

UNION

MINISTRY OF TRANSPORTATION, PORTS AND CIVIL AVIATION

NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

AUCTION NOTICE

**AUCTION #--/---ANTAQ, FOR THE LEASE OF PUBLIC AREA AND INFRASTRUCTURE FOR
HANDLING AND STORAGE OF CONTAINERIZED CARGO, LOCATED IN THE ORGANIZED PORT
OF SUAPE, IN THE STATE OF PERNAMBUCO, NAMED SUA05**

Summary

PREAMBLE	4
CHAPTER I – INITIAL PROVISIONS.....	5
Section I - Definitions	5
Section II - Object	9
Section III – Access to the Auction Notice.....	9
Section IV – Clarifications on the Auction Notice	10
Section V – Technical Visits	11
Section VI – Contest to the Auction Notice.....	12
Section VII – General Provisions.....	13
CHAPTER II – BIDDING SPECIAL COMMISSION.....	15
CHAPTER III – AUCTION PARTICIPATION	16
Section I – Foreign Entity Participation	16
Section II – Participation as Consortium	17
Section III – Constraints to the Participation	19
CHAPTER IV - DOCUMENTATION	20
Section I – Preliminary Statements	21
Section II - Representatives.....	21
SubSection I – Accredited Representatives.....	21
SubSection II – Accredited Brokers	23
Section III – Bid Security.....	23
Section IV – Lease Proposal.....	27
Section V - Qualification	28
SubSection I – Legal Qualification	28
SubSection II – Economic-Financial Qualification	30
SubSection III - Fiscal and Labor Regularity.....	31
SubSection IV – Technical Qualification	32
CHAPTER V – AUCTION STAGES	33
Section I – Documentation Submission.....	33
Section II – Analysis on Preliminary Statements, Representatives Documentation, and Bid Security.....	36
Section III – AUCTION PUBLIC SESSION	36

Section IV – Analysis on Remaining Documentation	Erro! Indicador não definido.
Section V – Administrative Resources.....	39
Section VI - Auction Result and Object Awardee	41
Section VII – Events Schedule	41
CHAPTER VI – LEASE CONTRACT	42
Section I – Previous obligations to the Contract Signature.....	42
Section II – Lease Contract Signature.....	46
Section III – Lease Contract General Provisions	46
CHAPTER VII - PENALTIES	47
CHAPTER VIII – FINAL PROVISIONS	48

PREAMBLE

The **NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ** informs the public and to whom it may concern that the agency will carry on an Auction, in the modality of Open Auction, according to the procedure described in this **Notice** and in the **Auction Procedures Manual**, with the purpose of selecting the more advantageous proposal, adopting the criteria of best offer for the grant, for the conclusion of a lease contract of public area and infrastructure located inside an organized port. The Auction will follow the Differentiated Regime for Public Procurement (RDC), set forth by Federal Law # 12462/11, as well as the rules and procedures set forth by Federal Law 12815 of June 5, 2013, and Federal Decree # 8033, of June 27, 2013, and, alternatively, by Federal Laws # 8666/93 and # 8987/95.

The notice on this **Auction Notice** will be published in the Federal Official Gazette. All subsequent publications related to the bidding process will be made in the Federal Official Gazette and in ANTAQ.

The **Auction Notice** and respective documentation will be available for consultation on the *Internet*, from [--]/[--]/[--], on ANTAQ's website, www.antaq.gov.br. The **Auction Notice** can be also obtained at ANTAQ's headquarters, located at the address SEPN, Quadra 514, Conjunto "E", Edifício ANTAQ, Brasília, DF, CEP 70760-545.

The Representation Documentation, Preliminary Statements, Bid Security, and Lease Proposal related to the Auction will be received only on [--]/[--]/[--], from 10 am to 1 pm, at B3 headquarters, located at the address Rua XV de Novembro, 275, Centro - São Paulo/SP.

The Auction Public Session and opening of Bidders' Lease Proposals will take place on [--]/[--]/[--], starting at 10:00 am at the B3 headquarters, located at the address Rua XV de Novembro, 275, Centro - São Paulo/SP.

The Bidding was preceded by Public Hearing, under terms of art. 39 of Federal Law # 8666/93, as well as of art. 11, paragraph 3, of Federal Decree # 8033/2013, dully published in the Federal Official Gazette of [--]/[--]/[--] and held on [--]/[--]/[--], as well as by a Public Consultation, prescribed by art. 34 - A, paragraph 1, of Federal Law # 10233/2001, carried out between [--]/[--]/[--] e [--]/[--]/[--], also published in the Federal Official Gazette, on the date of [--]/[--]/[--].

Brasília/DF, [--]/[--]/[--]

CHAPTER I - INITIAL PROVISIONS

Section I - Definitions

1.1. For the purposes of this **Auction Notice**, and without prejudice to other definitions set forth herein, the following expressions are hereby deemed to be:

1.1.1. **Awardee:** Winner proponent (or bidder);

1.1.2. **ANTAQ:** National Waterway Transportation Agency - ANTAQ, entity created by Federal Law 10.233/2001, responsible for carrying out this bidding procedure;

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

1.1.4. **Organized Port Area:** area delimited by Executive Branch act, which includes the port facilities and infrastructure to protect and access the Organized Port;

1.1.5. **Lease:** onerous assignment of public area and infrastructure located within the Organized Port, as described in the Contract and its Annexes, for exploration for a specified period;

1.1.6. **Lessee:** special purpose company to be constituted by the Awardee, in the form of a joint-stock company, in accordance with Brazilian legislation, and with headquarters and management located in Brazil;

1.1.7. **Activities:** port activities to be explored by the Lessee within the area indicated in the Contract and its Annexes, and in the manner described therein.

1.1.8. **B3:** B3 S.A. – Brasil, Bolsa Balcão, headquartered at the address: Praça Antônio Prado, nº48 - Centro - São Paulo, SP, advisor to the Bidding Special Committee.

1.1.9. **Affiliates:** company subject to the significant influence of another company that holds or exercises the power to participate in financial or operational policy

decisions, without controlling it. The existence of significant influence is assumed in case of 20% (twenty percent) or more in ownership of the company's voting capital, without controlling it;

1.1.10. **Bidding Special Committee:** a commission established by ANTAQ, which will be responsible for conducting the procedures related to the Auction.

1.1.11. **Consortium:** a group of Bidders, jointly and severally liable for the fulfillment of the obligations arising from this Auction, bound by a Term of Commitment for the Constitution of a Specific Purpose Company, in accordance with **Appendix 1 - Auction Samples;**

1.1.12. **Contract:** Lease Contract to be signed between the Granting Authority and the Lessee, pursuant to the **Lease Contract Draft;**

1.1.13. **Controlled company:** a company in which the Parent Company, directly or through other controlled or affiliate companies, holds the rights as shareholder, which permanently assures it the majority of the votes in the corporate resolutions and the power to elect the majority of the company's managers; effectively using its power to direct the company's social activities and guide the functioning of the company's bodies;

1.1.14. **Parent company:** individual or legal entity that:

1.1.14.1. Company that holds shareholder rights that permanently assure the majority of the votes in the general meeting resolutions and the power to elect the majority of the company's managers; and

1.1.14.2. It effectively uses its power to direct the company's social activities and guide its bodies.

1.1.15. **Accredited Brokerage Firm:** brokerage firm qualified (under Brazilian law) and authorized to operate in B3, hired by the Proponent Bidder to represent it in all transactions related to the Auction at B3;

- 1.1.16. **Deadline to Receive Volumes:** Date that the **Proponent** must deliver, at **B3**, all documentation necessary for their participation in the **Auction**.
- 1.1.17. **Qualification Documents:** set of documents listed in the **Auction Notice** to prove their legal, fiscal, technical, and economic-financial regularity;
- 1.1.18. **Auction Notice:** This document and its specific conditions, which determine the rules of the Auction;
- 1.1.19. **Consortium Leading Company:** company indicated by the Proponents participating in the bidding process as a Consortium, liable, before the Granting Authority, for compliance with the obligations contained in this **Auction Notice and in the Lease Contract Draft**, without prejudice to the joint liability of the other consortium companies;
- 1.1.20. **Bid Security:** guarantee of full compliance, by the Proponent, for the Lease, which may be executed in accordance with the terms of the **Auction Notice**;
- 1.1.21. **Auction:** Bidding procedure for the selection of the Bidder which, in turn, will become the Lessee responsible for the execution of the object of the Contract in the form of a Specific Purpose Company;
- 1.1.22. **Auction Procedures Manual:** document published by B3 on its website, providing guidelines and rules on the Auction Session, as well as the Bid Security delivery procedures;
- 1.1.23. **NCM:** MERCOSUR Common Nomenclature;
- 1.1.24. **Port Operator:** pre-qualified legal entity to carry out cargo/merchandise handling and storage, heading to or coming from waterway transport, within an Organized Port area;

- 1.1.25. **Granting Authority:** the UNION, through the Ministry of Transportation, Ports and Civil Aviation - MTPA;
- 1.1.26. **Organized Port:** public asset built and equipped to meet the needs of navigation, passenger transportation, or handling and storage of goods, which port traffic and operations are under the jurisdiction of port authority;
- 1.1.27. **Proponent:** legal entities, investment funds, and pension entities participating in the Auction, individually or in Consortium;
- 1.1.28. **Accredited Representatives:** people authorized to represent Proponent/Bidders in all documents and sessions related to the Auction, except in activities practiced with B3;
- 1.1.29. **Auction Public Session:** public face-to-face session for the opening of the Lease Proposals delivered by the Proponents/Bidders;
- 1.1.30. **Users:** all individuals and legal entities that will use the **Activities** provided by the Lessee, or by a third party appointed by it, in the Organized Port Area;
- 1.1.31. **Lease Amount:** Amount due by the Lessee to the Port Administration, due to the Lease usage, pursuant to the **Lease Contract Draft**;
- 1.1.32. **Grant Amount:** Amount offered by the Proponent/Bidder to obtain concession of the Lease use, pursuant to the **Lease Contract Draft**;
- 1.2. Except when the context does not allow such interpretation, the **Auction Notice** definitions will be also applied in their singular and plural forms.

Section II - Object

2.1. The purpose of this **Auction** is to **lease** Public Port areas and facilities located in the Port of Suape, State of Pernambuco, to carry out **Activities**, according to specifications and requirements established in the **Auction Notice** and in the **Lease Contract Draft**.

2.1.1. The total **Lease** area in Suape, which ID code is **SUA05**, holds approximately 268,967 m² (two hundred and sixty-eight thousand, nine hundred and sixty-seven square meters), consisting of the land on which the equipment and buildings to be used in the disembark (unloading, internal handling, storage, and shipment), and in the embark (reception, storage, internal handling, and shipment) of containerized cargo, according to the rules set forth in the **Contract** and its **Annexes**.

2.2. The full description of the areas, infrastructure, and port facilities can be found in the **Lease Contract Draft**.

2.3. The **Activities** to be performed by the Lessee in the Lease operations consist in containerized cargo handling and storage, under the terms and conditions set forth in the **Contract** and its **Annexes**.

