



**UNION**

**SECRETARIAT OF PORTS OF THE PRESIDENCY OF THE REPUBLIC- SEP/PR**

**NATIONAL WATERWAY TRANSPORT AGENCY- ANTAQ**

**AUCTION NOTICE**

**AUCTION NOTICE FOR LEASING OF PUBLIC AREA AND INFRASTRUCTURE LOCATED WITHIN  
AN ORGANIZED PORT**



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## PREAMBLE

THE **NATIONAL WATERWAY TRANSPORT AGENCY - ANTAQ** informs the public and whomsoever it may concern that it will be holding a Tender, in the form of an Auction, in accordance with procedures described in this Auction Notice, in Annex 1 - Specific Conditions of Auction and in Auction Procedures Manual, for the purpose of selecting the most advantageous proposal for signing of a lease contract for an area and public infrastructure located within an organized port. Bidders shall observe rules and procedures established in Federal Law 12.815, of June 5, 2013 and in Federal Decree 8.033, of June 27, 2013, and also in Federal Laws 8.666/93, 8.987/95 and 12.462/11.

The Representation Documents, Preliminary Statements, Bid Security, Eligibility Instruments and Lease Proposal relating to the Auction shall be received only on 03/28/2016, from 10h. to 13 h., at BM&FBOVESPA, located at the city of São Paulo, São Paulo State, at Rua XV de Novembro, nº 275 – Centro.

The Public Auction and opening of the Bidders' Lease Proposals shall take place on 03/31/2016, as of 10 h, at BM&FBOVESPA, located at the city of São Paulo, São Paulo State, at Rua XV de Novembro, nº 275 – Centro.

This Auction Notice shall be published in the Official Gazette (DOU). Note that all subsequent notices relating to the bidding shall be via the Official Gazette (DOU) and the ANTAQ and SPE/PR website.

The Auction Notice and other documents pertaining thereto shall be available for consultation and acquisition since 01/22/2016, via the Internet, on the ANTAQ website, [www.antaq.gov.br](http://www.antaq.gov.br) and SEP/PR, [www.portosdobrasil.gov.br](http://www.portosdobrasil.gov.br). The Auction Notice may also be obtained at the offices of ANTAQ, located at SEPN, Quadra 514, Conjunto "E", Edifício Antaq, Brasília, Distrito Federal, CEP 70760-545.

The tender was preceded by a Public Hearing, in accordance with art. 39 of Federal Law 8.666/93, and art. 11, § 3, of Federal Decree 8.033/2013, having been duly published in the



Official Gazette (DOU) of 08/12/2013 and held on 08/30/2013, as was also the Public Consultation foreseen in art. 34-A, §1, of Federal Law 10.233/2001, held between 08/12/2013 and 09/06/2013, having also been published in the Official Gazette (DOU), on 08/12/2013.

Brasília/DF, January 22<sup>nd</sup>, 2016.



## CHAPTER I - INITIAL PROVISIONS

### Section I - Definitions

1.1. For purposes of this Auction Notice, and notwithstanding other definitions herein, the following expressions shall be thus defined:

1.1.1. **Winning Bidder**, winner of the tender;

1.1.2. **ANTAQ**: National Waterway Transport Agency, an entity created by Federal Law 10.233/2001, responsible for holding these tender proceedings;

1.1.3. **Annex to the Contract**: each of the annexes to the Lease Contract

1.1.4. **Annexes**: each of the documents annexed to the Auction Notice, followed by its name;

1.1.5. **Area of the Organized Port**: an area demarked by an act of the Executive Branch, comprising port installations and infrastructure for protection of and access to the Organized Port;

1.1.6. **Lease**: assignment for consideration of an area and public infrastructure located within the Organized Port, as described in the Contract and its Annexes, for exploitation for a specified period;

1.1.7. **Lessee**: a Special Purpose Entity to be constituted by the Winning Bidder, in the form of a corporation, in accordance with Brazilian laws and with head offices and administration in Brazil;

1.1.8. **Activities**: port activities to be exploited by the Lessee within the area indicated in the Contract and its Annexes and as described therein.



- 1.1.9. **BM&FBOVESPA:** BM&FBOVESPA S.A. – the Stock, Goods and Futures Market, based in the Municipality of São Paulo, State of São Paulo, at Rua XV de Novembro, nº 275 – Centro, advisor to the Special Tender Committee, manager of the financial guarantees, and responsible for conducting the Public Auction;
- 1.1.10. **Affiliates:** companies under significant influence of another company that holds or exercises power to participate in financial or operational policy decisions, without controlling them. Significant influence is presumed when the holding is of twenty percent (20%) or more of voting capital of the company, without control thereof;
- 1.1.11. **Special Tender Committee:** a committee established by ANTAQ, responsible for conducting proceedings relating to the Auction, for examining and judging all documents and proposals, and for responding to requests for clarification submitted in accordance with this Auction Notice and its Annexes;
- 1.1.12. **Consortium:** a group of Bidders, jointly liable for fulfilling obligations arising from this Tender, linked via the Term of Commitment to Constitute a Special Purpose Entity, in accordance with Appendix 1 – Auction Notice Models;
- 1.1.13. **Contract:** the Lease Contract to be signed between the Grantor Authority and the Lessee, under the terms of Annex 3 and 4 – Draft Lease Contract;
- 1.1.14. **Subsidiary:** a company in which the Controller, either directly or through other subsidiary or affiliate companies, is holder of shareholder rights that permanently ensure a majority of voting rights in corporate decisions and the power to elect the majority of the company’s administrators; effectively using its power to direct corporate activities and orient the functioning of company bodies;
- 1.1.15. **Controller:** person or entity which:



1.1.15.1. Is the holder of shareholder rights that permanently ensure a majority of voting rights at deliberations of the general meeting and the power to elect a majority of the company's administrators ; and

1.1.15.2. Effectively uses power to direct corporate activities and orient the functioning of company bodies.

1.1.16. **Accredited Broker:** a brokerage company licensed (under Brazilian law) and authorized to operate by BM&FBOVESPA, contracted by the Winning Bidder to represent it in all acts relating to the Auction before BM&FBOVESPA;

1.1.17. **Date for Receipt of Envelopes:** Day at which the **Bidders** shall deliver to **BM&FBOVESPA**, all documents necessary for participation in the **Auction**.

1.1.18. **Eligibility Documents:** a set of documents listed in the Auction Notice designed to show respective legal, fiscal, technical and economic-financial regularity;

1.1.19. **Auction Notice:** this document and its specific conditions, which stipulate the rules of the Auction;

1.1.20. **Leading Company** of the Consortium: a company indicated by the Bidders participating in the tender as Members of a Consortium, responsible before the Grantor Authority for compliance with obligations contained in this Auction Notice, notwithstanding joint liability of other consortium partners;

1.1.21. **Bid Security:** a guarantee of full compliance by the Winning Bidder with the Lease Proposal, that may be executed under terms foreseen in this Auction Notice;

1.1.22. **Auction:** a modality of Tender for selection of a Winning Bidder who shall, in turn, set up a Special Purpose Entity responsible for performance of the object of this Contract;





- 1.1.23. **Auction Procedures Manual:** a document published by BM&FBOVESPA on its Internet page, consigning guidelines, rules and models of documents for the Public Auction, and also procedures for provision of Bid Security;
- 1.1.24. **NCM:** MERCOSUR Common Nomenclature;
- 1.1.25. **Port Operator:** a prequalified corporate entity to carry out activities for handling/storage of cargo/goods, for or from water transport, within the area of the Organized Port;
- 1.1.26. **Grantor Authority:** the Union, through the SEP;
- 1.1.27. **Organized Port:** a public asset, built and equipped to serve the needs of shipping, movement of passengers, or movement and storage of goods, the transit and port operations of which are under jurisdiction of the port authority;
- 1.1.28. **Bidders:** corporate entities, investment funds and private pension funds participating in the Auction, individually or as a Consortium;
- 1.1.29. **Accredited Representatives:** persons authorized to represent Bidders in all documents and sessions relating to the Auction, except in acts before BM&FBOVESPA;
- 1.1.30. **SEP:** Secretariat of Ports of the Presidency of the Republic (SEP/PR), created by Federal Law 11.518/2007;
- 1.1.31. **Public Auction:** a public session for opening of Lease Proposals submitted by Bidders;
- 1.1.32. **Users:** all persons and corporations that are users of **Activities** provided by the Lessee, or by third parties he may indicate, in the Area of the Organized Port;



1.1.33. **Lease Value:** the sum owed by the Lessee to the Port Administration, for exploitation of the Lease, under the terms of the **Annex 4 Specific Conditions of Contract;**

1.1.34. **Bid Value:** Sum offered by the Winning Bidder to obtain the right to exploit the Lease, under the terms of the **Annex 4 - Specific Conditions of the Contract.**

1.2. Except when the context disallows such interpretation, the definitions in the Auction Notice shall be equally applied in both singular and plural forms.

## Section II - Object

2.1. The object of this Auction is the Lease of an area, infrastructure and public port installations, located within an organized port, in accordance with specifications in Annexes 1 - Specific Conditions of Auction and 3 - Draft Lease Contract, observing requisites established in this Auction Notice and its Annexes.

2.2. Considering the possibility of tendering more than one Lease for an area and public infrastructure in the same Auction, a contract shall be signed for each Lease, observing the rules and guidelines in the Annexes 1 - Specific Conditions of Auction and 3 - Draft Lease Contract.

2.3. Remuneration of the Lessee shall be in the form of revenues charged directly from Users of the **Activities** provided, as foreseen in the Contract.

2.4. This Auction Notice comprises the following Annexes:

- Annex 1. Specific Conditions of Auction;
- Annex 2. Technical Guidelines and Lease Parameters
- Annex 3. Draft Lease Contract



- Annex 4. Specific Conditions of Contract
- Annex 5. Boundaries of the Lease area

### **Section III – Access to the Auction Notice**

3.1. The Auction Notice for this Tender, its Annexes, and all available information, studies and projects can be obtained:

3.1.1. On the ANTAQ website, [www.antaq.gov.br](http://www.antaq.gov.br), and SPE/PR website, [www.portosdobrasil.gov.br](http://www.portosdobrasil.gov.br), since 01/22/2016, with delivery of such studies and information subject to rules foreseen in this Auction Notice.

