

**FEDERAL GOVERNMENT**

**MINISTRY OF INFRAESTRUCTURE - MINFRA**

**NATIONAL AGENCY FOR WATERWAY TRANSPORTATION - ANTAQ**

**DRAFT OF THE LEASE CONTRACT**

**AUCTION No. 02/2019-ANTAQ, FOR LEASE OF THE PUBLIC AREA AND INFRASTRUCTURE FOR TRANSPORTATION AND STORAGE OF LIQUID FUELS IN BULK, LOCATED WITHIN THE ORGANIZED PORT OF SANTOS, STATE OF SÃO PAULO, DENOMINATED STS13A**



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**LEASE CONTRACT, NUMBER \_\_\_\_\_, related the company \_\_\_\_\_, WHICH BETWEEN THEM, THEY CELEBRATE THE FEDERAL GOVERNMENT, BY INTERMEDIATE OF THE MINISTRY OF INFRAESTRUCTURE, WITH THE INTERVENTION OF THE NATIONAL AGENCY FOR WATERWAY TRANSPORTATION - ANTAQ, AND THE COMPANY \_\_\_\_\_.**

The **FEDERAL GOVERNMENT**, through the **MINISTRY OF TRANSPORT, PORTS AND CIVIL AVIATION**, with headquarters in the Esplanade of the Ministries, Block "R", zip code: 70310-500, Brasília/Federal District enrolled in the CNPJ (Corporate Taxpayer's Registry)/ME (Ministry of Economy) under the number: 37.115.342/0001-67, hereinafter **GRANTING AUTHORITY**, hereby represented by the Minister of State, His Excellency, \_\_\_\_\_, appointed by Decree, number \_\_\_\_\_, of \_\_\_\_\_, nationality, marital status, profession, bearer of the Identity Card, number \_\_\_\_\_, enrolled in the CPF(Corporate Taxpayer's Registry) / ME (Ministry of Economy) under the number....., with the intervention of **NATIONAL AGENCY FOR WATERWAY TRANSPORTATION**, a special autarchy, created by Law no. 10,233, of June 5<sup>th</sup>, 2001, with headquarters in the SEP (Sector of Public Buildings, North region) - Square: 514 - Block: E, Brasília/Federal District, enrolled with the CNPJ (Corporate Taxpayer's Registry) / ME (Ministry of Economy) under the number: 04.903.587/0001-08, herein represented by the General Director, Mister....., designated by \_\_\_\_\_, published in the Official Gazette of \_\_\_\_\_, nationality, marital status, profession, bearer of Identity Card, number \_\_\_\_\_, enrolled with the CPF (Social Security Number) / ME (Ministry of Economy) under the number \_\_\_\_\_, hereinafter **ANTAQ** and the intervention of the **PORT AUTHORITY**, name of the Port Authority, legal entity, with registered office \_\_\_\_\_, registered with the CNPJ (Corporate Taxpayer's Registry) / ME (Ministry of Economy) under the number:....., hereby represented by the Chief Executive Officer \_\_\_\_\_, designated by \_\_\_\_\_, published in the DOU (Federal Official Gazette) of \_\_\_\_\_, nationality, marital status, profession, bearer of Identity Card number \_\_\_\_\_, enrolled with the CPF (Social Security Number) / ME (Ministry of Economy) under the number \_\_\_\_\_, and the company \_\_\_\_\_, a specific purpose company, established in \_\_\_\_\_, enrolled with the CNPJ (Corporate Taxpayer's Registry) / ME (Ministry of Economy) under the number \_\_\_\_\_, hereinafter referred to as **LESSEE**, herein represented by Mr. \_\_\_\_\_, nationality, marital status, profession, bearer of Identity Card number \_\_\_\_\_, enrolled with the CPF (Social Security Number) / ME (Ministry of Economy) under the number \_\_\_\_\_, instrument of empowerment, both with the business address

....., in view of the Administrative Proceeding No. ...., resolve to conclude this contract, which shall be governed by the following Clauses and Conditions:

## 1. Initial Provisions

### 1.1 Definitions

1.1.1 For the purposes of this **contract**, and without prejudice to other definitions set forth herein, the following definitions apply to the respective expressions:

- (i) **Port Administration:** legal entity in charge of the **Organized Port Administration** by delegation or concession of the **Granting Authority**, or the Federal Government directly, in the cases of Ports not delegated and not granted.
- (ii) **Appendix:** each of the documents **attached** to the **contract**.
- (iii) **Year:** period counted from the **Date of Assumption**, except when it has specific reference in another sense.
- (iv) **ANTAQ:** National Agency for Waterway Transportation, a special agency created by Law 10,233 of June 5<sup>th</sup>, 2001, and which appears as intervening party in this **contract**.
- (v) **Organized Port Influence Area:** Geographical areas, continuous or not, of which or to which goods may be transported or landed in the **Organized Port**, considering the economic feasibility of using the **Organized Port** and its installed capacity.
- (vi) **Lease Area:** the public port areas and infrastructure, located within the **Organized Port** object of this contract.
- (vii) **Organized Port Area:** an area defined by an act of the Federal Government, comprising the port facilities and the infrastructure for protection and access to the **Organized Port**.
- (viii) **Lease:** the present costly assignment of the **Lease Area**, located within the **Organized Port**, for exploration for a fixed period of time.