2.4. The Lessee remuneration will be obtained through the revenues charged directly from the Users on the **Activities** provided, as provided in the **Contract**.

2.5. The **Lease** will be in force for a period of 25 (twenty-five) years, with possible contractual extension, as set forth in Clause 3 of the **Lease Contract Draft**.

2.6. **This Auction Notice is composed of: Lease Contract Draft** and its **Annexes**

Section III - Access to the Auction Notice

3.1. The **Auction Notice**, the **Lease Contract Draft**, as well as all available information, studies, and projects may be obtained at:

- 3.1.1. ANTAQ website, www.antaq.gov.br, from [--]/[--]/[--], focusing on the availability of these studies and information on the rules set forth in this **Auction Notice** and in the **Contract Draft**; and
- 3.1.2. At ANTAQ's headquarters, located at the address SEPN, Quadra 514, Conjunto "E", Edifício ANTAQ, Brasília / DF, CEP 70760-545.
- 3.2. The interested parties must obtain the **Auction Notice** by the means specified above, as a way to guarantee the authenticity of the texts and to ensure that they have the entire documentation that compose the call notice.
- 3.3. ANTAQ is not liable for the text of the **Auction Notice** and **Lease Contract Draft** obtained in a manner or places other than those indicated in this call notice.
- 3.4. Obtaining of the **Auction Notice** is not a condition for participation in the Auction, as the Proponent/Bidder must acknowledge and accept all of its terms and conditions.
- 3.5. Will be adopted the minimum period of 100 (one hundred) days for the presentation of the Bidders' Lease Proposals, from the date of notice publication, as established in the article 11 of the Decree #8.033/2013.

Section IV - Clarifications on the Auction Notice

- 4.1. The Bidding Special Commission must provide clarifications on the **Auction Notice** and **Lease Contract Draft**, at the request of the parties or upon its own decision, and such clarifications must be properly recorded in minutes, pursuant to Item 4.5, obligatory to interpret its rules.
- 4.2. All requests for clarification must be submitted from a [--]/[- -]/[--] to a [--]/[- -]/[] by 6 p.m., as follows:
 - 4.2.1. online, in ANTAQ's website, in an appropriate form made available; or

- 4.2.2. by registered mail at ANTAQ's headquarters, which must include the printed file and in digital format saved in ".doc" format.
- 4.3. The Bidding Special Commission will not provide clarifications to requests:
 - 4.3.1. presented in a format different from that set forth in Item 4.2;
 - 4.3.2. not directly related to the contents of the **Auction Notice** and **Lease Contract Draft**; and
 - 4.3.3. subject to information, studies, research, investigations, surveys, projects, spreadsheets, and other documents or data not expressly set forth in the **Auction Notice** and **Lease Contract Draft**;
- 4.4. All replies from the Bidding Special Committee to requests for clarifications made under this Item will be recorded in minutes, which will be part of the bidding process.
- 4.5. The minutes will be published in ANTAQ's website at least 8 (eight) business days prior to the Volumes Receipt Date described in Item 20.1, and will be available to interested parties at the Agency's headquarters for consultation, without identification of questions sources. Proponents/Bidders may also obtain a copy of the clarification minutes at ANTAQ's headquarters, upon payment of the fees corresponding to its reproduction.

Section V - Technical Visits

- 5.1. Proponents/Bidders will be able to make up to two (2) technical visits to obtain additional information on the current area, infrastructure, and public facilities object of the Lease, opportunity to also evaluate environmental issues, in compliance with the additional instructions to be disclosed by the Bidding Special Committee.

- 5.2. Proponents/Bidders may nominate up to six (6) representatives to participate in the technical visits.
- 5.3. Participation in the technical visit is optional. The Proponent/Bidder must present in its qualification documentation the Sample 15 -Technical Visitation Certificate or the Sample 16 - Full Knowledge Statement, stating that it has full knowledge of the areas, infrastructure, and public facilities in which the Activities will be developed, as well as of the conditions that may affect its operation, access to the areas, materials, and equipment to be used, as well as other information necessary for the achievement of the object of the Lease, once the Proponent/Bidder is accountable for the occurrence of possible damages due to its omission in verifying the object.
- 5.4. Technical visits should be scheduled directly with SUAPE – Complexo Industrial Portuário Governador Eraldo Gueiros, with [responsible's name], established at the address: km 10, Rodovia PE-60 – Engenho Massangana – Ipojuca/PE, CEP 55.590-000, e-mail: xxxxxxxx@suape.pe.gov.br, telefone (81) 3527-5000, extension xxxx.

Section VI - Contesting the Auction Notice

- 6.1. Any contest to the **Auction Notice** must be filed at ANTAQ's headquarters within 5 working days from the proposals opening date, under penalty of losing this right.
- 6.2. The contest to the **Auction Notice** must be addressed to the Bidding Special Commission Chair and delivered in physical and digital copy at ANTAQ's headquarters, or online, in ANTAQ's website, subject to the 6:00 p.m. work schedule. In case of divergence of information among versions, the content provided in the physical copy will prevail.
- 6.3. The Bidding Special Commission must evaluate and answer the contests within three (3) business days prior to the Auction Public Session.

- 6.3.1. The evaluation and answers from the Bidding Special Committee to contests made under this Item will be registered in the minutes, which will be part of the bidding process.
- 6.3.2. The minutes will be published in ANTAQ's website and will be available to interested parties at the Agency's headquarters for consultation. Proponents/Bidders may also obtain a copy of the clarification minutes at ANTAQ's headquarters, upon payment of the fees corresponding to its reproduction.

Section VII - General Provisions

- 7.1. All **Auction Notice** documents, including mail exchanged between Proponent/Bidders and Bidding Special Commission, must be written in the Portuguese language and all documentation must be consulted and interpreted in accordance with this language.
- 7.2. Documents of foreign origin presented in other languages without (i) authentication from respective Brazilian consulates, and (ii) sworn translation in the Portuguese language, will not be considered for evaluation of the Proposals.
- 7.3. Except if expressly authorized in this **Auction Notice**, the documentation must follow the samples contained in this invitation instrument, if any.
- 7.4. All text mentioning time in this **Auction Notice** refer to the official time of Brasilia, DF, Brazil.
- 7.5. Mail related to the **Auction Notice** and sent to the Bidding Special Commission will be considered as delivered on the date of its receipt, by protocol or other form of receipt confirmation, in case of electronic mail.
- 7.6. Mail received after 6:00 p.m., including those addressed to electronic address, will be considered as received on the next immediately business day.

- 7.7. Alterations in the **Auction Notice** will be published in the Federal Official Gazette and in ANTAQ's website.
- 7.8. Documents submitted electronically may not have access restrictions or content protection.
- 7.9. In case of divergence between the information presented in physical copy and electronic media, the physical copy will prevail.
- 7.10. Information, studies, research, investigations, surveys, projects, spreadsheets, and other documents or data available at ANTAQ's website were carried out and obtained for the exclusive purposes of Auction pricing, and do not have any binding purpose that can hold ANTAQ and/or Granting Authority responsible for the Proponent/Bidders and/or to the future Lessee.
- 7.11. Proponents/Bidders are responsible for the direct analysis of the Lease area conditions, infrastructure and public facilities, and all data and information on its operation, as well for the examination of all guidelines, conditions, requirements, laws, decrees, standards, specifications, and regulations applicable to the Auction, to the Lease and to the Organized Port, and shall pay for their respective costs and expenses and any consequential damages, including concerning studies, investigations, technical visits, surveys, projects, and investments.
- 7.12. Participation in the Auction implies the full and unconditional acceptance of all terms, provisions, and conditions of the **Auction Notice**, as well as other applicable rules.
- 7.13. Subject to the specific rules of this **Auction Notice**, the amount set forth in the **Auction Notice** will be adjusted by applying the Broad Consumer Price Index (IPCA), published by the Brazilian Institute of Geography and Statistics (IBGE). The amounts will be adjusted every 12 (twelve) months counted from the base date.

CHAPTER II - BIDDING SPECIAL COMMITTEE

- 8.1. The Auction will be judged by the Bidding Special Commission, assisted by B3, which will lead the activities necessary to carry out the bidding process.
- 8.2. The Bidding Special Commission may request information from any agencies and entities involved in this Bidding, as well as from all those members of Federal, State and Municipal Public Administration.
- 8.3. In addition to the prerogatives implicitly derived from its legal function, the Bidding Special Commission may:
- 8.3.1. request the Proponents/Bidders, at any time, actions to clarify and solve any matter related to the documents submitted, including but not limited to formal failures, divergences of information, versions and/or translations;
 - 8.3.2. adopt criteria for the reorganization of failures and defects of formal nature, and complementation of shortcomings along the Auction;
 - 8.3.3. promote actions to clarify or complement the Auction instruction, expressly forbidding the subsequent inclusion of document or information that should originally appear in the Volumes described in Item 20.1 presented by the Proponent/Bidder;
 - 8.3.4. extend the deadlines established in the **Auction Notice**, in case of public interest, unforeseeable or force majeure event, not implying compensation or reimbursement of costs and expenses for any reason;
 - 8.3.5. in the event of a change that unequivocally affects the preparation of the Proposals, change the **Volumes Receipt Date** described in Item 20.1.
- 8.4. Refusal to provide clarifications and documentation or to comply with the requirements requested by the Bidding Special Commission, within the deadlines determined by it and

in accordance with the terms of this **Auction Notice**, may lead to the disqualification of the Proponent/Bidder, with the consequent execution of the Bid Security.

CHAPTER III - PARTICIPATION IN THE AUCTION

9.1. Under the terms of this **Auction Notice**, Brazilian or foreign legal entities, pension entities, and investment funds, individually or in a Consortium may participate in the Auction.

9.2. Proponents/Bidders will be represented in the Auction, necessarily, by Authorized Representatives and Accredited Brokers.

Section I - Foreign Company Participation

10.1. Proponents from foreign legal entities that do not hold operations in Brazil must submit, for individual or Consortium participation, documents equivalent to those required to Brazilian Proponents/Bidders for qualification purposes, which must be authenticated by the Brazilian consular authority of their country of origin, as well as translated by sworn translator.

10.2. Proponents from foreign legal entities that do not hold operations in Brazil must submit a statement, in accordance with Sample 18 found in **Appendix 1 - Auction Notice Samples**, certifying the correlation between the administrative and legal documents usually required in bids in Brazil and the corresponding ones in the country of origin, also indicating the correlation of their respective validities.

10.3. The equivalent Qualification Documents must be presented to allow the Bidding Special Committee to analyze its validity and demandability.

10.4. In case of non-existence of documents equivalent to those requested in this **Auction Notice**, or of bodies in the country of origin that authenticate these

documents, the Proponent/Bidder must submit a declaration informing this fact, according to the Sample 19 found in **Appendix 1 - Auction Notice Samples**.

10.4.1. In case the documentation required in Subsection III, Section V, Chapter IV of this **Auction Notice** fits in the previous Item assumption, the declaration of non-existence of an equivalent document must be added to the corresponding declaration of non-existence of tax and labor-related debts.