3.1.2. At the offices of ANTAQ, located in Brasília, Distrito Federal, at SEP/PR, Quadra 514, Conjunto "E", Edifício Antaq, Brasília, Distrito Federal, CEP 70760-545.

3.2. Interested parties shall obtain the Auction Notice by the means specified, so as to guarantee the authenticity of the texts and ensure that they are in possession of all documents and Annexes that comprise the bid announcement.

3.3. ANTAQ shall not be held responsible for text and annexes of the Auction Notice obtained by other means or at locations other than those indicated in this bid announcement.

3.4. Obtaining of the Auction Notice shall not be a condition for participation in the Auction, it being sufficient for this end, that the Bidder have knowledge of and accept all its terms and conditions.

### **Section IV – Clarifications of the Auction Notice**



- 4.1. The Special Tender Committee shall provide clarifications on the Auction Notice, *ex officio* or at the request of Bidders and such clarifications shall be duly recorded in minutes and, in accordance with Item 4.5, shall be of a binding nature for purposes of interpretation of its rules.
- 4.2. Any requests for clarification shall be submitted no later than 18:00 hs of 03/01/2016, in the following manner:
- 4.2.1. electronically, on the ANTAQ website, on a specific form which will be made available; or
  - 4.2.2. filed by matching receipt at ANTAQ headquarters, including the file in printed form and electronically recorded in “.doc” format.
- 4.3. The Special Tender Committee shall not provide clarifications presented in any format other than that presented in Item 4.2.
- 4.4. All answers of the Special Tender Committee to requests for clarification submitted under the terms of this Item shall be recorded in minutes, which shall be an integral part of the bidding process.
- 4.5. The minutes shall be disclosed on the ANTAQ website no less than 8 days prior to the **Date for Receipt of Envelopes** described in Item 20.1, and shall be available to interested parties at the headquarters of the Agency for consultation, without identifying the sources of the questions. Bidders may also obtain a copy of the clarification minutes at ANTAQ headquarters, upon payment of copying charges.

## Section V - Technical Visits

- 5.1. Bidders may conduct up to 2 (two) technical visits for purposes of obtaining additional information on the current area, infrastructure and public facilities object of the Lease,



at which time said Bidders may also assess any potential environmental issues, observing the procedure described in the **Specific Conditions of the Auction Annex**, and additional instructions to be disclosed by the Special Tender Committee.

5.2. Bidders may indicate up to 6 (six) representatives to participate in technical visits.

5.3. Participation in technical visits is optional. The Bidder shall present among his eligibility documentation a Certificate of Technical Visit or Declaration of Full Knowledge, stating that he has full knowledge of the areas, infrastructure and public facilities in which the Activities are to be performed and of conditions that may affect their performance, of accesses to the areas, of the material and equipment to be used, and of other information necessary for achieving the purposes of the Lease.

#### **Section VI – Challenges to the Auction Notice**

6.1. Any challenges to the Auction Notice must be filed at ANTAQ headquarters, no latter than 18:00 hs from 03/17/2016, under penalty of losing this right.

6.2. The challenge to the Auction Notice shall be addressed to the president of the Special Tender Committee and delivered in physical and electronic form at ANTAQ headquarters, or electronically on the ANTAQ website, no latter than 18:00 hs. If there are discrepancies of information among the versions, the content of the physical version shall prevail.

6.3. The Bidder shall, in his challenge, specify which Lease he is referring to, or indicate whether he is questioning the Auction Notice as a whole. A challenge relating to one Lease shall not prevent or suspend continuity of Tenders for the other Leases, at the discretion of the Grantor Authority.

6.4. The Special Tender Committee shall judge and respond to possible challenges in up to 3 (three) business days before the **Public Auction**.



6.4.1. The judges of the Special Tender Committee to possible challenges submitted under the terms of this Item shall be recorded in minutes, which shall be an integral part of the bidding process.

6.4.2. The minutes shall be disclosed on the ANTAQ website and shall be available to interested parties at the headquarters of the Agency for consultation. Bidders may also obtain a copy of the minutes at ANTAQ headquarters, upon payment of copying charges.

6.5. It shall be up to the discretion of the Grantor Authority to proceed with the Tender if any administrative or judicial measure suspends the event only in relation to one or more Leases and not the totality of the object of the Auction.

## **Section VII - General Provisions**

7.1. All the Tender documents, including correspondence exchanged between Bidders and the Special Tender Committee, shall be written in the Portuguese language, as all documentation shall be consulted and interpreted in said language.

7.2. For purposes of evaluation and judgement of Proposals, no documents of foreign origin submitted in other languages without (i) authentication of the respective Brazilian consulates, and (ii) a sworn translation into Portuguese, shall be accepted.

7.3. Except when expressly authorized in this Auction Notice, the documents must observe models in the bid announcement, if such there be.

7.4. All times mentioned in this Auction Notice refer to official time in Brasília.



- 7.5. Correspondence relating to the Auction Notice and sent to the Special Tender Committee shall be considered delivered on the date of receipt, against matching receipt or other form of message-receipt confirmation, in the case of electronic mail.
- 7.6. Correspondence received after 6 pm, including those sent to an electronic address, will be considered as received on the following business day.
- 7.7. Any alteration in the Auction Notice shall be announced in the Official Gazette (DOU) and on the ANTAQ and SEP/PR website.
- 7.8. Documents submitted in electronic format may not contain access restrictions or content protection.
- 7.9. If there is any discrepancy between information submitted in physical and electronic form, those presented in hard copy shall prevail.
- 7.10. The information, studies, research, investigations, surveys, projects, spreadsheets and other documents or data available on the ANTAQ website were obtained or carried out exclusively for purposes of pricing of the Auction, and do not have any binding effect or liability upon ANTAQ and/or the Grantor Authority before Bidders and/or the future Lessee.
- 7.11. Bidders are responsible for direct analysis of conditions of the respective area, infrastructure and public facilities of the Lease, for all data and information on its exploitation, and also for examination of all instructions, conditions, requirements, laws, decrees, standards, specifications and regulations applicable to the Auction, to the Lease and to the Organized Port, and shall bear their respective costs and expenses and any resulting damages, including those relating to performance of studies, investigations, technical visits, surveys, projects and investments.



7.12. Participation in the Auction implies full and unconditional acceptance of all terms, provisions and conditions of the Auction Notice and its Annexes, of the Draft Lease Contract and its Annexes, and of all other applicable standards.

7.13. Subject to the specific rules of this Auction Notice, the values provided in the Auction Notice and Annex 1 - Auction Specific Conditions shall be adjusted by applying the IPCA, released by the Instituto Brasileiro de Geografia e Estatística - IBGE. Values will be adjusted every twelve (12 ) months from the reference date.

## **CHAPTER II - SPECIAL TENDER COMMITTEE**

8.1. The Auction shall be judged by the Special Tender Committee, which shall conduct the necessary work for holding of the event.

8.2. The Special Tender Committee may request information from any bodies and entities involved in this Tender, as well as all those of the Federal, State and Municipal Public Administration.

8.3. Aside from the prerogatives pertaining implicitly to its legal function, the Special Tender Committee may:

8.3.1. request from Bidders, at any time, proceedings aimed at determining, clarifying and solving any issue relating to documents submitted, including, but without limitation, formal flaws, discrepancies of information, translations to or from another language;

8.3.2. adopt criteria for solution of flaws and defects of a formal nature and complementation of insufficiencies during the course of the Auction;





- 8.3.3. take steps to clarify or complement instructions for the Auction, subsequent inclusion of any document or information that ought to have been included among the Volumes described in Item 20.1 submitted by the Bidder being expressly forbidden;
  - 8.3.4. extend deadlines set in the Auction Notice, in cases of public interest, fortuitous event or force majeure, without Bidders having the right to compensation or reimbursement of costs and expenses for any reason;
  - 8.3.5. in the event of an alteration that unequivocally affects the drafting of Proposals, change the **Date for Receipt of Envelopes** described in Item 20.1.
- 8.4. Refusal to provide explanations and documents or to fulfill requirements requested by the Special Tender Committee, within the period determined by it and in accordance with the terms of this Auction Notice, may result in disqualification of the Bidder, with consequent forfeiture of Bid Security.

### CHAPTER III - PARTICIPATION IN THE AUCTION

- 9.1. Under the terms of this Auction Notice, Brazilian or foreign legal entities, pension funds and investment funds, alone or as Consortia, may participate in the Auction.
  - 9.1.1. The Specific Conditions of Auction Annex may provide restrictions or impediments to the holding by the same Bidder of one or more Leases under the Auction, as a means of preserving organized competition within the area of the Organized Port, respecting the provisions of Item 31.1.
- 9.2. Bidders must be represented at the Auction by Accredited Representatives and Accredited Brokers.



## Section I - Participation of Foreign Companies

- 10.1. Bidders that are foreign corporate entities that do not function in Brazil must submit, both for stand-alone participation or as Consortia, documents equivalent to those required for eligibility of Brazilian Bidders, which must be authenticated by the Brazilian consular authority in their country of origin, and translated by a sworn translator.
- 10.2. Bidders that are foreign corporate entities that do not function in Brazil must submit a statement, according to the model in Appendix 1 - Auction Notice Models, certifying correlation between the administrative-legal documents normally required for tenders in Brazil and the corresponding ones of the country of origin, also indicating correlation of their respective validities.
- 10.3. The equivalent Eligibility Documents must be submitted, so as to enable analysis by the Special Tender Committee, of their validity and enforceability.
- 10.4. In the event of non-existence of documents equivalent to those requested in this Auction Notice or of a body in the country of origin that authenticates them, the Bidder shall submit a statement informing this fact, in accordance with the model in Appendix 1 - Auction Notice Models Annex.
- 10.4.1. If any of the documents required in Subsection III, Section V, Chapter IV of this Auction Notice corresponds to the hypothesis in the previous Item, a statement of non-existence of equivalent document must be added to the corresponding declaration of absence of tax and labor debts.
- 10.5. The Legal Representative of a foreign Bidder shall be a legally accredited person domiciled in Brazil, with express powers, of proxy by private or public instrument, legalized and attested by consulate, if appropriate, notarized as authentic by a notary or other entity, in accordance with rules applicable to documents, to receive citation



and respond administratively and in court for the Bidder in Brazil, and to represent the foreign legal-entity Bidder in all phases of the tender process, observing the provisions of Item 7.1.