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- (ix) **Lessee:** specific purpose company to be constituted by the Awardee, in the form of a joint-stock company, in accordance with Brazilian laws and with headquarters and administration in Brazil and owner of the onerous assignment of public area and infrastructure located within the **Organized Port**, for a specified period of time, identified in the preamble to this **contract**;
- (x) **Activities:** port activities to be operated by the **Lessee** inside **Lease Area**, in the form of this **contract** and its **Appendixes**.
- (xi) **Lease Assets:** meaning defined in this **contract** and its **Appendixes**.
- (xii) **Berth:** place to be used for berthing of vessels intending to embark and disembark cargoes destined to / from the **Lease**.
- (xiii) **Pier:** platform to be used for loading and unloading Cargoes destined to / from the **lease**.
- (xiv) **Effective Capacity:** amount of cargo moved over a certain period of time and at an appropriate level of service.
- (xv) **Static Capacity:** maximum amount of charge that can be stored at any time.
- (xvi) **Cargoes:** cargo referred to in this contract which is included in the list of **Lease Activities**.
- (xvii) **Contract:** defined in the Preamble of this instrument.
- (xviii) **Date of Assumption:** date of execution of the Term of Provisional Acceptance and Permission to Assets Use set forth in Sub-Clause 3.1.1.
- (xix) **Federal Official Gazette:** Daily Official Journal published by Federal Government, reporting public acts of the three branches of the Brazilian State (Executive, Legislature and Judiciary).



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- (xx) **Auction Notice:** **Auction Notice**, no. 02/2019, included its Appendixes.
- (xxi) **Vessel Type:** reference vessel to be considered for investment sizing purposes.
- (xxii) **Financial backers:** financial institutions responsible for financing the **Lessee** to make the necessary investments;
- (xxiii) **Contract Performance Guarantee:** guarantee that the **Lessee** shall maintain, of the faithful fulfillment of the contractual obligations, in the form established in this **Contract** and in its **Appendixes**;
- (xxiv) **Port Facility:** installation located inside or outside the **Organized Port** and used in moving passengers, moving or storing goods, destined for or coming from waterway transport;
- (xxv) **IPCA:** Extended Consumer Price Index, published by the Brazilian Institute of Geography and Statistics - IBGE;
- (xxvi) **Effectively Accounting Handling:** effectively accounted for in the period of one **year**, as provided in this **contract** and its **Appendixes**;
- (xxvii) **Minimal Handling Required:** required handling in accordance with the table in Sub-Clause 7.1.2.1, when applicable;
- (xxviii) **Operating Parameters:** references to minimum operational technical characteristics that will define the design of the project, investments and **Activities** to be performed by **Lessee**, pursuant to Sub-Clauses 7.1.2.1 and 7.1.2.2.
- (xxix) **Technical Parameters:** technical specifications which must be complied with by the **Lessee** when there is the



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- achievement of the **Activities, goal of the Lessee**, pursuant to Sub-Clause 7.1.2.3.
- (xxx) **Lease Parameters:** reference made in accordance with the **Operating Parameters and Technical Parameters**.
- (xxxi) **Related parts:** related to the **Lessee**, any legal entity Holding Company or Controlled company, directly or indirectly, or company under common control, understood as such, the company in which the Holding Company, directly or through other subsidiaries, holds the rights of a member that permanently assures it a preponderance in the corporate resolutions and power to elect a majority of the administrators of the Subsidiary, pursuant to article 243, paragraph 2<sup>nd</sup> of the Law no. 6,404 / 76.
- (xxxii) **Environmental Liabilities:** Any fact, act or occurrence, known or not, that implies compliance with a legal or regulatory determination, related to the environment, subject to the specificities set forth in the **Contract**.
- (xxxiii) **Basic Deployment Plan (PBI):** Plan with the technical and performance specifications to be developed by the **Lessee** with the aim to attend the **Proposal** by the **lease**, as well as the **Lease Parameters**.
- (xxxiv) **Granting authority:** meaning defined in the preamble to the **Contract**.
- (xxxv) **Organized Port:** constructed and equipped to meet the needs of navigation, passenger handling or handling and storage of goods whose traffic and port operations are under the jurisdiction of the **Port Administration**.
- (xxxvi) **Lease Term:** the **Lease** duration, established under this **contract**, counted from the **Date of the Assumption**.





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- (xxxvii) **Price:** amount charged by the **Lessee** of the **Users** as counterpart to **Activities** provided, and freely established by the **Lessee**.
- (xxxviii) **Proposal by the Lease** or simply **Proposal:** monetary amount offered made by the **Bidder**, winner of the **Auction** for the exploitation of the **Lease**.
- (xxxix) **Prorogation:** Any form of extension, prorogation, renewal or postponement of the validity period of this **Contract** in relation to the **Lease Term**.
- (xl) **Regulation of Operation of the Organized Port:** normative act published by the **Port Administration**, with the objective of disciplining the use of the **Organized Port**.
- (xli) **Extraordinary Review:** extraordinary procedure to determine the need to recompose the economic-financial balance.
- (xlii) **Ordinary Review:** ordinary procedure for reviewing **Lease Parameters** held every five (5) years;
- (xliii) **SPE:** Specific Purpose Company constituted by the Winner **Bidder**, in the form of a joint-stock company, which concludes this **contract** with the **Granting Authority**, as **lessee**.
- (xliv) **Port Rate:** the amounts owed to the **Port Administration** by the **Lessee**, concerning the use of port facilities, port infrastructure or the provision of services within its competence in the **Organized Port Area**.
- (xlv) **User:** all natural and legal persons who are the holders of the **Activities** provided by **Lessee**, or third party indicated by it, in the **Organized Port Area**.



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- (xvi) **Lease Value:** it is the **Fixed Lease Value** and the **Variable Lease Amount** due to the **Lessee** to the **Port Administration**, depending on the operation of the **Lease**.
- (xvii) **Fixed lease value:** is the fixed amount due by the **Lessee to the Port Administration**, related to the **Lease** area.
- (xviii) **Variable Lease Value:** is the variable amount owed by the **Lessee** to the **Port Administration**, depending on the operation of the **lease**.

### 1.2 Interpretation

1.2.1 Except where the context does not allow such an interpretation:

1.2.1.1 The definitions of the **Contract** will also be applied in their singular and plural forms; and

1.2.1.2 References to the **Contract** or to any other document shall include any amendments and additions that may be made between the **Parties**.

1.2.2 The titles of the chapters and the Contract Clauses and the Appendixes must not be used in their application or interpretation.

1.2.3 In case of divergence between the **Contract** and the **Appendixes**, the provisions of the **Contract** shall prevail.