10.5. Foreign Proponent Legal Representative is the person legally accredited and domiciled in Brazil, with express powers, by private or public power of attorney, with a signature recognized and authenticated by a notary or other entity, in accordance with the legislation applicable to the documentation, to receive summon and answer, administratively and judicially, on behalf of the Bidder in Brazil, as well as to represent the foreign legal entity Bidder in all stages of the bidding process, following the provisions in item 7.1 .

10.6. Bidders that are foreign legal entities authorized to operate in Brazil must submit documentation that are required from legal entities constituted under Brazilian legislation.

Section II - Participation in Consortium

11.1. Regarding Consortium, the following rules must be followed, without prejudice to others existing in the **Auction Notice**:

11.1.1. In the formation and organization of the Consortia, the Proponent/Bidders must follow the provisions of this section and of the applicable legislation;

11.1.2. Each Consortium member must meet, individually, the requirements set forth in the **Auction Notice** regarding the Preliminary Statements and the Qualification Documents;

- 11.1.3. The disqualification of any Consortium member will result in the automatic disqualification of the entire Consortium;
- 11.2. There is no limit in the number of participants for consortium formation.
- 11.3. Inclusion, substitution, withdrawal, exclusion, or even change in the participation percentage of Consortium members will not be allowed, from the **Volumes Receipt Date** described in Item 20.1 until the signing of the Contract.
- 11.4. In addition to other documents required in the Auction **Notice**, the Bidder's participation in a Consortium system is conditioned to the presentation of a Specific Purpose Company Constitution, subscribed by the Consortium members, pursuant to **Appendix 1 - Auction Notice Samples (Sample 15)**.
- 11.5. In a single Auction, each legal entity may participate in only one Consortium, a restriction that also applies to its Controlled, Affiliates companies and entities subject to the same common control.
- 11.6. If a Proponent/Bidder participates in a Consortium, it will not be allowed to participate by itself in the Auction, a restriction that will also apply to its Controlled, Parent, Affiliates companies and entities subject to the same common control.
- 11.7. The joint liability of the Consortium members will cease, concerning obligations assumed due to the Auction:
- 11.7.1. If the Consortium wins, on the Contract Signature date; and
- 11.7.2. If the Consortium does not win, up to 15 (fifteen) days from the Contract Signature.
- 11.8. In the event of a Consortium composed of foreign and Brazilian companies, the leadership will be mandatory for the Brazilian company, and it will be of free selection among the Consortium members.

Section III - Restrictions to the Participation

12.1. Legal entities that, individually or in a Consortium, may not participate in this Auction:

12.1.1. if declared non-idoneous by Act of Public Authorities;

12.1.2. Suspended or prevented from participating in Public Biddings or working for the Public Administration, under the terms of Law 8666, of June 21, 1993;

12.1.3. Convicted, by judgment by the court of last resort, to the penalty of prohibition of rights due to environmental crimes practices, according to art. 10 of Federal Law 9605, of February 12, 1998;

12.1.4. Sentenced, by an administrative decision by the court of last resort, to penalty provided for in art. 38, II, of Federal Law 12529, of November 30, 2011;

12.1.5. Employ managers or technicians who are or have occupied a commissioned position, a position obtained by public exam, or employment at ANTAQ and/or in the Ministry of Transport, Ports and Civil Aviation, or also occupying a management, high advising, or intermediate assistance for the Union Direct Administration, in the last 180 (one hundred and eighty) days prior to the **Auction Notice publishing date**;

12.1.5.1. The restriction of Item 12.1.5 does not apply to members of the Board of Directors, Fiscal Council, and Advisory Council of any Proponents/Bidders;

12.1.6. Have civil convictions for administrative impropriety, judged by the court of last resort, pursuant to Federal Law 8429, of June 2, 1992;

- 12.1.7. Legally-backed Debt/Financial Restructuring, bankruptcy and composition agreement with creditors, civil insolvency, under concourse of creditors, in dissolution or in liquidation.
- 12.2. The verification of occurrences in items 12.1.1, 12.1.2, and 12.1.6 will be carried out consulting the Unified Registration System and Suppliers - SICAF, the National Registry for Default and Suspended Companies (CEIS) of the Comptroller's General Office (CGU), Transparency Portal, and CNJ Portal.

CHAPTER IV - DOCUMENTATION

- 13.1. Except for the Guarantees, in the modalities of Letter of Guarantee and Surety Bond, which must be, obligatorily, in their original form in the first copy of Volume 1 described in Item 20.1, all other Documents must be presented in their original form or by certified copy, and initialed by one (1) of the Accredited/Authorized Representatives. Proponents/Bidders may submit certified copies of the original copies of the Surety Bond policies to instruct the 2nd and 3rd copies of the 1st Volume.
- 13.1.1. Certificates that do not state their expiration date will be accepted if issued up to ninety (90) days before the **Volumes Receipt Date**.
- 13.1.2. Certificates obtained by electronic means containing the digital authentication will be considered valid. Electronic certificates lacking digital authentication will be considered valid provided they are issued by the official website of the appropriate body.
- 13.2. All documentation submitted by Proponents/Bidders will be held by B3 within fifteen (15) days from the Contract Signature, except for documentation from the winner Bidder, which will be delivered to the Bidding Special Commission.
- 13.3. After fifteen (15) days, period established in the previous Item, the documentation presented by the non-winning Bidders will be forwarded to ANTAQ, and may be retrieved by these Proponents after notification on the completion of all

inspection steps carried out by the Brazilian General Accounting Office, pursuant to Normative Instruction 27 of December 2, 1998.

13.3.1. The Bid Security will be returned by ANTAQ, under B3 consultancy, to Bidders within 15 (fifteen) days after the Contract Signature.

13.3.2. After thirty (30) days from the inspection conclusion notice receipt, mentioned in Item 13.3 ANTAQ will destroy the documentation not retrieved by the Bidders.

Section I - Preliminary Statements

14.1. Bidders should submit preliminary statements, according to the samples included in **Appendix 1 - Public Auction Samples**, declaring:

Section II - Representatives

Subsection I - Accredited Representatives

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

15.2. The proof of power granted to Accredited Representatives shall be:

15.2.1. In case of Brazilian companies, by power of attorney that proves the powers to perform, on behalf of the Bidder, all activities related to the Auction (including powers to receive court summons, represent the Administrative and Judicial aspects of the Bidder, make agreements and waive rights), in accordance with the sample **Appendix 1 - Auction Notice Samples (Sample 2)**, with notarized authenticated signature and with all documentation proving the powers of the grantor (s) (according to last amended filed in the relevant business or civil registry);

15.2.2. In case of Bidders in Consortium system, the power of attorney instrument mentioned in the previous Item must be granted by the Consortium's Leading Company, with notarized authenticated signature, following the sample found in **Appendix 1 - Auction Notice Samples (Sample 2)**, together with:

15.2.2.1. indication of the Consortium Leading Company as accountable for the acts practiced by the Consortium before the Granting Authority;

15.2.2.2. powers of attorney granted by the Consortium to the Consortium Leading Company, in accordance with **Appendix 1 - Auction Notice Samples (Sample 3)** granting it express, irreversible, and irrevocable powers to agree to conditions, compromise, sign any papers, documents and instruments related to the object of the Auction;

15.2.2.3. documentation proving the powers of all the parties (according to last amendment filed in the relevant business or civil registry); and

15.2.2.4. commitment to constitute a Specific Purpose Company subscribed by the Consortium, in the format of **Appendix 1 - Auction Notice Samples (Sample 15)**.

15.2.2.5. If a Bidder is a foreign company, through a power of attorney granted to the resident representative, domiciled representative in Brazil, in accordance with **Appendix 1 - Auction Notice Samples (Sample 4)**, which proves the powers to perform, on behalf of the Bidder, all acts related to the Auction, to receive summons and represent the Administrative and Judicial aspects of the Bidder, and make agreements and waive rights and, if necessary, substitution of relevant powers for the Accredited Representatives, followed by documents proving the powers of the parties, with the signature(s) duly recognized as true by a notary or other entity according to the applicable legislation, recognized by the closest Brazilian consular representation (properly translated into Portuguese by a sworn public translator,) and registered in the Registry of Deeds and Documents

(according to last amended on the relevant business or civil register, or equivalent requirement of the country of origin).

15.3. At least one (1) of the Accredited Representatives shall sign all statements and documentation referred to in this **Auction Notice**.

15.4. Each Accredited Representative may represent a single Bidder.

15.5. Notwithstanding, the provisions of this subsection, Accredited Representatives will not be allowed to intervene or perform acts during the Auction Session, as this representation will be performed exclusively by Accredited Brokers.

Subsection II - Accredited Brokers

15.6. The Accredited Brokers must represent the Bidders at B3, in the delivery of all documentation required in this **Auction Notice**, especially the Bid Security, the Economic Proposal, and the Qualification Documentation, and in the acts of the Public Auction Session.

15.7. The Intermediation Agreement between the Accredited Broker and the Bidder must have the minimum content specified in the **Auction Procedures Manual** and must be presented in the 1st Volume.

15.8. Each Accredited Broker may represent a single Bidder, and each Bidder may be represented and participate in the Auction through a single Accredited Broker.

Section III - Bid Security

16.1. The Bid Security must be paid in the amount of BRL 54,958,805.01 (fifty-four million, nine hundred and fifty-eight thousand, eight hundred and five Brazilian reais and one cent).

- 16.2. To the payment of the Bid Security, the Bidders must present the Bid Security Sample (Sample 5), following the rules described in the **Auction Procedures Manual**, without prejudice to the guidelines contained in this Section.
- 16.3. The Bid Security may be provided in cash, government bond, insurance bond, surety bond, and a combination of modalities may be used, subject to the following conditions:
- 16.3.1. The Bid Security presented in the insurance bond and surety bond must comply with the minimum information indicated in **Appendix 1 - Auction Notice Samples** (Sample 6/ Sample 7) and be presented in their original copy. General copies will not be accepted, however, the digital copy of the insurance bond policies certified by the Superintendence of Private Insurance (SUSEP) is accepted, as well as signature made through digital certification. The Bid Securities presented in the insurance bond and surety bond modalities must have their amounts in Brazilian reais and follow the conditions established in the **Auction Procedures Manual**;
- 16.3.2. In case the Bid Security is provided in government bonds, only the follow will be accepted: Treasury Notes - LTN, Treasure Bonds - LFT, Treasure Bills (C series) - NTN-C, or Treasure Bills (F series) - NTN-F;
- 16.3.3. In case of cash deposit, the deposit must be made at branch of Caixa Econômica Federal bank, chosen by the Bidder, based on art. 82 of Federal Decree 93.872, of December 23, 1986, and Federal Decree-Law 1737, dated December 20, 1979, and the Envelope must include the beneficiary's copy that proves the deposit;
- 16.3.4. If the Bidder participates individually, the Bid Security must be presented in its own name;

- 16.3.5. If the Bidder is a Consortium, the Bid Security must be presented on behalf of one or more Consortium Members and must strictly state the name of the Consortium and all its members with their respective percentage shares, regardless of whether the Bid Security has been provided by one or more participants. The contribution of the total amount separated among the Consortium members is acceptable even in this case, who may choose separately for one of the guarantee modalities provided in Item 16.3, without prejudice of the choice, of other members, of a different modality; and
- 16.3.6. The Intermediation Agreement between the Accredited Broker and the Bidder must be presented according to the **Auction Procedures Manual**, properly signed, with notarized and authenticated signature.
- 16.4. In case the Bid Security is provided through government bond, according to item 16.3.2 , these must be issued in book-entry form, through a centralized system of liquidation and custody authorized by the Central Bank of Brazil, and evaluated for their economic amounts, as defined by the Ministry of Finance.
- 16.5. The Bid Security will hold ANTAQ as the beneficiary and the Bidder as the borrower, with expiration date of at least one (1) year from the **Volumes Receipt Date**, and must be renewed by the Bidder before its expiration in case the bidding process is not completed within that period.
- 16.5.1. The Bid Security validity period will be extended as necessary, at least thirty (30) days prior to its expiration date, at the expense of the Bidder, in case it expires before the stipulated deadline, otherwise the event will be disqualified. The Bid Security will be renewed for a minimum period of six (6) months.
- 16.6. In case of extension, the Bid Security will be adjusted by the variation of the Broad Consumer Price Index (IPCA) published by the Brazilian Institute of Geography and Statistics (IBGE), for the period between the **Volumes Receipt Date** and the last index officially released prior to the Bid Security extension.