- 10.6. The foreign Bidders that are authorized to function in Brazil must present the same documents required to Brazilian bidders.

## Section II - Participation in Consortium

- 11.1. In relation to Consortia, the following rules shall apply, notwithstanding others in this Auction Notice:

11.1.1. For formation and organization of Consortia, Bidders shall comply with the provisions of this section and applicable legislation;

11.1.2. Each Consortium member must, individually, comply with provisions of this Auction Notice relating to Preliminary Statements, and to Eligibility Documents;

11.1.3. Disqualification of any Consortium member shall result in automatic disqualification of the Consortium;

- 11.2. There is no limit to the number of participants for formation of a Consortium.

- 11.3. Inclusion, replacement, withdrawal, exclusion or even alteration in the percentage shares of Consortium members shall not be accepted, as of the **Date for Receipt of Envelopes** described in Item 20.1, until signing of the Contract.

- 11.4. Aside from other documents required by the Auction Notice, participation of a Bidder under a Consortium shall be conditioned to presentation of a commitment to Formation of a Special Purpose Entity, subscribed by Consortium members, under the



terms of Appendix 1 - Auction Notice Models, expressly stating each of the Leases for which proposals are submitted.

11.5. At the same Auction, each legal entity can participate in only one Consortium, a restriction that shall extend to their Subsidiaries, Affiliates and entities under the same common control.

11.6. In the event that a Bidder participates in a Consortium, he will also be barred from participating in isolation in the Auction, or for any of the Leases under said Auction, and this restriction shall extend to all Subsidiaries, Controllers, Affiliates and entities subject to the same common control.

11.7. Provided there is no ban in the Annex 1 - Specific Conditions of Auction Notice, a Consortium may submit one proposal for more than one Lease, provided the percentage shares and its Consortium members remain unchanged.

11.8. Joint liability of Consortium members will cease, for purposes of the obligations assumed as a consequence of the Auction:

11.8.1. if the Consortium is declared winner, on the date of signing of the Contract; and

11.8.2. If the Consortium is not the winner, after up to fifteen (15) days, counted as of the date of signing of the Contract.

11.9. If a Consortium is comprised of foreign and Brazilian companies, leadership shall be exercised by a Brazilian company, freely chosen among members of the Consortium.

### **Section III – Limits to Participation**

12.1. Participation in this Auction is disallowed for corporate entities, individually or in Consortium, that:



- 12.1.1. Have been declared ineligible by act of the Public Authorities;
  - 12.1.2. Are suspended or barred from participation in tenders or signing of contracts with ANTAQ or SEP, under provisions of Law 8.666, of June 21, 1993;
  - 12.1.3. Have been condemned by final judgment, to a disqualification penalty, owing to environmental crimes, as disciplined in art. 10 of Federal Law 9.605, of February 12, 1998;
  - 12.1.4. Have been condemned, by final administrative decision, to a penalty provided for in art. 38, II, of Federal Law 12.529, of November 30, 2011;
  - 12.1.5. Have leaders or technical managers who are in, or who have held, appointed positions, staff positions or jobs at ANTAQ and/or at SEP, or have been board members, high-level advisors or intermediate assistants in the Direct Administration of the Union, within the previous one hundred and eighty (180) days prior to the date of publication of the Auction Notice;
    - 12.1.5.1. The restriction in Item 12.1.5 does not apply to members of the Administrative Council, the Fiscal Council and the Consultative Council of potential Bidders;
  - 12.1.6. Have final civil convictions for an act of improper conduct, under the terms of Federal Law 8.429, of June 2, 1992;
  - 12.1.7. Are under judicial/extrajudicial or bankruptcy protection or/and civil insolvency, accommodation with creditors, in dissolution or in liquidation.
- 12.2. For verification of events mentioned in items 12.1.1, 12.1.2 and 12.1.6 the Unified Registration System and Suppliers (SICAF), the National Registry of Disreputable



and Suspended Companies (Ceis) of the Comptroller General (CGU), the Transparency Portal and the CNJ Portal must be consulted.

#### CHAPTER IV - DOCUMENTATION

13.1. With the exception of Guarantees in the form of bank guarantees and guarantee insurance, which must be in original form, in first-copy of Volume 1, described in Item 20.1, all other Documents shall be presented in their original form or certified copy, and initialed by the respective Accredited Representatives. The Bidders may submit certified copies of guarantee insurance policies to instruct the 2<sup>nd</sup> and 3<sup>rd</sup> copies of the 1<sup>st</sup> Volume.

13.1.1. Certificates that do not specify duration will be accepted if they have been issued within 90 (ninety) days prior to the Date for Receipt of Envelopes.

13.1.2. Certificates obtained electronically with digital authentication will be considered as valid. Electronic certificates not bearing the digital authentication are valid as long as issued by the official electronic site of the competent organ.

13.2. All documents submitted by Bidders shall remain in custody of BM&FBOVESPA until after the fifteen (15) day deadline, counted as of signing of the Contract, with exception to the documents of the winning bidder, which will be given to the Special Tender Committee.

13.3. As of the period provided for in the previous Item, the documents submitted by unsuccessful Bidders shall be transferred to ANTAQ, and may be removed by said Bidders upon notification of completion of all steps of inspection by the Federal Court of Auditors (TCU) as provided for in Normative Instruction 27, of December 2, 1998.

13.3.1. The Bid Security shall be returned by BM&FBOVESPA to Bidders in up to fifteen (15) days after signing of the Contract.



- 13.3.2. Thirty (30) days after receipt of notification of completion of the inspection mentioned in Item 13.2, ANTAQ shall destroy documents not withdrawn by the Bidders.

## Section I - Preliminary Statements

- 14.1. Bidders shall submit Preliminary Statements, in accordance with models in the Appendix 1 to this Auction Notice, to the effect that :
- 14.1.1. They are aware of all the requirements foreseen in the Auction Notice and its Annexes, in accordance with models in the Appendix 1 - Auction Notice Models;
  - 14.1.2. They are not affected by the hypotheses of limitation to participation in the event specified in the Auction Notice, in accordance with models in the Appendix 1 - Auction Notice Models;
  - 14.1.3. They are not in a process of bankruptcy, self-declared bankruptcy, judicial or extrajudicial recovery, judicial or extrajudicial liquidation, insolvency, special temporary administration or under intervention of a competent inspection agency, in accordance with models in the Appendix 1 - Auction Notice Models; and
  - 14.1.4. They comply with the provisions of art. 7, inset XXXIII, of the Federal Constitution, which includes among the rights of urban and rural workers a prohibition against night work, dangerous or unhealthy labor for children under the age of eighteen, and of any work for those under sixteen except as apprentices from age fourteen, in accordance with models in the Auction Notice Models Annex.



## **Section II - Representatives**

### **Subsection I - Accredited Representatives**

15.1. Each Bidder or each Consortium may have up to two (2) Accredited Representatives.

15.2. Proof of the powers of Accredited Representatives shall be in the form of:

15.2.1. In the case of Brazilian companies, by power of attorney attesting powers to perform, on behalf of the Bidder, all acts referent to the Auction (including powers to receive citations, represent the Bidder administratively and judicially, sign contracts and waive rights) in accordance with models in the Appendix 1 - Auction Notice Models, notarized and accompanied by documents proving the powers of the assignee(s) (in accordance with the latest amendment filed with the competent civil or business registration authority);

15.2.2. In the case of Bidders in Consortium, the power of attorney mentioned in the previous Item must be granted by the Leading Company, notarized and using the model in the Appendix 1 - Auction Notice Models, and shall be accompanied by:

15.2.2.1. indication that the Leading Company is responsible for actions taken by the Consortium before the Grantor Authority;

15.2.2.2. powers of attorney assigned by Consortium members to the Leading Company, in accordance with those in the Appendix 1 - Auction Notice Models (Bidders in Consortium) with express, irreversible and irrevocable powers to agree to conditions, condescend, make commitments, sign any papers, contract documents and instruments related to the object of the Auction;





- 15.2.2.3. documents proving the powers of all parties (in accordance with the latest amendment filed with the competent civil or business registration authority); and
  - 15.2.2.4. a commitment to establish a Special Purpose Entity subscribed by Consortium members, in accordance with those in the Appendix 1 - Auction Notice Models.
  - 15.2.2.5. In the case of a foreign corporate Bidder by means of presentation of: power of attorney granted to a representative resident and domiciled in Brazil, in accordance with the Appendix 1 - Auction Notice Models (Foreign Bidders), proving powers to: perform, on behalf of the Bidder, all acts referent to the Auction; receive citations and represent the Bidder administratively and in court; and make contracts and waive rights and, if appropriate, assign powers to Accredited Representatives, accompanied by documents proving powers of the assignees, with signature(s) duly authenticated by a notary or other entity in accordance with applicable law, recognized by the nearest Brazilian consular representation, duly translated into Portuguese by a sworn translator and registered in the Registry of Deeds and Documents (in accordance with the latest amendment filed in the competent business or civil registry or as required by the equivalent body in the country of origin).
- 15.3. At least one of the Accredited Representatives shall sign all declarations and documents referred to in this Auction Notice.
  - 15.4. Each Accredited Representative may exercise representation of only one Bidder.
  - 15.5. Notwithstanding the provisions of this subsection, Accredited Representatives shall not be allowed to intervene or perform acts during the Public Auction, bearing in mind that such representation shall be exercised exclusively by Accredited Brokers.



## **Subsection II - Accredited Brokers**

- 15.6. The Accredited Brokers shall represent the Bidders before BM&FBOVESPA, during delivery of all documents required in this Auction Notice, especially the Bid Security, Economic Proposal and Eligibility Documents, and in acts during the Public Auction.
- 15.7. The Intermediation Contract between the Accredited Broker and the Bidder will have the minimum amount specified in the Manual of Auction Procedures and shall be presented in the 1<sup>st</sup> Volume.
- 15.8. Each Accredited Broker may represent only one Bidder, and each Bidder may be represented and participate in the Auction through only one Accredited Broker.