1.2.4 In the event of divergence between the **Appendixes**, those issued by the **Granting Authority** shall prevail.

1.2.5 In the event of divergence between the **Appendixes** issued by the **Granting Authority**, the most recent date shall prevail.

1.2.6 The Clauses and conditions of the **Contract** relating to your **Extension** shall be interpreted restrictively.

### 1.3 Attached Documents

1.3.1 The **Appendixes** listed in this Clause, are part of the contract, for all legal and contractual purposes,

- a) **Environmental Reference Term**, if applicable;
- b) **Other Attachments:** Corporate Composition and Articles of Incorporation of **the Lessee**, **Auction Notice** and **Proposal** (written document).



#### 1.4 Legal Reference

1.4.1 This Contract is a kind of administrative contract and is governed by precepts of public law and, in addition, private law, in particular the provisions relating to general rules of contracts.

1.4.2 The provisions of the following Acts are applied to this **Contract**: Laws no. 12,815, dated June 5<sup>th</sup>, 2013; no. 12,529, dated November 30<sup>th</sup>, 2011; no. 10,233, June 5<sup>th</sup>, 2001; no. 12,462, of August 4<sup>th</sup>, 2011; no. 9,784, issued January 29<sup>th</sup>, 1999; no. 8,666 of June 21<sup>th</sup>, 1993; no. 8,987 of February 13<sup>th</sup>, 1995; no. 13,341, dated September 29<sup>th</sup>, 2016; no. 13,334, dated September 13<sup>th</sup>, 2016; Decree no. 8,033, of June 27<sup>th</sup>, 2013; of Decree no. 7,581, of October 11<sup>th</sup>, 2011; and other rules and regulations applicable to leased assets, public areas and infrastructure, and to the **Activities** object of this **Contract**, issued by the competent authorities.

1.4.3 It is also applicable to this **Contract** the legal and regulatory provisions regarding engineering works and services, as regards labor, social security, technical, civil and criminal liability, medical and occupational safety, environmental, without prejudice to other relevant ones.

## 2. Areas and Public Infrastructure of the lease

2.1 The **Lease** object of this **Contract** the areas is composed of: port facilities and public infrastructures, located within the **Organized Port** of Santos, in the State of São Paulo.

2.1.1 The total area of the **Lease**, whose code of identification is **STS13A**, has 38,398 m<sup>2</sup> (Thirty eight thousand and three hundred and ninety eight square meters), consisting of the land in which equipment and buildings to be used for receiving (vessel unloading, internal handling, storage and shipment) and boarding (reception, storage, internal handling and vessel loading) of combustible liquid bulk, according to the rules set forth in the **Contract** and its **Appendixes**.

2.2 The conditions and rules for access to berths are those defined by the **Port Administration**.

2.3 The **Leasing Area** is assigned by the **Granting Authority** to the **Lessee** on an *ad-corporis* basis, provided that the descriptions, extensions and confrontations



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indicated in Sub-Clause 2.2 do not bind the **Granting Authority** in any form, the leased area being effectively available for use by the **Lessee**, which states that such area is sufficient for the fulfillment of the obligations of this **Contract** and its **Appendixes**.

2.3.1 The descriptions, extensions and confrontations indicated in SubClause 2.2, however, represent the maximum limits of the area to which the **Lessee** shall be entitled to explore, and the **Lessee** may not invoke the *ad corpus* character of the **Lease** to claim a different area.

2.4 With the prior authorization of the **Granting Authority**, the extension of the **Lease Area** may be allowed, provided that the conditions established in the current legislation are observed.

2.4.1 The extension will lead to an **Extraordinary Contract Review** procedure for the re-composition of its economic-financial balance, pursuant to Chapter 14 of this **Contract**.

2.4.2 The request for extension of the leased area will be formalized by the **Lessee** with the **Granting Authority**, and any approval shall be preceded by an **Extraordinary Review** provided for in this **Contract**, subject to regulations issued by **ANTAQ (National Agency of Waterway Transport)** and the **Granting Authority**.

### 3. Term of Lease and Ordinary Five-Year Review

3.1 The **Lease Term** shall be 25 (twenty-five) **Years** as of the **Assumption Date**, under the terms and conditions set forth in this **contract**.

3.1.1 The Term of Provisional Acceptance and Permission to Assets Use, set forth in **Appendix 2** of the **Contract**, shall be executed by the Parties within 30 (thirty) days, as of the notice of no objection, by the **Granting Authority**, to the **Basic Implementation Plan** presented by **Lessee** as a condition for the execution of this **Contract**.

3.2 The **Lessee** shall not be entitled to the maintenance of the **Lease** for a period longer than the **Lease Term**, even if a judicial or extrajudicial discussion is pending on the payment of any amount to the **Lessee** by the **Granting Authority**, including as compensation.



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3.3 This **Contract** may be extended on successive occasions, at the sole discretion of the **Granting Authority**, under the terms of this **Contract** and its **Appendixes**, up to a maximum of seventy (70) years, including the original term and all extensions thereof, subject to the reestablishment of the economic-financial balance of the Contract.

3.3.1 The extension period shall be fixed in such a way as to allow the amortization and the adequate remuneration of the investments provided for in the **Contract**, if any, as indicated in the respective feasibility study.

3.4 The **Granting Authority**, in assessing the request for **Extension** submitted by the **Lessee**, shall justify the advantage of the extension of the **Contract** in relation to the execution of a new bidding for a lease, in addition to complying with the requirements for extension provided for by law or regulation.