16.7. The Bid Security may be executed by ANTAQ, upon prior notice, initiation and conclusion of the proper administrative legal process, without prejudice to the other penalties set forth in the **Auction Notice** and in the applicable legislation, in the following cases:

16.7.1. Total or partial default of Bidders, of obligations assumed by them due to their participation in the Auction;

16.7.2. Presentation, by the winning Bidder, of Qualification Documentation incompatible with the established by the **Auction Notice**;

16.7.3. Presentation, by the winning Bidder, of Lease Proposal that does not meet all the requirements established in the applicable legislation and in the **Auction Notice**;

16.7.4. Failure by the Awardee to comply with the obligations prior to the Contract Signature;

16.7.5. Awardee refusal to sign the Contract;

16.7.6. When the Bidder practices acts to frustrate the objectives of the bidding process;

16.7.7. Coverage of fines, penalties, and indemnities that may be owed by Bidders to ANTAQ or to the Granting Authority, as a result of their participation in the Auction, including the **Volumes Receipt Date** up to the deadline established in item 13.3.1, without prejudice to the application of other penalties and residual liability for the amount that exceeds the Bid Security; and

16.7.8. If the Bidder withdraws its Bid within its validity period.

- 16.8. Any change in the Bid Security terms and conditions after its submission to the Bidding Special Commission will not be allowed, unless it is approved by the Bidding Special Commission in case of financial value loss or need for its replacement.
- 16.9. The Bid Security may not contain a clause excluding any liabilities taken by the borrower concerning the participation in the Auction, except for the exclusions strictly provided for the insurance bond in SUSEP Regulation.

Section IV - Lease Proposal

- 17.1. The Bidder must present its Lease Proposal according to the sample found in **Appendix 2 - Lease Proposal Presentation Sample** and observe the rules contained in the **Auction Procedures Manual**, without prejudice to the guidelines established in this Section.
- 17.2. The Bidder must present its Statement of proposal independent preparation as the sample established in **Appendix 1 - Auction Notice Samples (Sample 8)**.
- 17.3. The Bidder must indicate, in its Lease Proposal, the Grant Amount in Brazilian reais to be paid to the UNION with a maximum of 2 (two) decimal places, being prohibited the presentation of an amount less than BRL 1.00 (one Brazilian real).
- 17.4. The Lease Proposal will be valid for one (1) year, from the **Volumes Receipt Date**, and this period may be extended, for an equal period, upon request from the Bidding Special Commission, ANTAQ, or the Granting Authority.
- 17.4.1 In case of extension, the Grant Amount will be adjusted by the variation of the Broad Consumer Price Index (IPCA) published by the Brazilian Institute of Geography and Statistics (IBGE), for the period between the **Volumes Receipt Date** and the last index officially released prior to the Proposal Extension.
- 17.5. The Lease Proposals must be unconditional, irreversible, and irrevocable, and must consider that all the amounts indicated in this **Auction Notice** are referenced to

February 2018, except for the Grant Amount that will have as the base date the **Volumes Receipt Date**

Section V - Qualification

- 18.1. The Qualification Documentation must be presented according to the sample in **Appendix 1 - Auction Notice Samples** (Sample 9);
- 18.2. Bidders that are foreign legal entities and that do not operate in Brazil must submit, in the case of individual participation as well as in a Consortium, documentation equivalent to those required in this **Auction Notice** , according to instructions in items 10.1 , 10.2 , 10.3 , 10.4, and 10.5 .

Subsection I - Legal Qualification

- 19.1. The Bidder must submit the following documents, both in the case of individual participation and Consortium, when there is:
 - 19.1.1. Statute or Articles of Incorporation, followed by proof of current managers, properly registered at the relevant Board of Trade or Registry Office. The Consortium's registration with the Board of Trade is waived;
 - 19.1.2. Certificate issued by relevant Board of Trade or Registry Office, with updated information on the company's registration.
 - 19.1.3. Corporate structure, indicating the direct and indirect shares in its capital up to its last level, as well as the disclosure of agreements among shareholders or statement of their non-existence, except for the possibility of requesting that the access to eventual agreement of shareholders to be granted only to the Bidding Special Commission.

- 19.1.3.1. For purposes of compliance with provisions of item 19.1.3, the Bidder must consider all types of participation, including minority, higher than 5% (five percent) of the voting and non-voting capital, including Investment Funds.
- 19.2. Being a Consortium, the Bidder must submit, in addition to the documentation described in item 19.1, a document proving the public or private commitment of Consortium constitution, subscribed by the Consortium members.
- 19.3. In case the Bidder is an open or closed supplementary pension entity, it must submit, in addition to the documentation described in item 19.1, a document proving express and specific authorization regarding its constitution and functioning, granted by the competent supervisory body, and a statement that the plans and benefits managed by it are not under liquidation or intervention from the National Superintendence for Supplementary Pensions Funds in the Treasury Department.
- 19.4. When the Bidder is an investment fund, it must present, in addition to the documentation described in item 19.1, the following documentation:
- 19.4.1. Constitutive act with last amendment filed with the competent body;
 - 19.4.2. Proof of investment fund registration in the Securities and Exchange Commission;
 - 19.4.3. Consolidated regulation of the investment fund with its subsequent amendments, if any;
 - 19.4.4. Proof of registration of the investment fund regulation before the relevant Registry of Documents;
 - 19.4.5. Proof of registration of the administrator and, if any, of the investment fund manager before the Brazilian Securities and Exchange Commission; and

- 19.4.6. Proof that the investment fund is duly authorized to participate in the bidding process, through the General Meeting Minutes authorizing the participation of the investment fund in the bidding process or other equivalent document.
- 19.4.7. Presentation of the General Meeting Minutes that appointed the investment fund administrator, as well as the power of attorney specific to the representation of the administrator before the investment fund, including all acts and for all purposes of the auction, assuming on behalf of the fund all obligations and rights arising from its participation in the bidding process.
- 19.5. In the case of foreign legal entities operating in Brazil, it is further required authorization decree and registration or authorization act to operate in Brazil, issued by the relevant body, when the activity so requires.
- 19.6. Foreign legal entity that does not operate in Brazil and wishes to participate in the Auction, individually or in a Consortium, must provide the documentation requested in this Subsection, in accordance with the legislation of its country of origin, and must also present a power of attorney that proves the Legal Representation in Brazil and express statement that it is subject to Brazilian Legislation and that it waives any claim through diplomatic means, according to **Appendix 1 - Auction Notice Samples** (Sample 12).

Subsection II - Economic and Financial Eligibility and Qualification

- 19.7. The Bidder must submit the following documents, both in the case of individual participation and Consortium, when there is:
- 19.7.1. For companies: Certificate of good standing attesting nonexistence of Bankruptcy request, outstanding composition with creditors, in court or out-of-court recovery, issued by the District Judicial Distributor (Civil Courts) of the city in which the company is headquartered, with a date no later than 90 (ninety) days prior to the **Volumes Receipt Date**, together with a probative certificate

issued by the office of case assignment of the Bidders' District. In case of an assigned judicial action, a full content certificate of the event must be attached, indicating the status of the updated process, comprising the period of ninety (90) days prior **to the Volumes Receipt Date**.

- 19.7.2. For civil associations: Certificate of good issued by the District Judicial Distributor (Civil Courts) of the city in which the company is headquartered, with a date no later than 90 (ninety) days prior to the **Volumes Receipt Date**, together with a probative certificate issued by the office of case assignment of the Bidders' District. In case of an assigned judicial action, a full content certificate of the event must be attached, indicating the status of the updated process, comprising the period of ninety (90) days prior **to the Volumes Receipt Date**.
- 19.8. When the Bidder is an open or closed pension entity, it must submit, in addition to the documentation described in Item 19.6, a statement that the plans and benefits administered by it are not under liquidation or intervention by the supervisory body of its activities.
- 19.9. When the Bidder is an investment fund, it shall submit, in addition to the documentation described in Item 19.7, the Certificate of nonexistence of Bankruptcy of the fund manager and administrator, issued by the assigning registry office of their respective headquarters, dated up to 90 (ninety) days prior to the **Volume Receipt Date**.
- 19.10. The Bidder and, in the case of a Consortium, each one of its members, in proportion to its participation in the Consortium, must declare that it has own financial resources or from third parties, as financing, sufficient to meet the payment obligations necessary to achieve the object of the Lease, under the terms of **Appendix 1 - Auction Notice Samples** (Sample 13).

Subsection III - Fiscal and Labor Regularity

19.11. The Bidder must submit the following documents, both in the case of individual participation and Consortium, when there is:

19.11.1. Proof of registration in the Corporate Tax Payer Enrollment Number of the Ministry of Finance - CNPJ / MF;

19.11.2. Certificate of Regularity from the Government Severance Indemnity Fund for Employees (FGTS), which must be within the period of validity stated on it;

19.11.3. Proof of fiscal regularity before the National Treasury, upon submission of a certificate jointly issued by the Federal Revenue Service of the Federative Republic of Brazil (RFB) and by the Attorney General of the National Treasury (PGFN), referring to all federal tax credits and to the Active Federal Debt (DAU) administered by them, including the tax credits related to social security contributions established in items "a", "b" and "c" of the sole paragraph of art. 11 of Law 8212 of July 24, 1991, to the contributions set as tax substitution, and to taxes due by law, to third parties, including those registered in The Active Federal Debt (DAU).

19.11.4. Proof of fiscal regularity before the State and Municipal Farms, this refers to securities tax, all of them from the respective domicile and maximum period of 180 (one hundred and eighty) days before the **Volumes Receipt Date**, prevailing the expiry date attested on them. If the Bidder does not have state taxpayer number, it must present a certificate proving the non-payer condition.