## **Section III - Bid Security**

- 16.1. To post Bid Security, Bidders should observe the rules and values described in the Manual of Auction Procedures and Annex 1 - Specific Conditions of Auction, notwithstanding the guidelines contained in this Section.
- 16.2. Bid Security may be paid in cash, federal debt bonds, guarantee insurance or bank guarantees, or a combination of these forms may be used, observing the following conditions:
- 16.2.1. Proposal Guarantees submitted in the form of guarantee insurance and bank guarantees must comply with the minimum information requirements indicated in the Appendix 1 - Auction Notice Models and submitted in original form. No copies of any kind will be accepted. However, submission of guarantee



insurance policies certified by the Superintendence of Private Insurance – SUSEP delivered by digital means and signature by digital certification shall be accepted. Proposal Guarantees submitted in the form of guarantee insurance and bank guarantees must have values expressed in reais and follow the conditions set out in the Manual of Auction Procedures, as recommended by BM&FBOVESPA;

16.2.2. In the event that Bid Security is posted in government bonds, only National Treasury Bills - LTN, Treasury Bills- LFT, National Treasury Notes- C series - NTN-C, or National Treasury Notes- F series - NTN-F, shall be accepted;

16.2.3. In the case of a cash bond, the deposit shall be made in a branch of Caixa Econômica Federal defined by the Bidder, based on art. 82 of Federal Decree 93.872, of December 23, 1986, and Federal Decree Law 1.737, of December 20, 1979, and the beneficiary's copy of receipt of deposit shall be included in the envelope;

16.2.4. If the Bidder participates alone, the Bid Security shall be presented in his own name;

16.2.5. If the Bidder is a Consortium, the Bid shall be submitted in the name of one or more Consortium members and shall indicate, expressly, the name of the Consortium and of all its members with their respective percentile of shares, regardless of whether the Bid Security was posted by one or more of the participants. In such a case, it is also admissible that the total amount of the posting be divided among Consortium members, which may individually opt for one of the modalities of guarantee foreseen in Item 16.2, notwithstanding the choice, by other members, of a different modality; and

16.2.6. The Form - Remuneration Commitment - shall be submitted, in accordance with models in the Auction Procedures Manual, duly signed by the Accredited Broker and notarized.



16.3. In the case of Bid Security provided in the form of government bonds, in accordance with Item 16.2.2, these shall be issued in book-entry form, upon registration in a centralized settlement and custody system authorized by the Central Bank of Brazil and evaluated by their economic values, as defined by the Ministry of Finance.

16.4. The Bid Security will name ANTAQ as beneficiary and the Bidder as borrower, and have validity of no less than one (1) year, counting as of the **Date for Receipt of Envelopes**, and should be renewed by the Bidder prior to expiry, if the event is not concluded within this period.

16.4.1. Validity of the Bid Security will be extended at least thirty (30) days prior to its expiry, at the Bidders own expense, if it expires prior to the date stipulated, under penalty of disqualification of the event. The Bid Security shall be renewed for a period of no less than 6 (six) months.

16.5. In the case of renovation, the Bid Security shall be readjusted according to the Broad Consumer Price Index (IPCA) published by the Brazilian Institute of Geography and Statistics (IBGE) for the period encompassing the **Date for Receipt of Envelopes** and the latest officially published index prior to renovation of the Bid Security.

16.6. Proposal Guarantees may be executed by ANTAQ, through prior notification and conclusion of a regular administrative procedure, notwithstanding other penalties foreseen in the Auction Notice and applicable legislation, in the following cases:

16.6.1. Total or partial default, on the part of Bidders, of obligations they have assumed as a consequence of their participation in the Auction;

16.6.2. Submission, by the Winning Bidder, of Eligibility Documents not in compliance with that established in the Auction Notice;



- 16.6.3. Submission, by the Winning Bidder, of a Lease Proposal that does not fully comply with requirements established in applicable legislation and in the Auction Notice;
- 16.6.4. Noncompliance, by the Winning Bidder, of obligations prior to signing of the Contract;
- 16.6.5. Refusal by the Winning Bidder to sign the Contract;
- 16.6.6. If the Bidder performs acts aimed at thwarting goals of the event;
- 16.6.7. Coverage of any fines, penalties and compensation owed by Bidders to ANTAQ or to the Grantor Authority, as a consequence of their participation in the Auction, encompassing the **Date for Receipt of Envelopes** until the deadline foreseen in Item 16.9, notwithstanding application of other penalties and residual liability for values that extrapolate the Bid Security; and
- 16.6.8. If the Bidder withdraws his Proposal within its respective period of validity.
- 16.7. Any modification to the terms and conditions of the Bid Security after its submission to the Special Tender Committee is forbidden, excepting if approved by the Special Tender Committee in the event of loss of financial value or need for its substitution.
- 16.8. The Bid Security shall not contain a clause excluding any liability of the borrower in relation to participation in the Auction, except as expressly provided for in exclusive guarantee insurance under SUSEP rules.
- 16.9. The Bid Security shall be returned to the Bidders no more than fifteen (15) days after signing of the Contract between the Grantor Authority and the Winning Bidder.



#### Section IV - Lease Proposal

17.1. The Lease Proposal shall observe the rules in the Annex 1 - Specific Conditions of Auction and Auction Procedures Manual, notwithstanding the guidelines set out in this Section.

17.2. The Lease Proposal will be valid for one (1) year, counting as of the **Date for Receipt of Envelopes**, and may be extended for an equal period, by request of the Special Tender Committee, of ANTAQ, or of the Grantor Authority.

17.2.1. In the case of renovation, the Bid Value stated in the Proposal shall be readjusted by the Broad Consumer Price Index (IPCA) published by the Brazilian Institute of Geography and Statistics (IBGE) for a period encompassing the **Date for Receipt of Envelopes** and the latest officially published index prior to the renewal of the Proposal.

17.3. Lease Proposals shall be unconditional, irrevocable and irreversible, and shall observe that all figures in this Auction Notice and its Annexes are referenced to June 2013, excepting the Bid Value, the basis of which shall be the **Date for Receipt of Envelopes**.

#### Section V – Eligibility

18.1. Eligibility Documents shall be presented in accordance with models in the Appendix 1 - Auction Notice Models.

18.2. Foreign corporate bidders that do not function in Brazil, shall submit, in the case of isolated participation and participation in Consortia, similar documents to those required in this Auction Notice, in accordance with instructions in Items 10.1, 10.2, 10.3, 10.4 and 10.5.



### **Subsection I - Legal Eligibility**

19.1. The Bidder shall present the following listed documents, both in the case of isolated participation and in a Consortium, when available:

19.1.1. Bylaws or Articles of Incorporation, accompanied by proof of currently serving administrators, duly registered with the Board of Trade or the competent Registry Office (The Consortium may not be registered at the Registry Office);

19.1.2. A Certificate issued by the Board of Trade or competent Registry Office, with up to date information on registration of the company.

19.1.3. Present corporate structure, indicating direct and indirect shares of its capital to its last level, and displaying partner or shareholder agreements or declaration of their non-existence, excepting the possibility of requiring that access to any contract between partners or shareholders be limited to the Special Tender Committee.

19.1.3.1. For purposes of compliance with the provisions of Item 19.1.3, the Bidder shall consider all types of participation, including minority, above 5% of capital, voting or otherwise, including for Investment Funds.

19.2. When the Bidder is an open or closed pension fund it shall present, in addition to the documentation described in Item 19.1, proof of express and specific authorization of its constitution and functioning, issued by the competent supervisory body.

19.3. When the Bidder is an investment fund, in addition to the documentation described in Item 19.1, it must submit the following documents:



- 19.3.1. Proof of registration of the investment fund with the Securities and Exchange Commission;
  - 19.3.2. Consolidated regulations of the investment fund;
  - 19.3.3. Proof of registration of regulations of the investment fund with the competent Registry of Titles and Documents;
  - 19.3.4. Proof of registration of the administrator and, if so there be, of the manager of the investment fund before the Securities and Exchange Commission; and
  - 19.3.5. Proof that the investment fund is duly authorized to participate in the event.
- 19.4. In the case of foreign corporate entities functioning in Brazil, a decree of authorization and act of registration to operate will additionally be required issued by the competent body, when the activity so requires.
- 19.5. A foreign corporate entity that does not function in Brazil and that is participating in the Tender, alone or as part of a Consortium, must provide the documentation set forth in this Subsection, in accordance with legislation in their country of origin and, additionally, must submit a power of attorney attesting to Legal Representation in Brazil and an express statement of submission to Brazilian law and waiving any complaint through diplomatic channels, as foreseen in the Appendix 1 - Auction Notice Models.

#### **Subsection II - Economic-Financial Qualification**

- 19.6. The Bidder shall present the following listed documents, either in the case of isolated participation or in a Consortium, when they exist:





- 19.6.1. For business enterprises: a Negative Certificate of Request for Bankruptcy, adjustment with creditors, judicial and extrajudicial recuperation, issued by the Judicial Distributor of the Court District (Civil Courts) of the town where the company is headquartered, issued no greater than ninety (90) days prior to the **Date for Receipt of Envelopes**, accompanied by a supporting certificate from the distributor of the records department of the court district of the Bidder. If a lawsuit has been distributed, a certificate must be added describing the updated status of the case, encompassing the period of ninety (90) days prior to the **Date for Receipt of Envelopes**.
- 19.6.2. For simple companies: a Certificate issued by the Distributor of the Civil Courts in general (Property Execution) of the Court District where the company is based, issued no more than ninety (90) days prior to the **Date for Receipt of Envelopes**, accompanied by a supporting certificate from the distributor of the records department of the Court District of the Bidder. If a lawsuit has been distributed, a certificate must be added describing the updated status of the case, encompassing the period of ninety (90) days prior to the **Date for Receipt of Envelopes**.
- 19.7. When the Bidder is an open or closed pension fund, it must present, in addition to the documentation described in Item 19.6, a statement to the effect that the plans and benefits it manages are not under liquidation or intervention by a supervisory body.
- 19.8. When the Bidder is an investment fund, it should present, in addition to the documentation described in Item 19.6, a Negative Certificate of Bankruptcy and others on the administrator and manager of the fund, issued by the court records department(s) of their respective headquarters, issued no less than ninety (90) days prior to the **Date for Receipt of Envelopes**.
- 19.9. The Bidder and, in the case of a Consortium, each of its members, in proportion to their share in the Consortium, must declare that they have sufficient own financial



resources to fulfill the contribution obligations necessary for achievement of the object of the Lease, under the terms of the Appendix 1 - Auction Notice Models.

