contract, the Supplier shall submit to the Engineer a monthly report on the progress of the supply work under the Contract. The monthly reports shall be submitted in the number of copies and in such form and details as the Engineer will reasonably prescribe.

**23. Notices**

Add Sub-Clauses 34.1 and 34.2 as follows:

34.1 All certificates, notices or written orders to be given to the Supplier by the Purchaser or the Engineer under these Conditions shall be sent by airmail post, cable, or facsimile transmission to or left at the Supplier's principal place of business or such other address as the Supplier shall nominate for that purpose, or may be handed over to the Supplier's designated representative.

34.2 Any notice to be given to the Purchaser or to the Engineer under these Conditions shall be sent by airmail post, cable or fax transmission to or left at the respective addresses indicated below, or handed over to the Purchaser's or the Engineer's representatives authorized to receive it.

Address for notice to the Purchaser:

Comisión Ejecutiva Portuaria Autónoma (CEPA)  
Edificio Torre Roble  
Boulevard de Los Héroes  
San Salvador, El Salvador  
Tel. No. ....  
Fax. No. ....

Address for notice to the Engineer:

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