3.4.1 Without prejudice to compliance with the legal and regulatory requirements applicable at the time of the extension, the **Granting Authority** shall also evaluate the suitability and appropriateness of the request in order to:

- (i) Compliance with the **Leasing Parameters**, targets and deadlines as provided in this **Contract**;
- (ii) Performance of the **Lessee** with respect to the attributions and charges defined in the **Contract**, especially those related to the investments and the provision of the **Activities**;
- (iii) Commitment of contractual infractions by the **Lessee**, except for overcoming the default or rehabilitation;
- (iv) Maintenance during the term of the **Contract**, in compliance with the obligations assumed, of the conditions of qualification required in the **Auction**;
- (v) **Lessee's** default on the payment of Port Fees and in relation to other financial obligations with the **Port Administration** and **ANTAQ**.
- (vi) Admission of legal entities that are directly or indirectly controlled, affiliates or related to the **Lessee** before the Port Administrations of the Organized Ports and / or to **ANTAQ** (National Agency of Waterway Transport) if, in addition to the object of this contract, they are operators, licensees, lessees or concessionaires in the Brazilian port sector.



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3.4.2 The compliance with the requirements set forth in Sub-Clause 3.4 shall be evidenced by the information to be sent by the **Lessee** to **ANTAQ** pursuant to the regulations and Clause 19, in order to subsidize the **Granting Authority** in the reasoned decision on the existence of convenience and opportunity of the **Extension of Contract**.

3.4.3 The **Lessee** shall formally present to the **Granting Authority** its interest in the **Extension of the contract** within a period of up to sixty (60) months before the date of the end of the **Lease Term**, except for the exceptions established in an act of the **Granting Authority**.

3.4.4 The lack of manifestation of the **Lessee** within the period set forth in the previous Sub-Clause shall cause disinterest in relation to the proposal for the **Extension** request.

3.5 The **Lessee** expressly acknowledges that the **Extension of the Contract** is a power of the **Granting Authority**, whose decision will be given in the public interest, in addition to the criteria indicated in the present, not having any subjective right to the Extension.

3.6 The **Contract** will be subject to an **Ordinary Review**, every 5 (five) **Years** as of the **Assumption Date**, to evaluate the following aspects of the **contract**, observing the procedures and deadlines to be established in **ANTAQ** regulations:

3.6.1 Verification of the adequacy of the **Leasing Parameters** to the activities performed by the **Lessee**, as well as verification of their suitability to the parameters adopted by similar terminals.

#### 4. Basic Implementation Plan - BIP

4.1 The **Granting Authority** shall have a maximum period of thirty (30) days, counted from the signature of the Contract, expressly expressing its non objection or requesting the clarifications or modifications mentioned in SubClause 4.2 in relation to the **BIP** (Basic Implementation Project).

4.2 The **Granting Authority** may request the **Lessee** to clarify or modify the BIP (Basic Implementation Project), and may reject it, if, after requesting clarifications and modifications, its suitability to comply with the requirements of the **Contract and Appendixes** is not proven.



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- 4.2.1 The **Granting Authority** shall notify the **Lessee** of the need for supplementation or modification and establish a deadline for the presentation of the new **BIP**.
- 4.2.2 If, after Submission under Sub-Clause 4.2.1, the **BIP** (Basic Implementation Project) is deemed to be unfit to meet the requirements of the **Contract and Appendixes**, the **Contract** shall be declared terminated by the **Lessee** in accordance with Sub-Clause 26.4.
- 4.3 The **BIP** may be changed at any time, at the request of the **Lessee** or **ANTAQ**, once it is provided communication to the **Granting Authority** and subject to the rules of the **Contract, Appendixes** and the legislation and regulations.
- 4.4 In order to carry out the infrastructure and superstructure works, at any time, the **Lessee** must carry out a basic engineering project, obtain the appropriate approvals, and send an electronic copy of the project to the **Port Administration** and to **ANTAQ**, accompanied by a note justifying its compatibility with the **BIP**.
- 4.4.1 The documentation to be submitted will include primary data resulting from survey, topography, bathymetry, and other studies performed by the **Lessee**, as well as other elements defined by **ANTAQ** regulations.
- 4.5 Without prejudice to compliance with the applicable legal and regulatory provisions, as well as to the other provisions of this contract and its related **Appendixes**, the **Basic Implementation Plan** to be presented by the **Lessee**, under the terms of the Contract, shall contain the requirements of **Appendix 4**.

## 5. Contract Object

- 5.1 The Object of this **Contract** is the lease of Public Port Areas, Infrastructures and Facilities located in the **Organized Port** of Santos, in the State of São Paulo, to carry out the **Activities** to be performed by the **Lessee** in an adequate manner under the terms of this **Contract**.
- 5.1.1 The **Lease** will be used for handling and storage of combustible liquid bulk, admitted by the Development and Zoning Plan - DPZ of the **Organized Port**.



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- 5.2 The characteristics of the appropriate **Activity** shall be determined and monitored by **ANTAQ**, directly or by third parties, by means of the **Leasing Parameters**, taking into account the amount established in this Contract, as provided in the regulation, without prejudice to the **Port Administration**, as provided on § 1<sup>st</sup> of article 17 of Law no. 12,815 / 2013.
- 5.3 The execution of the **Activities** may occur directly by the **Lessee**, or by hiring pre-qualified port operators to do so, pursuant to this **contract**.
- 5.4 The **Lessee** shall have a maximum term of three (3) Years, as of the **Date of Assumption**, to make available the area, infrastructure, port facilities and **Activities** in accordance with the **Leasing Parameters** required by this contract and its **Appendixes**.
- 5.5 The **Lessee** will be responsible for all investments, additional improvements and services not specified, but that will be necessary to reach the **Parameters of the Lease**. The projects and constructions must observe the **Technical Parameters**.

### 6. Transfer of Lessee's or Leasehold Control

- 6.1 The transfer, total or partial, direct or indirect, of the ownership control of the **Lessee** will be subject to analysis and approval by **ANTAQ**, under penalty of contractual noncompliance, declaration of extinction of the **Lease** due to fault of the **Lessee** and application of applicable penalties.
- 6.2 The transfer of ownership of the **Lease** shall be subject to **ANTAQ** prior analysis and express approval of the **Granting Authority**, under penalty of contractual noncompliance, declaration of extinction of the **Lease** due to fault of the Lessee and application of applicable penalties.