### Subsection III – Tax and Labor Compliance

19.10. The Bidder shall present the following listed documents, both in the case of isolated participation and of a Consortium, when they exist:

19.10.1. Proof of enrollment in the National Register of Corporate Entities of the Ministry of Finance (CNPJ/MF);

19.10.2. Certificate of Compliance before the Time of Service Guarantee Fund (FGTS) within the expiration date on the certificate;

19.10.3. Proof of tax compliance before the National Treasury, through presentation of a certificate jointly issued by the Secretariat of the Federal Revenue of Brazil (RFB) and by the Office of the Attorney General of the National Treasury (PGFN), referent to all federal tax credits and the Record of Current Debts of the Union (DAU) managed by them, including tax credits relating to the social charges foreseen in lines "a", "b" and "c" of the Sole Paragraph of art. 11 of Law 8.212, of July 24, 1991, charges instituted as replacements, and charges owed, by law, to third parties, including those inscribed in the DAU.

19.10.4. Proof of tax compliance before the State and Municipal Treasuries, referent to property taxes, all within the respective domicile and with a validity of no less than, one hundred and eighty (180) days prior to the **Date for Receipt of Envelopes**, the validity deadline thereon prevailing. If the Bidder is not registered in State Treasury it must present a certificate describing this situation.



- 19.11. Negative Certificate of Labor Debts, in accordance with provisions of Federal Law 12.440, of July 7, 2011.

#### **Subsection IV – Technical Qualification**

- 19.12. Documentation relating to the Technical Qualification of Bidders is limited to presentation, by the Bidder, a Certificate of Technical Visit or Declaration of Full Knowledge, as provided in item 5.3, and of a commitment that, upon penalty of the law, he shall obtain pre-qualification of the Special Purpose Entity to be set up as Port Operator, or shall contract a pre-qualified Port Operator, in the event that he is winner of the event, under the terms of the model in the Appendix 1 - Auction Notice Models.

- 19.12.1. In the case of contracting pre-qualified port operators, it shall henceforth be established that the Lessee and the Port Operator shall be jointly liable for reparation of damages, in the case of events described in insets I, II and III, of art. 26 of Law 12.815/13.

### **CHAPTER V – STAGES OF THE AUCTION**

#### **Section I – Submission of Documents**

- 20.1. Bidders shall submit, on the **Date for Receipt of Envelopes**, 03/28/2016, as provided in Preamble and at the schedule of item 26.1.1, the three (3) sealed volumes, in three (3) copies each, observing the provisions of Item 20.7, containing:

- 20.1.1. **1<sup>st</sup> Volume** - Preliminary Statements, Representation Documents and Bid Security; and,

- 20.1.2. **2<sup>nd</sup> Volume** - Lease Proposal, duly signed, in accordance with the model foreseen in the Annex 1 - Specific Conditions of Auction .



20.1.3. **3<sup>rd</sup> Volume**- Eligibility Documents.

20.2. The three (3) Volumes shall be presented sealed, distinct and identified on the cover of each, as follows:

AUCTION Nº [●] - LEASE OF AREA AND PUBLIC INFRASTRUCTURE  
LOCATED WITHIN ORGANIZED PORT

**LEASE [●]**

CORPORATE NAME OF THE BIDDER OR THE CONSORTIUM  
ACCREDITED BROKER

NAME, TELEPHONE AND E-MAIL OF REPRESENTATIVES

**VOLUME 1 - PRELIMINARY STATEMENTS, REPRESENTATION  
DOCUMENTS AND BID SECURITY**

AUCTION Nº [●] - LEASE OF AREA AND PUBLIC INFRASTRUCTURE  
LOCATED WITHIN ORGANIZED PORT

**LEASE [●]**

CORPORATE NAME OF THE BIDDER OR THE CONSORTIUM  
ACCREDITED BROKER

NAME, TELEPHONE AND E-MAIL OF THE REPRESENTATIVES

**VOLUME 2 - LEASE PROPOSAL**

AUCTION Nº [●] - LEASE OF AREA AND PUBLIC INFRASTRUCTURE  
LOCATED WITHIN ORGANIZED PORT

**LEASE [●]**

CORPORATE NAME OF THE BIDDER OR THE CONSORTIUM  
ACCREDITED BROKER  
NAME, TELEPHONE AND E-MAIL OF THE REPRESENTATIVES

**VOLUME 3 - ELIGIBILITY DOCUMENTS**

20.3. The copies of each of the Volumes shall contain, aside from the identification mentioned in Item 20.1.3, the subtitles "1<sup>st</sup> Copy", "2<sup>nd</sup> Copy " and "3<sup>rd</sup> Copy", respectively.

20.3.1. The copies of each of the Volumes shall be separately bound, with all pages sequentially numbered, including separation pages, catalogues, drawings or others, if such there be, regardless of whether there is more than one book, from first to last page, such that the last number on the last page of the last book reflects the quantity of pages in each Volume, amendments, deletions or restrictions are not permitted, such that each Volume shall have a term of closure indicating the number of pages.

20.4. Each of the Volumes, aside from hard copies, shall be presented in electronic form, by CD, DVD or Pen Drive in a known format with no restriction to access and without content protection, with identical content to the three (3) printed copies. The format may be .PDF, since it has no access restrictions or content protection. It may be one or more files, since they are related to the same Volume.

20.5. If there is discrepancy between the information presented in hard copy and in electronic form, those presented in hard copy shall prevail.



- 20.6. One of the Accredited Representatives shall insert his initials of the seal of each of the Volumes specified in Item 20.1, indicating beside his initials, in his own hand, the date and time.
- 20.7. If presenting a Lease Proposal for more than one Lease, the Bidder may submit a single “Volume 1” (Preliminary Statements, Representation Documents and Bid Security), and a single “Volume 3” (Eligibility Documents), but must submit one “Volume 2” (Lease Proposal) for each Lease he has an interest in.

## **Section II – Analysis of Preliminary Statements, Representation Documents and Bid Security**

- 21.1. Participation of the Bidder in the Public Auction is conditioned to prior presentation, in accordance with the requirements of the Auction Notice, and the following documents:
- 21.1.1. Preliminary Statements, referred to in Section I of Chapter IV of the Auction Notice;
  - 21.1.2. Representation Documents, mentioned in Section II of Chapter IV of the Auction Notice; and
  - 21.1.3. Bid Security, under conditions established in this Auction Notice and in Annex 1 - Specific Conditions of Auction.
- 21.2. The Special Tender Committee shall examine the regularity of the Preliminary Statements, of the Representation Documents and of the Guarantees presented, with support of BM&FBOVESPA.



### **Section III – Public Auction**

- 22.1. The Tender for Leases that is the object of this Auction Notice shall take place at the same Public Auction, which will include the opening of Proposals and classification of Bidders with reference to each Lease, observing the rules and specificities in Annex 1 - Specific Conditions of Auction and of Auction Procedures Manual.
- 22.2. The Winning Bidder, and his Proposal, must meet all the requirements established in the Auction Notice, especially in Annex 1 - Specific Conditions of Auction, in Auction Procedures Manual, and applicable legislation.
- 22.3. The auctioneer shall declare the closure of the auction after having determined the best offer for each of the Leases that are the object of this event and announce the winning Bidders, according to specifications and guidelines set out in Annex 1 - Specific Conditions of Auction and in Auction Procedures Manual.

### **Section IV – Examination of Other Documents**

- 23.1. Any Bidder who presents the Eligibility Documents in violation of the requirements of this Auction Notice and its Annexes shall be disqualified from the event.
- 23.2. Any failure in delivery or formal defects in the documents may be remedied, under Item 8.3 of this Auction Notice, according to procedures and deadlines to be defined by the Special Tender Committee. A failure or formal defect shall be deemed one that (i) does not substantially denature the object of the document presented, and that (ii) does not prevent verification, with due security, of information in the documentation.



- 23.3. In the event of ineligibility of a Bidder declared winner of a given Lease, the Commission will proceed to request and open the Eligibility Documents of the Bidder that has presented the second-best Proposal for said Lease, and thus forth, successively, until one of the competitors has fulfilled all the requisites of the Auction Notice, in which case he will be considered the winner of the event.
- 23.4. Ineligibility of the Bidder that had originally been considered winner of the event shall imply application of a fine, equivalent to the value of the Bid Security, which will be fully implemented for settlement of the debt.
- 23.5. The Bidder undertakes to inform ANTAQ, immediately after occurrence, any fact or supervening circumstance that alters or compromises his conditions of qualification.

#### **Section V - Administrative Appeals**

- 24.1. Having concluded the eligibility phase, there will be a single appeals phase, in which Bidders participating in the Auction may appeal decisions of the Special Tender Committee that they have manifested prior and express intention to appeal against.
- 24.1.1. In the case of any decision taken in open session, the Bidders shall express their intention to appeal immediately after the session ends.
- 24.1.2. In the case not taken in open session the intention to appeal shall be expressed in up to one (1) business day from the date that the decision is published in the Official Gazette (DOU).
- 24.2. Appeals will be received at ANTAQ headquarters or presented electronically on the ANTAQ website, and referred for judgement to the Board of ANTAQ, through the President of the Special Tender Committee, within five (5) business days, after publication of the final decision that declares eligibility of the Winning Bidder.





- 24.2.1. The Appeals must comply with the time limit of 18:00 hs.
- 24.2.2. The counterarguments must be presented within five (5) business days after the end of the Appeal period, subject to the 18:00hs limit time.
- 24.2.3. The Special Tender Committee shall reconsider the decision within (5) business days after the end of the Counterarguments period .
- 24.3. Appeals shall only be accepted when signed by the legal representative(s), Accredited Representatives or by proxy with specific powers, furnished with instrument(s) proving such powers, and identified as follows:

<p style="text-align: center;"><b>ADMINISTRATIVE APPEAL</b></p> <p style="text-align: center;">AUCTION N. [●] - LEASE OF AREA AND INFRASTRUCTURE LOCATED WITHIN ORGANIZED PORT</p> <p style="text-align: center;">To: Mr. President of the Special Tender Committee</p>
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- 24.4. The outcome of judgement of the appeal shall be published in the Official Gazette (DOU), as well as on the website of ANTAQ, [www.antaq.gov.br](http://www.antaq.gov.br) and SPE/PR, [www.portosdobrasil.gov.br](http://www.portosdobrasil.gov.br).