19.12. Certificate of Good Standing stating inexistence labor-related debts issued by the Labor Justice Department, in accordance with Federal Law 12440, of July 7, 2011.

Subsection IV - Technical Qualification

19.13. The documentation related to the Bidders Technical Qualification must be limited to the submission, by the Bidder, of the Technical Visitation Certificate or Full

Knowledge Statement, established in item 5.3, and commitment, under penalty of law, to obtain pre-qualification of the Specific Purpose Company to be constituted as port operator, or hire a pre-qualified port operator, in case it becomes the winner of the bidding, in accordance with sample found in **Appendix 1 - Auction Notice Samples** (Sample 16/Sample 17/Sample 20).

- 19.13.1. In case of hiring of pre-qualified port operators, the Lessee and the port operator will be jointly and severally liable for damages, in case of events described in items I, II, and III of art. 26, of Law 12815/13.

CHAPTER V - AUCTION STAGES

Section I - Submission of Documents

- 20.1. Bidders must submit, on the **Volumes Receipt Date**, on [- -]/[- -]/[- -], from 10:00 am to 1:00 pm, according to the Preamble and schedule of item 26.1.1 of this **Auction Notice**, 1st and 2nd volumes, sealed, in 3 (three) copies each, including:

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

- 20.1.2. **2nd Volume** - Lease Proposal, properly signed, according to the sample found in **Appendix 2 - Lease Proposal Submission Sample**; and

- 20.2. The **Winning Bidder** must deliver just one envelope with 3 (three copies) of the **3rd Volume - Qualification Documentation**, on the Date established in the Schedule, [- -]/[- -]/[- -], from 10:00 am to 1:00 pm at **B3**, including:

- 20.3. The 3 (three) Volumes should be submitted sealed, distinct, and identified in their cover as follows:

AUCTION # [-] - LEASE OF PUBLIC AREA AND INFRASTRUCTURE
LOCATED INSIDE ORGANIZED PORT

LEASE [-]

CORPORATE NAME OF BIDDER OR CONSORTIUM

ACCREDITED BROKER

NAME, PHONE, AND EMAIL OF REPRESENTATIVES

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

AUCTION # [-] - LEASE OF PUBLIC AREA AND INFRASTRUCTURE
LOCATED INSIDE ORGANIZED PORT

LEASING [-]

CORPORATE NAME OF BIDDER OR CONSORTIUM

ACCREDITED BROKER

NAME, PHONE, AND EMAIL OF REPRESENTATIVES

VOLUME 2 - LEASE PROPOSAL

AUCTION # [-] - LEASE OF PUBLIC AREA AND INFRASTRUCTURE LOCATED
INSIDE ORGANIZED PORT

LEASING [-]

CORPORATE NAME OF BIDDER OR CONSORTIUM

ACCREDITED BROKER

NAME, PHONE, AND EMAIL OF REPRESENTATIVES

VOLUME 3 - QUALIFICATION DOCUMENTATION

- 20.4. The copies of each one of the Volumes must contain, in addition to the identification mentioned in item 20.3, the subtitles "1st Copy", "2nd Copy" and "3rd Copy", respectively.
- 20.4.1. The copies of each one of the Volumes must be bound separately, with all pages numbered sequentially, including separation pages, catalogs, drawings or similar, if any, regardless of whether it is more than one notebook, from the first to the last page, so the numbering of the last page of the last notebook shows the number of pages of each Volume, and no amendments, erasures, or exceptions are allowed, and each Volume must have a closing term indicating the number of pages.
- 20.5. Each one of the Volumes, in addition to the physical copies, should be submitted digitally in a CD, DVD, or flash drive, without access restrictions or content protection, with the exactly same content of the three (3) physical copies. The format may be ".PDF", if there is no access restrictions or content protection. It may be just a single file or separate files, once they relate to the same Volume.
- 20.6. In case of divergence between the information presented in physical copy and electronic media, the physical copy will prevail.
- 20.7. One of the Accredited Representatives must insert his or her signature on the sealing of each of the Volumes specified in item 20.1, indicating next to the rubric, by hand, the date and time.
- 20.8. On the **Volumes Receipt Date**, Bidders must submit a statement, inside Volume 1 and in accordance with Sample 21 of the **Appendix 1 - Auction Notice Samples**, saying in which of the prerogatives regarding tie-breaking criteria, established in art. 45, paragraph 2 and art. 3º, paragraph 2, Law no 8.666/93, will fit and, in case of being the

winning bidder after the implementations of those prerogatives, may prove having them submitting supporting documentation, in just one copy, to the sieve of the Bidding Special Committee, during the time limit fixed by the Committee.

Section II - Analysis of Preliminary Statements, Representation Documents, and Bid Security;

21.1. The Bidder participation in the Auction Public Session is subject to the prior submission, in accordance with the requirements of the **Auction Notice**, of the following documentation:

21.1.1. Preliminary Statements, referred to in Section I of Chapter IV of the **Auction Notice**;

21.1.2. Representation Documentation, referred to in Section II of Chapter IV of the **Auction Notice**;

21.1.3. Bid Security, referred to in Section III of Chapter IV of the **Auction Notice**;

21.2. The Bidding Special Commission will analyze the regularity of the Preliminary Statements, Representation Documentation, and Bid Security submitted, with the support of B3.

Section III - Auction Session

22.1. The Lease Bid governed by this **Auction Notice** will take place in an Auction Face-to-Face Session, which will include the opening of the Proposals, the classification of the Bidders and, if applicable, the Auction will be carried out in open outcry session, subject to the rules of the **Auction Procedures Manual**.

22.2. The criterion for the Auction judgment is the highest offer for the Grant to be paid to the UNION for the onerous assignment of the Lease Area, and the amount must be presented in Brazilian reais, with a maximum of two (2) decimal places.

- 22.3. Once the Proposals are opened, these will be ordered by means of the criterion of highest offer for the Grant.
- 22.4. The qualified Bidders will be those whose Proposal meets all the requirements established in the applicable legislation and is still subject to the conditions and terms set forth in this **Auction Notice**.
- 22.5. In case the Lease receives a proposal from only one Classified Bidder, this bidder will be the winner of the Lease.
- 22.6. If the Lease receives two (2) or more proposals, the Auction will be carried out in open outcry session.
- 22.7. Qualified bidders whose bid meets at least one of the following conditions will participate in the Auction outcry session:
- 22.7.1. Placed among the 03 (three) highest offers for the Leasing;
 - 22.7.2. The offer amount is equal to or greater than ninety percent (90%) of the Grant Amount, offered by the Bidder whose Proposal corresponds to the higher offer for the Lease.
- 22.8. Bidders may only bid in the outcry stage if their bids meet the terms of item 22.7.
- 22.9. Each bid must exceed the bid amount of the Bidder itself for that Lease, considering that the bid:
- 22.9.1. must respect the minimum interval between bids, which will be determined by the Auction Public Session Director;

- 22.9.2. must respect the maximal time limit between bids, which will be determined by the Auction Public Session Director;
- 22.9.3. will change the Bidder's classification; and
- 22.9.4. may not have the exact same amount of another Bidder's amount.
- 22.10. The Director of the Auction Public Session will announce the end of the Auction when, as the period given for new bids ends, no Bidder makes a new bid according to the conditions established in item 22.9.
- 22.11. After the Auction conclusion, the Lease winner will be the Bidder who has submitted the highest offer for the Grant to be paid to the UNION for the onerous assignment of the Lease Area.
- 22.12. Immediately after conclusion of the Auction, the Bidder defined as winner of the Lease must ratify its Proposal by signing a letter that will be elaborated by the Bidding Special Committee, according to the sample included in **Appendix 3 - Lease Proposal Ratification Sample**, containing the winning bid.
- 22.13. In the event of a tie between Proposals not broken during the outcry session, a tiebreaker procedure will take place. Bidders whose bids were tied, may submit a new written Proposal. The bid containing the highest Grant Amount shall be the winner.
- 22.13.1. These written Proposals must observe the applicable conditions of item 22.9.
- 22.13.2. In the event of a tie between Proposals not broken as established in item 22.13, a tiebreaker will be made in the light of legal criteria, preferably as established in art. 45, paragraph 2 and art. 3, paragraph 2, Law no 8.666/93, and not being solved in this way, by a raffle, to be held in the same Public Session, according to item 20.7 under the terms of **Auction Procedures Manual**.

Section IV - Analysis of Remaining Documentation

- 23.1. The Bidder will be disqualified from the bidding process in case its Qualification Documents lack conformity with the requirements of this **Auction Notice**.
- 23.2. Potential failures in the delivery or procedural errors in the documentation may be corrected, pursuant to item 8.3 of this **Auction Notice**, according to the procedure and deadline to be defined by the Bidding Special Commission. Failure or procedural error is defined as (i) does not denature the substantial object of the document presented, and (ii) does not prevent the verification, in a safe manner, of the information contained in the documentation.
- 23.3. In the event of disqualification of a Bidder announced the Lease winner, the Commission may call, within a period of up to three (3) business days from the call notice, to submit the Eligibility and Qualification Documentation, Volume 3, the Bidder who submitted the second-best Lease Proposal, and so on, until one of the competitors complies with all the requirements contained in the **Auction Notice**, in which case it will be considered the winner of the bidding process.
- 23.4. The disqualification of the Bidder that was originally considered the winner of the bidding process, will result in application of a fine, equivalent to the Bid Security amount, which will be fully executed to pay the debt.
- 23.5. The Bidder must notify ANTAQ, immediately after its occurrence, of any supervening fact or circumstance that changes or compromises its qualification conditions.

Section V - Administrative Resources

- 24.1. Subsequent to the qualification stage, there will be a single appeal stage, in which the Bidders participating in the Auction may appeal against decisions of the

Bidding Special Committee, of which they have expressly and previously notified their intention to appeal.

- 24.1.1. In the event of any decision taken in public session, Bidders must express their intention to appeal immediately after the end of the session.
- 24.1.2. In the event of a decision not announced in public session, the intention to appeal shall be made within one (1) business day after the publication of the relevant decision in the Federal Official Gazette.
- 24.2. The resources must be registered at ANTAQ's headquarters or submitted electronically in ANTAQ's website, within 5 (five) business days, counted from the final decision publication appointing the winner Bidder as eligible and qualified, and should be addressed to ANTAQ's Executive Board, through the Bidding Special Commission.
 - 24.2.1. The appeals filling must comply with the last day of the deadline at 6 p.m.
 - 24.2.2. The deadline to file the brief of respondent must be five (5) business days, starting from the end of the appeal period, subject to the last day of the deadline at 6 p.m.
 - 24.2.3. The Bidding Special Commission may, at the request of the parties or upon its own decision, reconsider its decision within a period of up to five (5) business days, after the deadline of the brief of respondent, or within that same period, forward the appeal, properly documented, to ANTAQ's Executive Board.
 - 24.2.4. ANTAQ's Executive Board, will announce its decision within five (5) business days, counted from the date of its receipt.
- 24.3. The appeals will only be admitted when signed by legal representatives, accredited representatives, or by power of attorney with specific powers, equipped with the instruments that demonstrate the powers to do so, and will be identified as:

ADMINISTRATIVE APPEAL

AUCTION # [-] - LEASE OF PUBLIC AREA AND INFRASTRUCTURE LOCATED
INSIDE ORGANIZED PORT

To: Chairman of the Bidding Special Commission

- 24.4. The result of the judgment of appeals eventually filed will be published in the Union Official Gazette, as well as on ANTAQ's website, www.antaq.gov.br

Section VI -Auction Result and Object Award

- 25.1. Once the winner Bidder has met all qualification and classification conditions, the Bidding Special Commission will forward the entire bidding process to the Granting Authority, for validation and award.