### 7. Obligations and Prerogatives of the Parties

#### 7.1 Obligations of the Lessee

- 7.1.1 The **Lessee** agrees, without prejudice to the other provisions contained in this **contract** and its **Appendixes**, to:
  - i. To provide the **Activities** in accordance with this **contract** and its **Appendixes**, aligned with the norms issued by **ANTAQ**, and with the **Regulation of Operation of the**





- Organized Port**, and other documents governing bidding and contracting;
- ii. Provide the leasing of the **Lease** with the Customs Authority, when applicable;
  - iii. To elaborate and disseminate the table of maximum reference values (prices and tariffs), as well as a detailed description of the services, in its electronic site and in a visible place in the **Lease** entries, within 30 (thirty) days from the **Assumption Date** which may be charged to Users, under ANTAQ regulations. If values are reviewed, they can only be practiced after 10 (ten) days from the publication of the new Price table. Whenever you add a new service in the Table, it will be incumbent upon the **Lessee** to inform **ANTAQ** immediately and to republish it, under the terms of this Clause;
  - iv. To Provide the **Activities** aiming at the adequate and full handling and / or storage of the loads foreseen for the **Lease**;
  - v. To obtain and submit to **ANTAQ** all licenses and authorizations required by the competent bodies, pursuant to this **contract** and its **Appendixes**;
  - vi. To implement the necessary actions for the possible relocation or demolition of facilities or equipment in the **Organized Port**, which are interfering in the public area and infrastructure, whether or not leased, in which the **Activities** shall be executed, and the **Lessee** shall bear all expenses and obtain prior authorization from the **Port Administration**;
  - vii. To accredit, by written document, one or more representatives who will be their interlocutors with the **Granting Authority**, the **Port Administration** and **ANTAQ**, as



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- well as the technical responsible for the execution of this **Contract**;
- viii. To use only qualified and sufficient personnel to carry out the Activities, assuming full and exclusive responsibility for their contracting, the employment contracts entered into with their employees and related expenses, including payment, as the case may be, of indemnities, fines and other penalties arising from infringements committed, labor claims, lawsuits and any measures proposed by its employees, employees of subcontractors, or third parties, exempting the **Granting Authority** of any direct, joint and / or subsidiary liability for them, at any time, and assuming full responsibility for any labor claims that may be filed against the **Granting Authority** and **ANTAQ** in relation to this **Contract**;
  - ix. To perform the **Activities** so as not to interfere with existing facilities or services, public or private;
  - x. To mitigate damages or disturbance to the property of third parties, resulting from pollution, including noise and other causes arising from your working method;
  - xi. To ensure that all vehicles and personnel involved in the execution of the **Activities** are identified as provided in the regulations;
  - xii. To provide and ensure, in accordance with the pertinent legislation and regulations, the means necessary to protect the physical integrity of the workers, and ensure adequate signaling and isolation of potential risks from the roads at the place of the **Activities**, obtaining from the competent public bodies, whenever necessary;
  - xiii. To prepare the basic design and executive project, perform the engineering works and services, assembly, testing, pre-operation and all other necessary operations, as well as replace or repair, at your expense, any related goods or



services to the **Activities** that may be justifiably considered by the **Granting Authority** or **ANTAQ** as defective, incorrect, insufficient or inadequate, thus understood the goods or services unfit to make feasible the obligations assumed by the **Lessee**, in particular the **Leasing Parameters**;

- xiv. Whenever completing the implementation of new buildings, arrange for their registration of the property at the competent Registry of Real Estate, when applicable, as well as obtain the licenses required by the competent authorities for the operation of the **Activities**;
- xv. To maintain at any time during the execution of the **Contract**, compatibility with the obligations assumed herein, all the conditions of qualification and qualification required and attended at the time of the bid;
- xvi. To provide subsidies, when requested, for sector planning for any changes in the Port Development and Zoning Plan - PDZP, in the form of the law or regulation;
- xvii. To report on the **Activities** and provide economic, financial, operational and leasehold information to the **Granting Authority**, to **ANTAQ** and to the competent governmental bodies, as provided in Clause 19 and in the regulations;
- xviii. To provide all necessary support to the agents of the inspection of the **Granting Authority**, **ANTAQ** and other authorities that operate in the port sector, guaranteeing them free access, at any time and by simple notice with one (1) day in advance, to the works, equipment and facilities related to the Lease, as well as the examination of all financial statements, other documents, information systems and statistics, concerning the provision of the Activities;
- xix. To maintain continuity of the **Activity** provided, except for interruption caused by a fortuitous event or force majeure,



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- immediately notifying the occurrence of such facts to **ANTAQ** and the **Port Administration**;
- xx. To pay the taxes and contributions of any nature, incidents or that may come to influence, on the areas and public leased infrastructure and on the **Activity** exercised;
  - xxi. To pay the **Port Tariffs** within the terms established by the regulations applicable to the **Organized Port**;
  - xxii. To comply with the measures and determinations of the **Granting Authority** and **ANTAQ** related to the correction of imperfect competition in the **Organized Port** or in its hinterland;
  - xxiii. To grant to the **Granting Authority** and **ANTAQ** free access to the data that compose the cost of the **Activities**, whenever the re-composition of the economic-financial balance of the contract is requested, or also, when necessary for conflict arbitration;
  - xxiv. To provide for the recovery, remediation and management of the Environmental Liability related to the **Lease**, under the terms set forth in Clause 12;
  - xxv. To adopt and comply with the necessary measures for the inspection by the **Granting Authority, ANTAQ, Port Administration** and customs, maritime, sanitary, phytosanitary, maritime police and other governmental authorities with operations in the port sector;
  - xxvi. To inform the **Granting Authority, ANTAQ** and the public authorities of any unlawful or illegal acts or facts of which it is aware because of the **Activities**;
  - xxvii. In the cases not exempted by the legislation, pre-qualify to carry out handling and storage of cargo directly or prove the hiring of pre-qualified port operators for this purpose, as well