#### **Section VI - Homologation of the Auction and Award of its Object**

- 25.1. Having verified compliance, by the Bidder declared winner, of eligibility and classification conditions, the Special Tender Committee shall submit the entire bidding process to the Grantor Authority, for approval and award.
- 25.2. The Grantor Authority may, at any time, postpone any stage of the Auction, under applicable legislation, without allowing Bidders the right to compensation or reimbursement of costs and expenses under any pretext.

## Section VII - Schedule of the Events

26.1. The development of stages of the Auction shall observe the order of events and schedule indicated in the table described in this Item.

26.1.1. Any alterations in dates will be posted on the website of ANTAQ, [www.antaq.gov.br](http://www.antaq.gov.br) and SPE/PR, [www.portosdobrasil.gov.br](http://www.portosdobrasil.gov.br)

Events	Description of the Events	Deadline
1	Publication of the Auction Notice	01/22/2016
2	Publication of the Auction Procedures Manual	01/26/2016
3	Deadline to request clarification of the Auction Notice	From 02/11/2016 to 03/01/2016
4	Publication of the minutes with clarifications of the Auction Notice	03/11/2016
5	Expiry of the deadline for challenges to the Auction Notice	03/17/2016
6	Announcement of the results of the judgement of challenges to the Auction Notice	03/24/2016
7	Receipt, by BM&FBOVESPA, of all copies of the Volumes relating to: (i) Preliminary Statements, Representation Documents and Bid Security (Volume 1); (ii) Lease Proposal (Volume 2); and Eligibility Documents (Volume 3)	03/28/2016 from 10h to 13h at BM&FBOVE SPA
8	Announcement of the decision (and respective motives) of the Special Tender Committee on possible non-acceptance of documents contained in Volume 1 - Preliminary Statements, Representation Documents and Bid Security – relating to each of the Leases that are the object of the Auction.	03/30/2016
9	Public Auction, to be held at BM&FBOVESPA. Opening of Lease Proposals (referent to each of the Leases) of Bidders whose Proposal Guarantees have been accepted. Holding of the auction.	03/31/16
10	Disclosure, on the ANTAQ website of the ranking of Lease Proposals	03/31/2016
11	Opening of the Eligibility Documents of the Winning Bidders, corresponding to the respective Lease (Volume 3)	04/01/2016

Events	Description of the Events	Deadline
12	Publication of the minutes of judgment of analysis of the Eligibility Documents of the Winning Bidder(s)	04/08/2016
13	Start of the period for filing of appeals	04/11/2016
14	Approval of the outcome and award of the object by the Grantor Authority.	At discretion of the Grantor
15	Deadline for proof of compliance, by the Winning Bidder, with obligations foreseen in Section I of Chapter VI of this Auction Notice.	up to forty-five (45) days counting as of publication of the act of approval and award, extendable, with justification, at the discretion of the Grantor Authority.
16	The Winning Bidder is called to sign the Lease Contract.	At discretion of the Grantor

## CHAPTER VI - LEASE CONTRACT

### Section I - Obligations Prior to Signing the Contract

27.1. The obligations foreseen in this subsection, or more precisely in Item 27.2, must be fulfilled by the Winning Bidder of each Lease in up to forty-five (45) days counting



as of publication of the act of approval and award, extendable, with justification, at the discretion of the Grantor Authority.

27.2. The Winning Bidder shall present to the Grantor Authority the following documents:

27.2.1. Receipt of fees paid to BM&FBOVESPA, as provided in Annex 1 – Specific Conditions of Auction, that shall be paid within the period provided in Auction Procedures Manual;

27.2.1.1. The sum referred to in the Item above may be altered under the terms of the contract signed between the Grantor Authority and BM&FBOVESPA, jointly disclosed with the Auction Procedures Manual.

27.2.2. Receipt of payment of the Bid Value indicated according to ANTAQ instructions.

27.2.3. Receipt of payment of the sums indicated in Annex 1 - Specific Conditions of Auction to the company responsible for conduct of the studies that gave rise to this Auction Notice, as authorized by art. 21 of Federal Law 8.987/95, by SEP Order 38/2013 and by the Auction Notice of the Public Call for Studies, when such exist, according to ANTAQ instructions;

27.2.4. Minutes of the General Assembly of Incorporation of the Lessee as a Special Purpose Entity (SPE) in the form of joint-stock company and its respective Bylaws, with the corresponding certificate from the Board of Trade and enrollment in the National Registry of Corporate Entities of the Ministry of Finance (CNPJ/MF), which shall contain:

27.2.4.1. indication of its ownership structure, giving a description of the types of shares and the participation of shareholders by type of share;

27.2.4.2. its management bodies;



27.2.4.3. commitment to corporate governance principles in the management of the Lessee;

27.2.4.4. that its sole purpose will be to pursue the object of the Lease;

27.2.4.5. that its minimum initial capital is fully subscribed, under the terms of Annex 3 - Draft Lease Contract and Annex 4 - Specific Conditions of Contract, as well as proof of payment of one hundred percent (100%) of this minimum initial capital in national currency;

27.2.5. **Guarantee of Contract Execution**, under the terms of Annex 3 - Draft Lease Contract and Annex 4 - Specific Conditions of Contract;

27.2.5.1. The value of the **Guarantee of Contract Execution** to be presented by the Winning Bidder – indicated in Clause **Erro! Fonte de referência não encontrada.** of the **Annex 4 - Specific Conditions of Contract** – shall be readjusted by the **IPCA**, applying the following formula:

$$P_t = P_{jun/13} * \left( \frac{IPCA_t}{IPCA_{jun/13}} \right)$$

In which:

$P_t$  corresponds to the value of the **Guarantee of Contract Execution**, duly readjusted;

$P_{jun/13}$  corresponds to the monetary value of the **Guarantee of Contract Execution** indicated in the **Annex 4 - Specific Conditions of Contract**, referenced to June 2013;

$IPCA_t$  corresponds to the Index Number of the **IPCA**, referenced to the date of readjustment;



$IPCA_{jun/13}$  corresponds to the Index Number of the IPCA, referenced to June 2013;

$\frac{IPCA_t}{IPCA_{jun/13}}$  corresponds to one (1) plus the variance of the accumulated IPCA in the period comprising June 2013 and the date of readjustment;

$t$  corresponds to the period of the date of readjustment;

- 27.2.6. Proof of pre-qualification as a port operator from the Administration of the Organized Port in which the Lease is located or of a contract with a Port Operator pre-qualified by the Port Administration, in the same period provided for in Item 27.1 of the Auction Notice.
- 27.2.7. The Basic Project for Implantation (PBI) of the investments, required in the Annex 2 Technical Guidelines and Parameters for the Lease.
- 27.3. If the Winning Bidder is participating in the Auction individually, before signing the Contract, he should create a wholly-owned subsidiary, with the special purpose of manage and operate the Lease.
- 27.4. Each Lease shall correspond to one Contract, with a standard draft, annexed to the Auction Notice, which shall be adapted to its specific scope, with a view to removing references to other objects.

## **Section II - Signing of the Lease Contract**

- 28.1. Having fulfilled the requirements of the previous Items, the Lessee shall be called upon to sign, together with the Grantor Authority, the Contract referent to the corresponding Lease.



28.2. Refusal of the Lessee to sign the Contract, in up to five (5) business days, counted as of the summons, without fulfillment of requirements foreseen in this Auction Notice and without justification acceptable to the Grantor Authority, shall cause:

28.2.1. application of a fine, corresponding to the full value of the Bid Security, by way of compensation for damages, and immediate execution of the Bid Security by ANTAQ or by the Grantor Authority;

28.2.2. barring of an individual Winning Bidder or, in the case of a Consortium, of all its members, from participating in new tenders and from contracting with the Grantor Authority for a period of twenty-four (24) months; and

28.2.3. calling upon, at the discretion of the Grantor Authority, the remaining Bidders, by order of ranking, to execute it within the deadlines and conditions offered by the Winning Bidder or, thereupon, to cancel this Tender.

28.3. Should it prove impossible to fulfill the necessary requirements for signing of the Contract, owing to events attributable to the Grantor Authority, the Winning Bidder shall not be penalized.

### **Section III - General Provisions of the Lease Contract**

29.1. The fiscal year of the Lessee and the financial year of the Contract shall coincide with the calendar year.

29.2. The assets linked to the Lease are all those indicated in Annex 3 - Draft Lease Contract and its Annexes.



- 29.3. Brazilian law, with its informing principles, will be applied to the Contract; no mention of foreign or international law shall be accepted, even as a means of interpretation.

## CHAPTER VII - PENALTIES

- 30.1. Notwithstanding execution of guarantees, and while ensuring the right to challenges and full defense, failure to comply with any condition set forth in this Auction Notice shall empower the Grantor Authority to subject the Bidders and Winning Bidder to the following penalties:

30.1.1. warning;

30.1.2. fine; and

30.1.3. temporary suspension of the right to contract and/or participate in tenders, and banning of any contracting with the Grantor Authority for a period not longer than two (2) years.

- 30.2. Notwithstanding the penalties foreseen in Item 30.1, the Lessee shall be the subject of a declaration of unfitness, by the competent authority, and barred from bidding or contracting with the Public Administration for as long as the reasons for such punishment prevail, or until rehabilitation of the Lessee has been effected before the Grantor Authority.

- 30.3. The sum of fines or separate fine penalties for infractions committed during the bidding process shall not exceed an amount equivalent to the **Bid Security**.

- 30.4. Failure to comply with any prior requisite necessary for the Lease, especially the posting of guarantees within established deadlines, shall constitute refusal on the part of the Bidder or Winning Bidder to receive the Lease, making them liable for penalties





typified in this chapter, notwithstanding other penalties foreseen in law, always through administrative proceedings brought especially for this purpose, while guaranteeing the right to challenges and full defense.