- 25.2. The Granting Authority may, at any time, defer any of the stages of the Auction, under the terms of applicable legislation, and Bidders will not be entitled to compensation or reimbursement of costs and expenses for any reason.

Section VII - Schedule of Events

- 26.1. The development of the Auction stages will follow the order of events and schedule indicated in the table described in this Item.

- ~~26.1.1.~~ Any modification of dates will be announced on ANTAQ's website, www.antaq.gov.br

27. Events	Event Description	Date
1	Publication of Auction Notice	
2	Deadline for requesting clarification on the Auction Notice	(until 6 pm)
3	Disclosure of the minutes with Auction Notice clarifications	
4	Deadline for contesting the Auction Notice	(until 6 pm)
5	Publication of results concerning judgment of disputes made to the Auction Notice	
6	Receipt, by Bidding Special Commission and by B3, of all copies of Volumes concerning: (i) Preliminary Statements,	from 10 a.m to 1 p.m at B3

27. Events	Event Description	Date
	Representation Documentation, and Bid Security (Volume 1), and (ii) Lease Proposal (Volume 2)	
7	Publication of duly justified decision made by the Bidding Special Commission on the non-acceptance of documentation contained in Volume 1 - Preliminary Statements, Representation Documentations, and Bid Security - for each of the Leases object of the Auction.	
8	Auction Session, to be held at the B3. Opening of Lease Bids - Volume 2	
9	Publication, in ANTAQ's website, of Lease Bids classification order.	
10	Receipt and opening, by Bidding Special Commission and by B3, of all copies of the relative Volumes: Qualification Documents (Volume 3)	
11	Publication of the minutes related to the analysis of the Qualifying Documents of the winning Bidder(s)	
12	Opening of deadline for appeals	
13	Validation of the result and award of the object by the Granting Authority.	At the discretion of the Granting Authority
14	Final deadline for proving compliance, by the winning Bidder, with the obligations established in Section I of Chapter VI of this Auction Notice.	Within 45 days from the publication of the act of validation and awarding, justifiably postponed, at the discretion of the Granting Authority (item 27.1)
15	Call the Awardee to sign the Lease Agreement.	At the discretion of the Granting Authority

CHAPTER VI - LEASE CONTRACT

Section I - Obligations Prior to the Contract Signature

27.1. The obligations set forth in this subsection, more precisely in Item 27.2 , must be met by the Awardee within 45 (forty-five) days from the publication of the Bid result, and it may be extended, justifiably, at the discretion of the Granting Authority.

27.2. The Awardee must submit to the Granting Authority the following documents:

27.2.1. Proof of payment made to B3 in the amount of BRL 247,854.96 (two hundred and forty-seven thousand, eight hundred and fifty-four Brazilian reais, and ninety-six cents), which payment must be made within the period set forth in the **Auction Procedures Manual**;

27.2.1.1. The amount referred to in the previous mentioned Item may be amended based on the contract terms between ANTAQ and B3, jointly published with the **Auction Procedures Manual**.

27.2.2. Proof of payment made to the UNION in the amount corresponding to 25% (twenty-five percent) of the Grant Amount proposed by the Winning Bidder, and the remaining Grant Amount paid in five annual installments, under the conditions set forth in the **Lease Agreement Draft**;

27.2.3. Proof of payment made to the enterprises responsible for the studies drafting, just as authorized by the art. 21 of Federal Law #8987/95, by the Ordinance SEP/PR #38/2013, in accordance with the guidance to be issued by ANTAQ, in the amount of R\$ 384,761.39 (three hundred and eighty-four thousand, seven hundred and sixty-one Brazilian reais and thirty-nine cents) of which BRL 96,231.00 (ninety-six thousand, two hundred and thirty-one Brazilian reais) must be paid to **SUAPE** and BRL 288,530.39 (two hundred and eighty-eight thousand, five hundred and thirty Brazilian reais and thirty-nine cents) to **Empresa de Planejamento e Logística S.A. – EPL**;

27.2.4. Minutes of the general meeting that constituted the Lessee as a Specific Purpose Company (SPE) in the form of a corporation, and its respective bylaws, with the corresponding certificate issued by the Board of Trade and registration of the Corporate Tax Payer Enrollment Number of the Ministry of the Treasury (CNPJ/MF), which states:

27.2.4.1. the indication of its corporate shareholders organization, with description of types of shares and shareholders' participation by type of share;

27.2.4.2. its management bodies;

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

27.2.4.4. that its sole purpose is to explore the object of the Lease;

27.2.4.5. its minimum initial capital stock subscribed, under the terms of the **Lease Contract Draft**, as well as proof of payment of 100% (one hundred percent) of this initial minimum capital stock in current national currency;

27.2.5. Performance Bond, in compliance with the **Lease Contract Draft**;

27.2.5.1. The Performance Bond presented by the Awardee must have the amount - pointed out by Clause 16 of the **Lease Contract Draft**, adjusted by **IPCA** variation, by applying the following formula:

$$P_t = P_{fev/18} * \left(\frac{IPCA_t}{IPCA_{fev/18}} \right)$$

in which:

P_t corresponds to the amount of the Performance bond, properly adjusted;

$P_{fev/18}$ corresponds to the monetary value of the Performance Bond, indicated in the **Lease Contract Draft**, referenced to February 2018;

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

$IPCA_{fev/18}$ corresponds to the IPCA Index Number referenced to February 2018.

$\frac{IPCA_t}{IPCA_{fev/18}}$ corresponds to 1 (one) plus the accumulated IPCA variation in the period from February 2018 to the adjustment date;

t corresponds to the readjustment date period;

- 27.2.6. Proof of pre-qualification as a port operator with the Organized Port Administration, in which the Lease is located or that it has hired a pre-qualified port operator by the Port Administration, within the same period set forth in item 27.1 of the **Auction Notice**;
- 27.2.7. Statement on if it is a port operator, licensee, leaseholder, or concessionaire in the Brazilian port sector. In case of positive result, submit certificate of good standing proving compliance, also for the legal entities that are, directly or indirectly, parent, controlled, affiliated, or of common controller with the awardee to the **Port Administrations** of the Organized Ports, where such activities are carried out, and to **ANTAQ**;
- 27.2.8. The Basic Implementation Project (PBI) of the investments required in the **Lease Contract Draft**.
- 27.3. The Bidder that participated individually in the Auction must create a wholly-owned subsidiary before the Contract signature, with the specific objective of managing and operating the leased terminal.
- 27.4. The Lease will correspond to a Contract, according to **Lease Contract Draft**.
- 27.5. The call to the Awardee for Contract signature will be preceded by a formal statement from the appropriate environmental agency, provided by the Public Authorities, to guide the Lease environmental licensing, pursuant to art. 14, item III, of Federal Law #12815/2013.

Section II - Lease Contract Signature

- 28.1. After meeting the requirements of the previous items, the Lessee will be called to sign, with the Granting Authority, the Contract related to the respective Lease.
- 28.2. The refusal of the Awardee to sign the Contract, within five (5) business days from the respective call, without justification accepted by the Granting Authority, subject to the terms of item 30.4, will result in:
- 28.2.1. application of a fine, corresponding to the Bid Security full amount, as compensation for the damages caused, and the immediate execution of the Bid Security by ANTAQ or by the Granting Authority;
 - 28.2.2. the individual Awarded Bidder, or all members of the Consortium will be prevented to participate in new bids and to be hired by the Granting Authority for a period of 24 (twenty-four) months; and
 - 28.2.3. the convocation, at the discretion of the Granting Authority, of the remaining Bidders, in order of classification, to perform the activities in the terms and conditions offered by the Successful Bidder.
 - 28.2.4. in case none of the bidders accept the contract under subitem 28.2.3, the public administration may call the remaining bidders, in the order of classification, for the conclusion of the contract, provided that the amount is equal to or greater than that offered by them.
- 28.3. In case it is impossible to comply with the requirements for signing the Contract, due to facts attributable to the Granting Authority, the Awardee Bidder will not be penalized.

Section III - Lease Contract General Provisions

- 29.1. The Lessee's fiscal year and the financial year of the Contract will coincide with the calendar year.
- 29.2. The reversible assets linked to the Lease are all those indicated in the **Lease Contract Draft**.
- 29.3. The **Contract** will be subject to an Ordinary Review, every 5 years, pursuant to Subclause 3.6 of the Lease Contract Draft, subject to procedures and deadlines to be established in ANTAQ's regulations.
- 29.4. The law applicable to the Contract will be the Brazilian law, with its guiding principles, foreign or international laws will not be acceptable, even as a means of interpretation.

CHAPTER VII - PENALTIES

- 30.1. Without prejudice to the execution of the Bid Security, noncompliance with any condition set forth in this **Auction Notice** will enable the Granting Authority, ensuring the contradictory and broad defense, to apply on Bidders and Awardee the following penalties:
- 30.1.1. warning;
 - 30.1.2. fines; and
 - 30.1.3. temporary suspension of the right to be hired/or to participate in bids, as well as an impediment to be hired by the Granting Authority for a term not exceeding two (2) years.
- 30.2. Without prejudice to the penalties provided for in item 30.1, the Lessee will be subject to a noncompliant statement, by the competent authority, ensuring the contradictory and broad defense, to bid or be hired by the Public Administration, while the determinant grounds of the punishment endure, or until re-qualification of the Lessee before the Granting Authority.

- 30.3. The penalties application procedure will observe the Federal Law no 9784/99 and art. 109, Federal Law no 8666/93.
- 30.4. The sum of the fines or isolated fine for infractions committed during the bidding procedure cannot exceed the amount equivalent to the one required for the Bid Security.
- 30.5. Failure to comply with any condition precedent and necessary to the Lease, in particular the payment of guarantees within the established deadlines, will constitute a refusal from Bidder or Awardee Bidder to receive the Lease, subject to the penalties set forth in this chapter, without prejudice to other penalties provided by law, always through an administrative process instituted especially for this purpose, ensuring the contradictory and broad defense.

CHAPTER VIII - FINAL PROVISIONS

- 31.1. In case ANTAQ and/or the Granting Authority acknowledge at any time that any documentation submitted by a Bidder is false or invalid, the Bidder will be disqualified without being entitled to compensation or reimbursement of expenses of any type, without prejudice of indemnity due to the Granting Authority, as the case may be.
- 31.2. Without prejudice to the provisions of item 31.1 above, the Auction may only be revoked, by the Granting Authority, for reasons of public interest arising from a duly proven supervening fact, relevant and sufficient to justify such revocation.
- 31.3. The Granting Authority, at the request of the parties or upon its own decision, must cancel the Auction in the event of any type of illegality that cannot be solved.
- 31.4. The nullity of the Auction implies the nullity of the Contract, not generating indemnification obligation from the Granting Authority, except if set forth in art. 59, sole paragraph, of Federal Law #8666/93.