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- as maintaining the condition of pre-qualified or hiring operators pre-qualified port during the **Lease Term**;
- (a) In case of hiring of pre-qualified port operators, the **Lessee** and the port operator will be jointly and severally liable for damages, in the event of the events described in items I, II and III of article 26 of Law no. 12,815 / 13;
- xxviii. To permit, on an exceptional basis and for remuneration, the use by third parties of the Port Facilities and leased equipment, as well as the right of passage granted to third parties, in the form in which it disposes the regulation;
- xxix. Within a maximum period of twelve (12) months from the **Date of Assumption**:
- (a) To carry out a full equity evaluation of the **Lease properties**, including estimates of the service lives and market value of each asset, recorded by means of an independent appraisal and in accordance with the approved **BIP (Basic Implementation Project)**, and submit it to **ANTAQ**;
- (b) To present Program of obtaining the NBR ISO 9001 or equivalent accepted by **ANTAQ**;
- (c) To present a Compliance Program of the Normative Guide BS 8,800, of OHSAS 18.001 or equivalent accepted by **ANTAQ**; and
- (d) To present Program of obtaining the ISO 14001 NBR or equivalent accepted by **ANTAQ**.
- xxx. Within a maximum period of twelve (12) months from the **Limit Period for Beginning of Activities** indicated in SubClause 5.4:
- (a) To obtain Declaration of Compliance - DC, issued by CONPORTOS and CESPOTOS, which certifies compliance with the ISPS Code, when applicable;



- xxxi. Within a maximum period of 24 (twenty-four) months from the **Limit Period for Beginning of Activities** indicated in SubClause 5.4:
  - (a) To obtain and maintain ISO 9001 certification or equivalent accepted by **ANTAQ**, throughout the term of this **Contract**, and must always update the certification for new requirements created by the certifiers;
  - (b) To obtain and maintain certification of compliance with the Normative Guide BS 8,800, the Standard OHSAS 18.001 or equivalent accepted by **ANTAQ**, throughout the term of this **Contract**, and must always update the certification for new requirements created by the certifiers;
  - (c) Obtain and maintain the ISO 14001 certificate or equivalent accepted by **ANTAQ**, throughout the term of this **Contract**, and must always update the certification for new requirements created by the certifiers; and
  - (d) Implement and certify environmental management and control system.

7.1.2 The **Lessee** is also obliged to:

7.1.2.1 To attend, throughout the **Lease Term**, the **minimum amounts of annual handling of combustibile liquid bulk** indicated in the table below:

<b>Lease Contract Term Year</b>	<b>Minimum Handling Required (thousands of tonnes)</b>
Year 1	0
Year 2	0
Year 3	0
Year 4	113



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Year 5	231
Year 6	354
Year 7	361
Year 8	369
Year 9	376
Year 10	380
Year 11	388
Year 12	396
Year 13	404
Year 14	413
Year 15	421
Year 16	430
Year 17	438
Year 18	446
Year 19	454
Year 20 to Year 25	460

- i. For the annual verification of compliance with the **Minimum Required Handling**, only handlings of combustible liquid bulk carried out by means of vessels moored in the **Organized Port**, in operations that use the **Lease**, shall be accounted

7.1.2.2 To provide the Activities according to the following **Scale and Operation Parameters** and carry out, as a minimum, the investments and perform the **Activities** in order to



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ensure that the **Lease's** system of storage of combustible liquid bulk has a static capacity of at least 70,477 m<sup>3</sup> (seventy thousand four hundred and seventy seven cubic meters).

### 7.1.2.3 To provide Activities according to the following **Technical Parameters:**

#### i. **Project Parameters:**

- (a) The **Lessee** shall be solely responsible for all technical studies, including, but not limited to, field investigations, feasibility studies, conceptual and final projects, planning documents and documents relating to improvements and Activities in the lease.
- (b) The projects for the implementation of all lease improvements and works shall comply with all applicable municipal, state and federal codes and regulations, as well as design standards indicated by the organizations below (in case of conflict between the design standards indicated, the most restrictive):
  - ABNT (Brazilian Association of Technical Standards)
  - ISO (International Organization for Standardization)
  - IMO (International Maritime Organization)
  - MARPOL (Marine Pollution)
- (c) The **Lessee** must perform preventive maintenance routines in the equipment as recommended by the respective manufacturers in their technical documentation, or, in case of absence, according to the best international practices.

#### ii. **Construction Parameters:**

- (a) Any facilities built will conform to the standards and codes below:





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- The standards produced by ABNT (Brazilian Association of Technical Standards), or where these are not available, appropriate and internationally recognized standards, including those listed in Sub-Clause 7.1.2.3;
- National, state and municipal codes of construction and construction.

### 7.2 Attributions and Privileges of the Granting Authority, of ANTAQ and of the Port Administration.

- i. The **Granting Authority** may unilaterally change and modify the conditions for the provision of the **Activities**, in order to better adapt them to the public interest purposes that justified the **Lease**, respecting **Lessee's** rights to maintain the economic-financial balance of the **contract**, determined through an **Extraordinary Review**, as well as deciding on the transfer of ownership of the **Lease** pursuant to this **contract** and the regulations.
- ii. **ANTAQ** is responsible for:
  - a) Applying contractual penalties;
  - b) Complying with and enforcing the provisions of the law applicable to the services and the Clauses of this **Contract**;
  - c) To maintain permanent monitoring of the **Activities** inherent to the **Lease**;
  - d) Regulate, monitor and supervise the execution of this **contract**;
  - e) To analyze, in advance, the transfer of ownership of this **Contract**, being the decision exclusively to the **Granting Authority**;
  - f) Analyze and approve the transfer of ownership control of the **Lessee**;
  - g) To arbitrate, in the administrative sphere, conflicts of interest and disputes over the **Contract** not resolved amicably between the **Port Administration** and the **Lessee**;
  - h) Arbitrate, in appealing degree, conflicts between agents who work in the **Organized Port**, except for the powers of other public authorities;



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- i) To establish investigation, officially or through provocation, about abusive practices or discriminatory treatment, except for the powers provided for in Law no. 12,529 of November 30<sup>th</sup>, 2011;
- j) To arbitrate, in administrative scope, at the request of the **Users** or of the **Lessee**, the **Price** of the services provided to **Users**, when no agreement is reached between the Parties;
- k) To analyze investment proposals not provided in this **Contract**, in an instructive manner, to obtain the approval of the **Granting Authority**.