## CHAPTER VIII - FINAL PROVISIONS

- 31.1. Signing of a Lease Contract for any of the Leases comprised by this Auction may imply, at the discretion of the Grantor Authority, barring of participation of the Winning Bidder, his Controller, Subsidiary, Affiliate or company under the same control, from other events with the object of leasing port installations in the same Organized Port.
- 31.2. In the event that ANTAQ and/or the Grantor Authority, at any time, become aware that any documentation presented by a Bidder is false or invalid, it shall be disqualified and shall not be eligible for compensation or reimbursement of expenses under any pretext, notwithstanding possible compensation due to the Grantor Authority, as the case may be.
- 31.3. Notwithstanding the provisions of the above Item 31.1, the Auction shall only be cancelled, by the Grantor Authority, for reasons of public interest resulting from untoward and duly proven events, pertinent and sufficient to justify such cancellation.
- 31.4. The Grantor Authority, *ex officio* or at the instigation of others, shall annul the Auction upon verification of any illegality that cannot be remedied.
- 31.5. Nullity of the Auction shall imply nullity of the Contract, and shall not generate any obligation for compensation on the part of the Grantor Authority, excepting in the circumstances described in art. 59, sole paragraph, of Federal Law 8.666/93.
- 31.6. The competent jurisdiction for resolving any disputes relating to this tender will be the Federal Court of the Federal District



Brasilia-DF, January 22<sup>nd</sup> 2016

LUIZ OSMAR SCARDUELLI JUNIOR  
PRESIDENT OF THE SPECIAL TENDER COMMITTEE



## Auction Notice Models Annex

### Model 1

#### Model Request for Clarifications of the Auction;

[place ], [•] [•]2016

To: the National Waterway Transport Agency - ANTAQ

**Ref.: Auction Notice for Auction n. [--]/2016 - Request for Clarifications**

Dear Sirs,

[Bidder], through his legal representative(s), submits the following request for clarifications relating to the **Auction Notice**.

	<b>Document</b>	<b>Item of the Auction Notice</b>	<b>Clarification requested</b>
Indicate the Lease number	Indicate to which document (Auction Notice, Contract or annex) the clarification requested refers	Insert the item of the Auction Notice to which the clarification requested refers	Write clearly the desired request for clarification in the form of a question
Indicate the Lease number	Indicate to which document (Auction Notice, Contract or annex) the clarification requested refers	Insert the item of the Auction Notice to which the clarification requested refers	Write clearly the desired request for clarification in the form of a question
Indicate the Lease	Indicate to which document (Auction	Insert the item of the Auction Notice to which the	Write clearly the desired request for clarification in the form of a question



number	Notice, Contract or annex) the clarification requested refers	clarification requested refers	
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[Bidder]

[representative]

Point of contact: [•]

Phone: [•]

e-mail: [•]



## Model 2

### Model Power of Attorney

By this power of attorney, **[the Bidder]**, [qualification], herein after referred to as the "**Principal**", appoints and constitutes his proxies, Messrs. [•], [qualification], to jointly or separately, regardless of the order of appointment, perform the following acts in the Federative Republic of Brazil , in court and out of it:

- (a) represent the Principal before any authorities, agencies or government departments, open or closed corporations and any government agencies including the National Waterway Transport Agency - ANTAQ, the Secretariat of Ports of the Presidency of the Republic, to establish and maintain arrangements with these entities, agencies, bodies or departments, to receive citation, notice and summons of any kind, to request and/or promote consultations, to apply for certificates and other documents and to perform the acts necessary for the holding of the bidding event described in **Auction Notice n. \_\_\_/2016**, including filing of appeals and waiving the right to appeal;
- (b) assume commitments and/or obligations on behalf of the Principal and in any manner, hire, sign contracts, waive rights, issue and receive quittance on behalf of the Principal;
- (c) represent the Principal in defense of his interests in court, at any level and before any Court or Tribunal, including by contracting of lawyers, with special powers to confess, condescend, desist, make contracts, give and receive quittance;
- (d) receive citation for lawsuits; and
- (e) at his discretion, delegate, in whole or in part, with the power to reserve any of the powers assigned herein under conditions he deems or they deem appropriate.

This power of attorney shall be valid during the tender procedure.

[place], [•] [•], 2016



[Bidder]

[legal representative],



### Model 3

#### Model Power of Attorney (Bidders in Consortium)

By this power of attorney, [**Consortium member**], [qualification], herein after referred to as "**Principal**", irrevocably and irreversibly appoints and constitutes as its full attorney, the company [qualification], leader of the Consortium [Name of the Consortium], [qualification], to perform the following acts or assign them to Accredited Representatives, through a specific power of attorney:

- (a) represent the Principal before any authorities, agencies or government departments, open or closed corporations and any government agencies including the National Waterway Transport Agency - ANTAQ, the Secretariat of Ports of the Presidency of the Republic, to establish and maintain arrangements with these entities, agencies, bodies or departments, to receive citation, notice and summons of any kind, to request and/or promote consultations, to apply for certificates and other document and to perform the acts necessary for the holding of the bidding event described in **Auction Notice n. \_\_/2016**, including filing of appeals and waiving the right to appeals;
- (b) assume commitments and/or obligations on behalf of the Principal and in any manner, hire, sign contracts, waive rights, issue and receive quittance on behalf of the Principal;
- (c) represent the Principal in defense of his interests in court, at any level and before any Court or Tribunal, including by contracting of lawyers, with special powers to confess, condescend, desist, make contracts, give and receive quittance;
- (d) receive citation for lawsuits; and
- (e) at his discretion, delegate, in whole or in part, with the power to reserve any of the powers assigned herein under the conditions he deems or they deem appropriate.



This power of attorney shall be valid during the tender procedure.

[place], [•] [•] 2016

**[Bidder]**

[legal representative],





#### Model 4

#### Model Power of Attorney (Foreign Bidders)

By this power of attorney, [Bidder], [qualification], herein after referred to as "**Principal**", appoints and constitutes his proxies, Messrs. [•], [qualification], to jointly or separately, regardless of the order of appointment, perform the following acts in the Federative Republic of Brazil , in court and out of it:

- (a) represent the Principal before any authorities, agencies or government departments, open or closed corporations and any government agencies, including the National Waterway Transport Agency - ANTAQ, the Secretariat of Ports of the Presidency of the Republic, to establish and maintain understandings with these entities, agencies, bodies or departments, to receive citation, notice and summons of any kind, to request and/or promote consultations, to request certificates and other documents and to perform the acts necessary for the holding of the bidding event described in **Auction Notice n. [--]/2016**, including the filing of appeals and waiving the right to appeals;
- (b) assume commitments and/or obligations on behalf of the Principal and in any manner, hire, sign contracts, waive rights, issue and receive quittance on behalf of the Principal;
- (c) represent the Principal in defense of his interests in court, at any level and before any Court or Tribunal, including by contracting of lawyers, with special powers to confess, condescend, desist, make contracts, give and receive quittance;
- (d) receive citation for lawsuits and subpoenas in administrative proceedings; and
- (e) at his discretion, delegate, in whole or in part, with the power to reserve any of the powers assigned herein under the conditions he deems or they deem appropriate.
- (f) This power of attorney shall be valid during the tender procedure.

[place], [•] [•], 2016



[Bidder]

[legal representative],



### Model 5

#### Model Letter for Presentation of Proposal Guarantees

[place], [•] [•], 2016

Ref.: Auction n. [--]/2016 - Presentation of Proposal Guarantees

Dear Sirs,

("Bidder"), through his legal representative(s), in the terms of the Auction Notice in reference, hereby clarifies the procedures and values(s) of his Proposal Guarantee(s) herein presented, that amount to a total value of [fill in the applicable value]:

#### Guarantee(s) Deposited

Nº	Type	Value
1		
2		
N		

Sincerely,

[place], [•] [•], 2016

[Bidder] [accredited  
representative]



## Model 6

### Minimum Terms and Conditions of Guarantee insurance

#### 1. Taker

1.1. Bidder

#### 2. Insured Party

2.1. ANTAQ

#### 3. Object of the Insurance

3.1. Ensure compensation, up to the sum of R\$ (Sum in Reais), in the event that the Bidder becomes liable for execution of bid security foreseen in the Auction Notice.

#### 4. Instrument

4.1. Guarantee insurance policy issued by an insurer duly constituted and authorized to operate by the Superintendence of Private Insurance (SUSEP), observing the terms of the normative acts of SUSEP.

#### 5. Value of the Guarantee

5.1. The Guarantee Insurance Policy shall provide for compensation up to the sum of R\$ (Sum in Reais) [as applicable].

#### 6. Period

6.1. The Guarantee Insurance Policy must have a minimum term of one (1) year counting as of the **Date for Receipt of Envelopes**, renewable in the hypotheses foreseen in the Auction Notice.

#### 7. Additional Provisions

7.1 The Guarantee Insurance Policy shall contain the following Additional Provisions: (i) declaration from the insured party that he knows and accepts the terms and conditions of the Auction Notice; (ii) declaration of the insured party that he will effect payment of the sums foreseen within a period of thirty (30) days, counted from the date of delivery of all documents listed by the insured party as necessary for the characterization and settlement of damages; and (iii) upon confirmation of breach by Taker of obligations covered by the Guarantee Insurance Policy, the Insured Party will be entitled to demand from the insurer due compensation, when notification of the Taker proves unfruitful.

Terms that have not been expressly defined in this Annex shall have meanings assigned to them in the Auction Notice.



## Model 7

### Model Bank Guarantees

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: Bank Guarantee Letter n. [•] (“Guarantee Letter”) R\$ \_\_\_\_\_ (\_\_\_\_\_ Reais) [in accordance with the value applicable, under terms of the Auction Notice]

1. By this Guarantee Letter, the Bank [•], with head offices in [•], enrolled with the CNPJ / MF under n. [•] (“Surety bank”), directly for itself and for its eventual successors, commits itself before ANTAQ as joint guarantor of [•], with head offices in [•], enrolled with the CNPJ / MF under n. [•] (“Secured Party”), with express waiver of rights provided for in articles 827, 835, 837, 838 and 839 of Federal Law 10.406, of January 10, 2002 (Brazilian Civil Code), for faithful fulfillment of all obligations assumed by the secured party in the bidding process described in **Auction Notice for Auction n. [--]/2016** of ANTAQ, the terms, provisions and conditions of which the Surety bank declares expressly that it knows and accepts.

2. The Surety Bank undertakes to pay ANTAQ the total amount of up to R\$ \_\_\_\_\_ (\_\_\_\_\_ Reais) [as the applicable value foreseen in the Auction Notice] (“Guarantee”) in the event that the Bidder becomes liable for execution of bid security foreseen in the Auction Notice.