- 31.5. The appropriate court for the resolution of any disputes related to this bidding will be that of the Judicial Section of the Federal District.

Brasília-DF, [--] de [--] de [--].

Bruno de Oliveira Pinheiro
BIDDING SPECIAL COMMITTEE PRESIDENT

Appendix 1 - Auction Notice Samples

Sample 1

Request for Auction Clarification Sample

[City], [-] of [-] of [-]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Request for Clarification

Dear Sir or Madam,

[Bidder], by its legal representative (s), submits the following request for clarification regarding the **Auction Notice**.

Area	Document	Auction Notice Item	Clarification requested
Indicate the subject area of the clarification	Indicate which document (notice or contract) refers to the clarification requested	Insert Auction Notice item that refers to the requested clarification	Write clearly the request for clarification desired in the form of a question
Indicate the subject area of the clarification	Indicate which document (notice or contract) refers to the clarification requested	Insert Auction Notice item that refers to the requested clarification	Write clearly the request for clarification desired in the form of a question

[Bidder]

[Representative]

Person Responsible
for contact: [--]

Phone: [--]

E-mail: [--]

Sample 2

Power of Attorney Sample

By this Power of Attorney, **[Bidder]**, [qualification], hereinafter referred to as "**Grantor**", appoints and constitutes its power of attorney holders, [-], [qualification], to jointly or individually, regardless the order of appointment, to practice the following acts in the Federative Republic of Brazil, in and out of court:

- (a) represent the Grantor before any entities, governmental bodies or departments, open or closed companies and any governmental agencies, including the National Waterway Transportation Agency - ANTAQ and the Ministry of Transport, Ports and Civil Aviation, to establish and maintain understandings with the referred entities, agencies, bodies or departments, to receive summons and notification orders of any nature, to request and/or promote consultations, to request certificates and other documents, and to perform the necessary acts during the bidding process described in Auction [-] / [-], including to file appeals and waive the right to file appeals;
- (b) undertake commitments and/or obligations on behalf of the Grantor and in any manner hire, make agreements, waive rights, give and receive settlements on behalf of the Grantor;
- (c) represent the Grantor in the defense of its interests in Court, in any instance and before any Court or Tribunal, including by hiring lawyers, with special powers to confess, compromise, give up, make agreements, conceive and receive settlements;
- (d) receive lawsuit summons; and
- (e) in its discretion, to substitute, in whole or in part, retaining the same powers, any of the powers conferred herein, under conditions he or she may deem appropriate.

This power of attorney is valid during the bidding procedure.

[local], [-] of [-] of [-]

[Bidder]

[Legal Representative]

Sample 3

Power of Attorney Sample (Bidders in Consortium)

By this Power of Attorney, [**Consortium Member**], [qualification], referred to as "**Grantor**", appoints and constitutes, irrevocably and irreversibly, its power of attorney holder, the [qualification] company, leader of the Consortium [Name of the Consortium], [qualification] to employ the following acts or grant them to accredited representatives, by specific power of attorney:

- (a) represent the Grantor before any entities, governmental bodies or departments, open or closed companies and any governmental agencies, including the National Waterway Transportation Agency - ANTAQ and the Ministry of Transport, Ports and Civil Aviation, to establish and maintain understandings with the referred entities, agencies, bodies or departments, to receive summons and notification orders of any nature, to request and/or promote consultations, to request certificates and other documents, and to perform the necessary acts during the bidding process described in Auction [-] / [-], including to file appeals and waive the right to file appeals;
- (b) undertake commitments and/or obligations on behalf of the Grantor and in any manner hire, make agreements, waive rights, give and receive settlements on behalf of the Grantor;
- (c) represent the Grantor in the defense of its interests in Court, in any instance and before any Court or Tribunal, including by hiring lawyers, with special powers to confess, compromise, give up, make agreements, conceive and receive settlements;
- (d) receive lawsuit summons; and
- (e) in its discretion, to substitute, in whole or in part, retaining the same powers, any of the powers conferred herein, under conditions he or she may deem appropriate.

This power of attorney is valid during the bidding procedure.

[local], [-] of [-] of [-]

[Bidder] [Legal Representative]

Sample 4

Power of Attorney Sample (Foreign Bidders)

By this Power of Attorney, **[Bidder]**, [qualification], hereinafter referred to as "**Grantor**", appoints and constitutes its power of attorney holders, [-], [qualification], to jointly or individually, regardless the order of appointment, to practice the following acts in the Federative Republic of Brazil, in and out of court:

- (a) represent the Grantor before any entities, governmental bodies or departments, open or closed companies and any governmental agencies, including the National Waterway Transportation Agency - ANTAQ and the Ministry of Transport, Ports and Civil Aviation, to establish and maintain understandings with the referred entities, agencies, bodies or departments, to receive summons and notification orders of any nature, to request and/or promote consultations, to request certificates and other documents, and to perform the necessary acts during the bidding process described in Auction # [-] / [-], including to file appeals and waive the right to file appeals;
- (b) undertake commitments and/or obligations on behalf of the Grantor and in any manner hire, make agreements, waive rights, give and receive settlements on behalf of the Grantor;
- (c) represent the Grantor in the defense of its interests in Court, in any instance and before any Court or Tribunal, including by hiring lawyers, with special powers to confess, compromise, give up, make agreements, conceive and receive settlements;
- (d) receive lawsuit summons and legal notice in administrative proceedings; and
- (e) in its discretion, to substitute, in whole or in part, retaining the same powers, any of the powers conferred herein, under conditions he or she may deem appropriate.
- (f) This power of attorney is valid during the bidding procedure.

[local], [-] of [-] of [-]

[Bidder]

[Legal Representative]

Sample 5
Bid Security Sample

[City], [date]

Ref.: Auction #[-] / [-] - Submission of Bid Security

Dear Sir or Madam,

[Bidder], by its legal representative(s), in accordance with the terms of the Auction Notice, hereby clarifies the modalities and amounts of the Bid Security (s) submitted, which must total [fill out according to applicable amount]:

Bid Security Deposited

#	Modality	Amount
1		
2		
N		

Regards,

[City], [date]

[Bidder]

[Accredited Representative]

Sample 6

Insurance Bond Minimum Terms and Conditions

1 Borrower

1.1 Bidder

2 Insured

2.1 ANTAQ

3 Object of Insurance

3.1 Guarantee the indemnification, in the amount of up to BRL (Amount in Brazilian Reais), in case the Bidder incurs in the hypotheses of execution of the bid security established in the Public Pic Notice.

4 Instrument

4.1 Insurance Bond Policy issued by an insurer properly constituted and authorized to operate by the Private Insurance Superintendence (SUSEP), following the terms of SUSEP's normative acts.

5 Insurance Amount

5.1 The Insurance Bid Policy must provide for the indemnity amount of BRL (Amount in Brazilian Reals) [as applicable].

6 Deadline

6.1 The Insurance Bond Policy must have minimum validity of one (1) year from the **Volumes Receipt Date**, renewable according to assumptions established in the Auction Notice.

7 Additional Provisions

7.1 The Insurance Bond Policy must include the following additional provisions: (i) statement from the Insurer acknowledging and accepting the terms and conditions of the Auction Notice; (ii) statement by the Insurer that it will pay the amounts set forth herein within a maximum period of thirty (30) days, counted from the delivery date of all documents related by the Insurer as necessary for the characterization and regulation of the claim; and (iii) in case it is confirmed that the Borrower has not complied with the obligations covered by the Insurance Bond Policy, the Insured will be entitled to demand from the Insurer the indemnity due, in case of notification made to the Borrower turns to be unsuccessful.

Terms that have not been expressly defined in this sample will have the meanings attributed to them in the Auction Notice.

Sample 7

Surety Bond Sample

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Surety Bond Letter #[-] ("Surety Letter") BRL _____ (_____ Brazilian reais)
[according to the applicable amount, pursuant to the Auction Notice]

1. By this Surety Letter, the Bank [-], with headquarters at [-], registered under Corporate Tax Payer Enrollment (CNPJ/ MF) #[-] ("Guarantor Bank"), directly by itself and his potential successors, is committed to ANTAQ, as joint and several guarantor of [-], with headquarters at [-], enrolled with CNPJ/MF under #[-] ("Guaranteed"), with express waiver of the rights provided for in articles 827, 835, 837, 838, and 839 of Federal Law #10406, of January 10, 2002 (Brazilian Civil Code), for the faithful fulfillment of all obligations assumed by the Guaranteed in the bidding procedure described in Auction Notice #XX / 20XX of ANTAQ, which terms, provisions and conditions the Guarantor Bank expressly declares to know and accept.

2. The Guarantor Bank is required to pay to ANTAQ a total amount of up to BRL _____ (_____ Brazilian reais) [according to the applicable amount, provided for in the Auction Notice] ("Surety") in case the Bidder incurs in any of the Bid Security assumptions of the Auction Notice.

3. The Guarantor Bank is also obligated, within the scope of the amount, for the damages caused by the Guaranteed, including, but not limited to, fines applied by ANTAQ related to the bidding process, committing itself to make the payments when required, within 48 (forty-eight) hours, counted from the receipt, by the Guarantor Bank, of the written notification sent by ANTAQ.

4. The Guarantor Bank will not claim any objection or opposition from the Guaranteed, or claimed by the Guaranteed, to excuse itself from complying with the obligation assumed before ANTAQ, except when there is a formal manifestation from ANTAQ that discharges the respective payment, or in the existence of court order that prevents or suspends the payment.

5. If ANTAQ files a lawsuit to demand compliance with the obligation referred to in this Surety Letter, the Guarantor Bank is obliged to pay up to 50% (fifty) percent of the amount secured for court-related expenses and fines.

6. The Surety will be valid for a period of 12 (twelve) months, counted from the **Volumes Receipt Date**, according to the conditions mentioned in the Notice.

7. The Guarantor Bank states that:

7.1 this Surety Letter is properly accounted for, in total compliance with the regulations of the Central Bank of Brazil, currently in force, in addition to complying with the provisions of the applicable Banking Legislation;

7.2 the signatories of this instrument are authorized to provide the Surety in their name and in their accountability; and

7.3 the amount of its capital stock is BRL [-] ([-]), being authorized by the Central Bank of Brazil to issue Surety Letters, and that the amount of this Surety Letter, in the amount of BRL (amount in Brazilian Reals), is within the limits authorized by the Central Bank of Brazil.

8. Terms that have not been expressly defined in this Letter will have the meanings attributed to them in the Auction Notice.