### 8. Rights and Obligations of Users

8.1 Without prejudice to other rights and obligations provided by laws, regulations and other normative documents applicable to the port sector, the rights and obligations of the **Users of the Lease** are:

- a) To receive adequate **activity** to its full attendance, free of abuse of economic power;
- b) To obtain and use the **Activities** related to the **Lease**, with freedom of choice between the providers of the **Organized Port**;
- c) To receive from the **Granting Authority**, **ANTAQ** and the **Lessee** information for the correct use of the **Activities** provided by the **Lessee** and for the defense of individual or collective interests;
- d) To bring to the knowledge of the **Granting Authority**, of **ANTAQ**, of the **Lessee** and of the other competent bodies the irregularities and illicit acts of which they have knowledge, related to the **Activities** provided;
- e) To pay the amounts charged by the **Lessee**, as provided in **contract** this and in its **Appendixes**.

### 9. Estimated Contract Value, Payment Conditions and Value Adjustment

9.1 Estimated Global Contract Amount

9.1.1 The estimated total value of the **Lease Contract** is R\$ 946,175,831.75 (nine hundred and forty-six million, one hundred and seventy-five thousand, eight hundred and thirty-one reais and seventy-five cents)



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corresponding to the estimated amount of revenues to be obtained by the **Lessee** to explore the **Activities** during the term of the **contract**.

9.1.2 The estimated global value of the **Lease contract** is only indicative, and can not be used by any of the parties to claim recomposition of their economic-financial balance.

### 9.2 Payment conditions

9.2.1 The **Lessee** shall pay to the **Port Administration** the following Lease Values:

- a) R\$ 158,540.99 (one hundred and fifty-eight thousand five hundred and forty reais and ninety-nine cents) per month, as **Fixed Lease Value**, for the right to explore the **Activities** in the **Lease** and for the onerous assignment of the **Lease Area**; and
- b) R\$ 4.15 (four reais and fifteen cents) per tonne of any cargo handled as **Variable Lease Value**; for the right to exploit the **Activities** in the **Lease** and for the assignment of the **Leasing Area** in consideration of the provisions of Sub-Clause 9.2.3.1.

9.2.2 The **Lease Amount** provided for in sub-clause a) of Sub-Clause 9.2.1 shall be paid by the **Lessee** to the **Port Administration**, as of the **Assumption Date** until the end of the **Lease Term**, in national currency, within thirty (30) days from the last day of the reference month, by means of a deposit into a current account to be indicated or by a specific guide.

9.2.3 The **Value of the Variable Lease** provided for in sub-clause 9.2.1 subparagraph b) shall be paid monthly by the **Lessee to the Port Administration**, based on the monthly transaction of all cargoes, from the beginning of the **Activities** to the end of the **Lease Term**, in national currency, within a period of up to thirty (30) days as from the last day of the reference month, by means of a deposit in a current account to be indicated or by a specific guide.

9.2.3.1 From the beginning of the **Activities**, at the end of each period of 1 (one) **Year**, if the **Effective Accounting Handling** is less than the **Minimum Handling Required**, the **Lessee** shall pay to the **Port Administration** the **Amount of the Variable Lease**,



based on the amount in reais – Brazilian currency, per tonne indicated in sub-clause b) referring to Sub-Clause 9.2.1, multiplied by the difference between the Required Handling Minimum in Sub-Clause 7.1.2.1 and the Effectively Accounting Handling in the period. The payment must be made within 30 (thirty) days from the last day of the year in question, by means of a deposit in a current account to be indicated or by a specific guide.

9.2.3.2 For the purpose of accounting for the Effective Accounting Handling provided for in Sub-Clause 9.2.3.1, only the charges required by **Minimum Handling Required**, pursuant to Sub-Clause 7.1.2.1, shall be accepted, excluding the charges that the **Lessee** is authorized to handle but which are not included among those required as **Minimum Handling Required**.

9.2.4 The **Lessee** shall pay to the **Federal Government** five installments of R\$ \_\_\_\_\_ (\_\_\_\_\_ reais – Brazilian currency) as **Value of Grant**, corresponding to the difference between the value of the bid made in the **Auction** of this **Lease** and the amount already paid by the winning **Bidder** as an obligation prior to the execution of the **Contract**.

9.2.4.1 The amounts of the **Value of grant** will be paid annually, as follows: the first installment will be paid within 10 (ten) days after the end of the 12th (twelfth) month as of the **Assumption Date**; and the others will be paid every 12 (twelve) months.

9.2.4.2 The **Value of grant** will be adjusted by the **IPCA (National Consumer Price Index)** accumulated between the month of the **Public Auction Session** and the payment date of each annual installment, observing the following formula:

$$O1 = O0 \times (IPCA_t / IPCA_{t-1}) \text{ In which:}$$



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O1 is the annual **Value of Grant** which was readjusted on the date of commencement of payment of the first annual installment;

O0 is the annual **Value of grant** with current prices of the day of the Auction Public Session;

IPCA/IPCA<sub>t-1</sub> is the **IPCA** (National Consumer Price Index) accumulated on the period from the month of the **Public Auction Session** to the month prior to the beginning of the payment of the **Annual Value of Grant**.

9.2.5 After the first adjustment, the **Annual Value of Grant** will be adjusted annually by the IPCA, observing the following formula:

$O_t = O_{t-1} \times (IPCA_t / IPCA_{t-1})$  In which:

t represents the time in **Years**;

O<sub>t</sub> is the annual **Value of Grant** which has been readjusted;

O<sub>t-1</sub> is the annual **Value of grant** in force;

IPCA<sub>t</sub> / IPCA<sub>t-1</sub> is the accumulated variation of the IPCA in the period.