3. The Surety Bank, within the scope of the sums identified above, also assumes liability for damages caused by the guarantee, including, but not limited to, fines imposed by ANTAQ relating to the bidding event, pledging to make payments arising from such liabilities when required, within a period of forty-eight (48) hours, counted as of receipt by the Surety Bank, of written notice from ANTAQ.

4. The Surety Bank shall not claim any objection or opposition to the guarantee or calls thereon for purposes of excusing itself of obligations assumed before ANTAQ, except when there is a



formal manifestation from ANTAQ releasing it from obligation to effect such payment, or if there is a the court order preventing or suspending such payment.

5. In the event that ANTAQ takes legal action to demand compliance with the obligation referred to in this Guarantee Letter, the Surety Bank shall be required to pay up to fifty percent (50%) of the awarded amount by way of arbitration expenses, court fees and fines.

6. The guarantee shall remain in effect for twelve (12) months as of the Date of Receipt of Envelopes, in accordance with conditions mentioned in the Auction Notice.

7. The Surety Bank declares that:

7.1 this Guarantee Letter is properly accounted for, fully compliant with regulations of the Central Bank of Brazil currently in effect, and with applicable provisions of Banking Law;

7.2 the signatories of this instrument are authorized to provide the guarantee on their behalf and upon their responsibility ; and

7.3 its capital amounts to R\$ [•] ([•]), that it is authorized by the Central Bank of Brazil to issue Guarantee Letters, and that the value of this Guarantee Letter, in the amount of R\$ ( Sum in Reais) is within limits authorized by the Central Bank of Brazil.

8. Terms not expressly defined in this Guarantee Letter shall have meanings ascribed to them in the Auction Notice.

[notarized signature of the legal representatives]

Witness

Witness



## Model 8

### Statement of independent drafting of proposal

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

**Ref.: Auction Notice for Auction n. [--]/2016 - Lease Proposal**

[The *Bidder*], through his legal representative, declares for purposes of provisions of the Auction Notice in reference, subject to penalties of Law, particularly art. 299 of the Brazilian Penal Code, that:

- a) he prepared the Lease Proposal independently, and that its content was not, in whole or in part, directly or indirectly informed, discussed or received by any other potential or *de facto* participant in this tender, by any means or through any person;
- b) the intention of this Lease Proposal was not informed, discussed with or received by any other potential or *de facto* participant in this tender, by any means or through any person;
- c) he did not attempt, by any means or through any person, to influence the decision of any other potential or *de facto* participant in this tender as whether or not to participate therein;
- d) the content of the Lease Proposals shall not, in whole or in part, directly or indirectly, be communicated or discussed with any other potential or *de facto* participant in this tender prior to the award of its object;
- e) the content of the Lease Proposals was not, in whole or in part, directly or indirectly, informed, discussed or received by any member or body of the Grantor Authority, prior to the official opening of proposals; and



- f) he is fully aware of the content and the scope of this statement and has full powers and information to sign it.

Sincerely,

**[Bidder]**

[Accredited representative]





## Model 9

### Model Letter of Presentation of Eligibility Documents

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016 – Presentation of Eligibility Documents**

Dear Sirs,

1. [The Bidder), through his legal representative(s), presents attached hereto the documents for his qualification in the bidding event in reference, in accordance with the Auction Notice in reference, organized in accordance with the order established therein, as reflected in the index.
2. The Bidder expressly states that he is fully aware of the terms of the Auction Notice in reference and fully accepts them, in particular, those regarding powers assigned to the Special Tender Committee to conduct special inquiries for ascertaining the veracity of documents presented and seek any clarifications needed to elucidate the information contained therein.
3. The Bidder expressly states that he has fulfilled all requirements and criteria for qualification and has submitted Eligibility Documents, as defined in the Auction Notice.
4. The Bidder declares, furthermore, that the Eligibility Documents herewith presented are complete, true and correct in every detail.

[Bidder]

[accredited representative]



## Model 10

### Statement of Knowledge of the Terms of the Auction Notice and Absence of Impediment to Participation in the Auction

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

**Ref.: Auction Notice n. [--]/2016**

Dear Sirs,

In compliance with the Auction Notice in reference, the [Bidder], through his undersigned representative(s) declares, under penalty of applicable law, that he is aware of the terms of this Auction Notice and is not barred from participating in contracting procedures with the Public Authorities.

[Bidder] [accredited  
representative]



## Model 11

### Letter of Declaration of No Bankruptcy, Accommodation with Creditors, Judicial or Extrajudicial Recovery or Insolvency Proceeding

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n.[--]/2016** – Declaration of No Bankruptcy, Accommodation with Creditors, Judicial or Extrajudicial Recovery or Insolvency Proceeding

Dear Sirs,

In compliance with the Auction Notice in reference, the [Bidder], through his undersigned representative(s), declares, under penalty of applicable law, for himself, his successors and assignees, that he is not undergoing a process of bankruptcy, self-bankruptcy, accommodation with creditors, judicial or extra-judicial recovery, judicial or extrajudicial liquidation, insolvency, special temporary administration, or under intervention by a competent supervisory body.

Sincerely,

[Bidder] [Accredited  
representative]



## Model 12

### Formal Declaration of Express Submission to Brazilian Law and Waiver of Claims through Diplomatic Channels

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016 - Formal Declaration of Express Submission to Brazilian Law and Waiver of Claims through Diplomatic Channels**

Dear Sirs,

In compliance with the Auction Notice in reference, the [Bidder], through his undersigned representative(s), declares, for all due purposes, his formal and express submission to Brazilian law and waives all claim to recourse, for whatsoever reason of fact or of law, to diplomatic channels.

[Bidder] [accredited  
representative]



### Model 13

#### Statement of Financial Capability

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016 - Statement of Financial Capability**

Dear Sirs,

In compliance with the Auction Notice, the [Bidder], through his undersigned accredited representative(s), declares, under penalty of applicable law, that he possesses or is able to obtain sufficient financial resources to fulfill his own and third-party obligations required for achievement of the object of the Lease. He further declares that (i) he has the means to contract all insurance required for achievement of the object of the Lease, and (ii) has or is able to obtain resources to pay up the minimum stock capital of the **SPE** and present the **Guarantee of Contract Execution** within the period of forty-five (45) days as of publication of the act of approval and award of the tender.

[Bidder] [accredited  
representative]



## Model 14

### Declaration of Compliance with Article 7, XXXIII, of the Federal Constitution

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016 - Declaration of Compliance with Article 7, XXXIII, of the Federal Constitution**

Dear Sirs,

In compliance with the Auction Notice in reference, the [Bidder], through his undersigned accredited representative(s), declares, under penalty of applicable law, for himself, his successors and assignees, that he is in good standing with the Ministry of Labor, with regard to compliance with provisions of inset XXXIII of Article 7 of the Federal Constitution.

**[Bidder]**

[accredited  
representative]



## Model 15

### Instructions for formalization of the term of commitment to establish a Special Purpose Entity

The term of commitment to establish a Special Purpose Entity must contain at least the following information:

- i. name of the consortium;
- ii. qualification of the consortium members;
- iii. composition of the SPE, indicating the percentage stockholdings of each consortium member;
- iv. administrative bodies of the SPE;
- v. indication of the Leading Company as responsible for actions taken by the consortium before ANTAQ; and
- vi. an express declaration from all consortium members accepting joint liability, under art. 33, V, of Federal Law 8.666/93, with respect to the object of this Auction, fully covering all obligations assumed for this Auction, as of the **Date for Receipt of Envelopes** up until the deadline foreseen in the Auction Notice and the deadline for return of the Bid Security to the Bidder.



**Model 16**

**Certificate of Technical Visit**

**OBJECT:** [depending upon the Lease]

**REFERENCE:** Auction Notice n. [--]/2016

We hereby attest that the representative company specified below today visited the site of the Lease [specify] in order to inspect the condition of the areas, port installations, buildings and existing equipment.

Company:

Name of the representative:

Position/Function:

Identity Document:

[place], [•] [•], 2016

**ANTAQ**

**Bidder**

Representative

Representative





## Model 17

### Declaration of Full Knowledge

**OBJETO:** [depending upon the Lease]

**REFERENCE:** Auction Notice n. [--]/2016

We hereby declare that we have full knowledge of the areas, infrastructure and public facilities **in which activities relating to the Lease will be performed, and of the conditions that may affect performance thereof, of accesses to the areas, of the materials and equipment to be used, and other information necessary for achieving the purposes of the Lease.**

Company:

Name of the representative:

Position/Function:

Identity Document:

[place], [•] [•], 2016

**Bidder**

Representative



### Model 18

### Declaration of Equivalence

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: Auction Notice n. [---]/2016

Dear Sirs,

In compliance with the Auction Notice in reference, the [Bidder], through his undersigned representative(s), declares, under penalty of applicable law, that the documents indicated below from the country of origin of the company [name],[qualification] are equivalent to the documents required by Auction Notice n. [---]/2016:

Description of the document from the country of origin	Document required in the Auction Notice	Item of the Auction Notice in which the document is required

[Bidder] [accredited representative]



**Model 19**

**Statement of Non-existence of Equivalent Document**

[place], [•] [•], 2016

To: the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016**

Dear Sirs,

In compliance with provisions of the Auction Notice in reference, the [Bidder], through his undersigned representative(s), declares, under penalty of applicable law, that the documents indicated below required in the Auction Notice n. [--]/2016 have no equivalent in the country of origin of the company [name], [qualification].

Document required in the Auction Notice for which there is no equivalent document in the country of origin.	Item of the Auction Notice in which the document is required

[Bidder] [accredited representative]



## Model 20

### Commitment of pre-qualification as Port Operator or for contracting of a pre-qualified Port Operator

[place], [•] [•], 2016

To the National Waterway Transport Agency - ANTAQ

Ref.: **Auction Notice n. [--]/2016**

Dear Sirs,

In compliance with provisions of the Auction Notice in reference, the [Bidder], through his undersigned accredited representative(s) assumes a commitment, under the penalties of Law, to obtain pre-qualification of the Special Purpose Entity as an established port operator, or to contract a pre-qualified Port Operator, in the event that he is declared winner of the event.

[Bidder]

[Accredited representative]

[signatures]