[Signature of legal representatives with authenticated and notarized signature]

Witness

Witness

Sample 8

Statement of proposal independent preparation

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Lease Proposal

[Bidder], through its legal representative, declares, for the purposes of the provisions of the Auction Notice referred to above, under the penalties of the law, in particular article 299 of the Brazilian Penal Code, which:

- a) has prepared the Lease Proposal in an independent manner, and that its contents were not, in whole or in part, directly or indirectly, informed to, discussed with, or received from any other potential or actual participant from the present bid, by any means or by any person;
- b) the intention to submit the Lease Proposal was not informed to, discussed with, or received from any other potential or actual participant of the present bid, by any means or by any person;
- c) has not attempted, by any means or by any person, to influence the decision of any other potential or actual participant of this bidding as to whether or not to participate;
- d) the content of the Lease Proposals will not be, in whole or in part, directly or indirectly communicated to or discussed with any other potential or actual participant of this bid before the award of its object;
- e) the content of the Lease Proposals has not, in whole or in part, directly or indirectly, communicated to or discussed with any subject part of the Granting Authority agency, before the proposals official opening; and
- f) is fully aware of the content and scope of this statement and holds full powers and information to sign it.

Regards,

[Bidder]

[Accredited Representative]

Sample 9
Sample Letter of Qualification Documents

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Bidding Notice #[-] / [-] - Submission of Qualification Documents

Dear Sir or Madam,

1. [Bidder] ("Bidder"), by its legal representative), submits the attached documentation for its qualification in the relevant bidding process, in accordance with the terms of the Auction Notice, organized according to the order established therein, according to the index.
2. The Bidder expressly states that it is fully aware of the terms of the relevant Auction Notice, and that it fully accepts them, especially with regard to the powers conferred on the Bidding Special Commission to conduct specific procedures to verify the veracity of the documentation submitted and to seek any clarifications necessary to elucidate the information contained therein.
3. The Bidder expressly states that it has met all the requirements and criteria for qualification and has submitted the Qualification Documents, as defined in the Auction Notice.
4. The Bidder further states that the Qualification Documents presented herein are complete, true, and correct in every detail.

[Bidder]

[Accredited Representative]

Sample 10

**Statement of Auction Notice Terms Acknowledgment
Absence of Impediment in Auction Participation**

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-]

Dear Sir or Madam,

In compliance with the provisions stated by the Auction Notice, the [Bidder], by its undersigned representative), states, under the terms of the applicable legislation, that it is aware of the terms of this Auction Notice and is not impeded to participate in hiring processes with the Government.

[Bidder]

[Accredited Representative]

Sample 11

Letter of Statement of Non-existence of Bankruptcy Procedure, Remaining Composition Agreement with Creditors, In court or out-of-court Debt Restructuring, or Insolvency.

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Statement of non-existence of bankruptcy proceeding, outstanding composition agreement with creditors, in court or out-of-court Debt Restructuring, or insolvency

Dear Sir or Madam,

In compliance with the Auction Notice, the **[Bidder]**, by its undersigned representative), states, under penalties of the applicable legislation, by itself, by its successors and assignees, not to be under bankruptcy, self-bankruptcy, outstanding composition agreement with creditors, court or out-of-court debt restructuring, in court, or out-of-court liquidation, insolvency, temporary special administration or under the intervention of the relevant supervisory body.

Regards,

[Bidder]

[Accredited Representative]

Sample 12

**Auction Notice Number [-] / [-] - Formal Declaration of Expression Submission to
Brazilian Legislation and Waiver to Complain through Diplomatic
Means.**

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

**Ref.: Auction Notice #[-] / [-] - Formal Declaration of Expression Submission to Brazilian
Legislation and Waiver to Complain through Diplomatic Means.**

Dear Sir or Madam,

In compliance with the aforementioned Auction Notice, the **[Bidder]**, by its undersigned representative, states, for the due purposes, its formal and express submission to the Brazilian legislation and full waiver to complain, for any reasons of fact or law, through diplomatic means.

[Bidder]

[Accredited Representative]

Sample 13

Statement of Financial Capability

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Statement of Financial Capability

Dear Sir or Madam,

In compliance with the provisions of the Auction Notice, the **[Bidder]**, by its undersigned representative, declare, under the terms of the applicable legislation, that it has available or has capacity to obtain sufficient financial resources to meet the payment obligations, from own resources and from third parties, necessary to achieve the object of the Lease. Moreover, it states that (i) able to purchase all insurance necessary to achieve the object of the Lease and (ii) it has or is able to obtain the funds for the minimum payment of the capital stock of the Special Purpose Company (SPE), and to submit the Contract Bid Security within 45 (forty-five) days after the publication of the Auction result and award.

[Bidder]

[Accredited Representative]

Sample 14

Statement of Regularity to Article 7, XXXIII, of the Federal Constitution

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[--]/ [--] Statement of Regularity to Article 7, XXXIII, of the Federal Constitution

Dear Sir or Madam,

In compliance with the provisions of the aforementioned Auction Notice, the **[Bidder]**, by its undersigned representative, declare, under the terms of the applicable legislation, by itself, its successors and assignees, accordingly to the article 27, item V, Law #8.666/93 and to the Law #9.854/99, that it is in good standing before the Ministry of Labor.

[Bidder]

[Accredited Representative]

Sample 15

Instructions for formalization of the commitment term for constitution of Special Purpose Company.

The commitment term for the constitution of a special purpose company must contain at least the following information:

- i. name of the consortium;
 - ii. qualification of the consortium members;
 - iii. the composition of the SPE, indicating the percentage of participation of each consortium member in its capital;
 - iv. SPE management bodies;
- indication of the Leading Company as accountable for the acts practiced by the Consortium before ANTAQ;
- vi. express statement from all consortium members accepting joint and severe liabilities, in accordance with art. 33, V, of Federal Law 8666/93, regarding the purpose of this Auction, fully covering all the obligations assumed in this Auction, from the **Volumes Receipt Date** until the deadline established in the Auction Notice for the Bid Security reimbursement to the Bidder.

Sample 16

Technical Visit Certificate

OBJECT: [according to the Lease]

REFERENCE: Auction #[-] / [-]

We hereby certify that the company representative listed below appeared on this date at the location of the Lease [specify] to inspect the conditions of the areas, port facilities, buildings, and existing equipment.

Company:

Name of representative:

Position/Function:

State ID:

[City], [date]

Port Administration

Bidder

Representative

Representative

Sample 17

Statement of Full Acknowledgement

OBJECT: [according to the Lease]

REFERENCE: Auction #[-] / [-]

We hereby state full acknowledgment of the areas, public infrastructure and facilities in which the activities pertinent to the lease will be developed, as well as the conditions that may affect its execution, the access to areas, materials and equipment to be used, as well as further information necessary for the achievement of the object of the Lease.

Company:

Name of representative:

Position/Function:

State ID:

[City], [date]

[Bidder]

[Representative]

Sample 18

Statement of Equivalence

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-]

Dear Sir or Madam,

In compliance with the Auction Notice, the **[Bidder]**, by its undersigned representative, states, under the terms of the applicable legislation, that the following documents from the country of origin of the company [name], [qualification] are equivalent to the documents required in Auction Notice #[-] / [-]:

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

[Bidder]

[Accredited Representative]

Sample 19

Declaration of Non-existence of Equivalent Document

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-]

Dear Sir or Madam,

In compliance with the provisions of the aforementioned Auction Notice, the **[Bidder]**, by its undersigned representative, states, under the terms of applicable legislation, that the following documents required in Auction Notice #[-] / [-] have no equivalent document in the country of origin of the company [name], [qualification].

Document required in the Auction Notice that does not have equivalent document in the country of origin.	Bidding Item in which the document is required

[Bidder]

[Accredited Representative]

Sample 20

Commitment of pre-qualification as Port Operator or of hiring pre-qualified Port Operator

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-]

Dear Sir or Madam,

In compliance with the provisions of the Invitation to Auction, the **[Bidder]**, by its undersigned representative (s), undertakes, under the terms of the law, to obtain the pre-qualification of the Specific Purpose to be constituted as a port operator, or to hire a pre-qualified port operator, should it become the winner of the event.

[Bidder]

[Accredited Representative]

[Signatures]

Sample 21

**Formal Declaration - Prerogatives regarding tie-breaking criteria established in article 45,
paragraph 2 and article 3rd, paragraph 2, Law #8.666/93**

[City], [date]

TO: Bidding Special Committee

Ref.: Auction Notice Number [-] / [-]

In compliance with the Auction Notice, the **[Bidder]**, by its undersigned representative, states that meet the following items established in article 45, paragraph 2 and article 3rd, paragraph 2, Law #8.666/93:

[Bidder]

[undersigned representative]

Appendix 2 - Lease Proposal Sample

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Lease Proposal

Dear Sir or Madam,

1. According to the announcement on [date], in **Auction** conducted by ANTAQ, we present our **Lease Proposal** for the Lease [insert the code of the Lease requested].

2. We propose, on an irrevocable and irreversible basis, the **Granting Amount** of BRL [-] ([-] Brazilian reais), with base date the **Envelopes Receipt Date**, for the **Lease** object of the Proposal, according to the terms and conditions contemplated in the **Auction Notice** and in the **Lease Contract Draft**.

3 We expressly state that:

3.1 This **Lease Proposal** was prepared considering all the payment conditions applicable to the Grant Amount and the Lease Amount (fixed and variable), in the exact terms of the **Auction Notice** and of the **Lease Contract Draft**;

3.2 this **Lease Proposal** is valid for one (1) year, counted from the **Date of Receipt of the Envelopes**, and may be extended for the same period, as specified in the **Auction Notice**;

3.3 we fully and unrestrictedly agree to the Minimum Required Handling requirement indicated in Sub-Clause 7.1.2.1 of the **Lease Contract Draft** and to other contractual conditions established in the **Auction Notice** and in the **Lease Contract Draft**;

3.4 we acknowledge that any extension of the validity of the **Contract** is a decision which power rests exclusively with the Granting Authority and that there is no right subjective to such extension;

3.5 we confirm full acknowledgment of the object of the Lease, of the Activities to be provided, the conditions for submitting this Proposal and the execution of the work;

3.6 we assume, from now on, full accountability for carrying out the Activities in accordance with the provisions of the **Contract** and its **Annexes**, by **ANTAQ's** and Organized Port Regulations, and other applicable legal provisions; and

3.7 we fully meet all the obligations and requirements contained in the **Auction Notice** and in the **Lease Contract Draft**.

4. The Terms initialed in capital letters contained in this **Lease Proposal** and not otherwise defined will have the meanings attributed to them in the Auction Notice

Sincerely,

[**Bidder**/Legal Representative]

Appendix 3 - Lease Proposal Ratification Sample

[City], [date]

To: NATIONAL WATERWAY TRANSPORTATION AGENCY - ANTAQ

Ref.: Auction Notice #[-] / [-] - Area [LEASE reference] - Proposal Ratification Letter

Dear Sir or Madam,

1. (Bidder's Name and qualification), for the purposes of Auction Notice #XX / 20XX, is hereby ratifying its Proposal for the Lease made at the Auction, proposing, irrevocably and irreversibly, the **Amount of the Granting** of BRL [-] ([-] Brazilian reais), which will be paid to the UNION, under the conditions set forth in the **Auction Notice** and in the **Lease Contract Draft**.

Regards,

[Bidder/Accredited Representative]