9.2.6 The delay in payment of any amount due, provided for in this **Contract**, shall imply a fine of 2% (two percent) of the amount due, monetary restatement of the **IPCA (National Consumer Price Index)** variation and default interest of 1% (one percent) per month, calculated *pro rata temporis*, until the actual payment, without prejudice to the other penalties for breach of contractual obligations.

9.3 The monetary amounts indicated in this **contract** will be adjusted annually from the date of signature of the contract by the variation of the **IPCA**, referenced to **April 2017**, and the first readjustment of the **Contract** shall occur, by applying the following formula:

$$P_t = P_{nov/17} * \left( \frac{IPCA_t}{IPCA_{nov/17}} \right)$$



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In which:

$IPCA_t$  corresponds to the IPCA rate referred at the adjustment date;

$IPCA_{nov/17}$  corresponds to the IPCA rate referring to April 2017;

$\frac{IPCA_t}{IPCA_{nov/17}}$  corresponds to one (1) plus the IPCA accumulated variation for period from November 2017 until the adjustment date;

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

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

9.4 In the event of extinction of the **IPCA (National Consumer Price Index)**, such index will be automatically replaced by the one that succeeds or, failing that, by a similar one to be indicated by the **Granting Authority**.

### 10. Remuneration of the Lessee

10.1 As a counterpart to the Activities, the **Lessee** may establish the **Price** to be charged to the **User**, subject to the prerogative of **ANTAQ** to prevent any abuse of economic power against the **Users**, through a previous administrative procedure, in which they may request and use information provided by interested parties.

10.2 The **Price** established for the provision of the **Activities** shall be freely set by the **Lessee**, including but not limited to the following operations:

- Loading and / or unloading of vessels;
- Loading and / or unloading of vehicles;
- Shipment and / or receiving by pipeline;
- Storage of up to 30 (thirty) days; and
- Accessory services.

10.3 The **Activities** may, at the discretion of the **Lessee**, include at any time other operations not included in Sub-Clause 10.2, in order to allow the adequate perpetuation of the provision of the services to the users.

## 11. Regarding the Hiring of Third Parties

- 11.1 The **Lessee** may hire specialized companies to supply goods or render services inherent, accessory or complementary to the realization of the object of this **contract**.
- 11.2 Whenever required, the **Lessee** shall inform the **Granting Authority** and **ANTAQ** of the list of companies contracted for the rendering of services inherent, accessory or complementary to the execution of this **Contract**.
- 11.3 The **Lessee** may not waive all or part of its obligations under this **Contract**, or justify any delay in relation to the terms of this **Contract**, due to the contracting of third parties for its realization.
- 11.4 The contracts signed between the **Lessee** and third parties shall be governed by the rules of private law, not establishing any relationship between the third parties and the **Granting Authority** or **ANTAQ**, except for the regulatory and supervisory activities of **ANTAQ**.
- 11.5 In the event that a subcontractor becomes liable to the **Lessee** for any obligation or to provide any guarantee in respect of goods, materials, construction elements or services provided by **Lessee**, and if such obligation or guarantee extends beyond the term of this **Contract**, the **Lessee** shall assure to the **Granting Authority** the possibility of assuming its legal position after termination of this **Contract**, for any reason, taking advantage of the benefits arising during the time remaining until it expires.

## 12. Obligations and Environmental liabilities

- 12.1 The **Lessee** shall be responsible for the recovery, remediation and management of **Environmental Liabilities** related to the **Lease**, in order to maintain environmental regularity.
- 12.2 Unidentified **Environmental Liabilities** identified by the **Lessee** within 360 (three hundred and sixty) days as of the **Assumption Date** shall be the responsibility of the **Granting Authority**, being such liability limited to the requirements of the environmental agency.
  - 12.2.1 It is known **Environmental Liabilities** are those indicated: (i) in the existing environmental permits and environmental studies that were used in the environmental licensing process; (ii)



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public reports and studies; (iii) and in public administrative proceedings or legal proceedings.

12.3 Within a period of up to 360 (three hundred and sixty) days as of the **Assumption Date**, the **Lessee** may contract independent environmental advice and submit a technical environmental report to **ANTAQ**, indicating any environmental liabilities not known up to the **Assumption Date**.

12.3.1 The recovery, remediation and management costs related to environmental liabilities not known up to the **Assumption Date** shall be the responsibility of the **Granting Authority**, through the recomposition of the economic-financial balance of the **Contract**, pursuant to Clause 13.

12.3.2 The environmental technical report shall contain at least the preliminary assessment of the environmental liabilities and the confirmatory investigation of the contaminated areas, in accordance with CONAMA Resolution no. 420/09, indicating the environmental liabilities found in the **Lease**, the forms of recovery, remediation and management, and associated costs.

12.3.3 Only the costs related to the recovery, remediation and management of the environmental liabilities indicated in the report presented by the **Lessee** and that are required by the competent environmental agency will be object of recomposition of the economic-financial balance of the **Contract**.

12.3.4 **ANTAQ** shall have the prerogative to assess, at any time, whether the liabilities indicated in said report could have been known, in accordance with the criteria set forth in Sub-Clause 12.2.1.

12.3.5 The independent environmental consultant must be approved by the **Granting Authority** within fifteen (15) days of its appointment by the **Lessee**.

12.3.6 The technical environmental report need not be previously approved by the competent environmental agency.

12.3.7 The non-delivery to **ANTAQ** of the technical environmental report will imply absolute presumption that there is no unknown environmental liability.





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- 12.4 The known environmental liabilities and those not identified in the technical environmental report referred to in Sub-Clause 12.3 are the responsibility of the **Lessee**, as well as those that occur after the date of execution of this **Contract**.
- 12.5 It shall be incumbent upon the **Lessee** to implement and certify, within a period of up to three (3) years as of the **Date of the Assumption**, as well as to maintain throughout the **Lease Term** an environmental management and control system, which shall comprise all processes performed within the area of the **Lease** and of support, from the receipt of the cargo until its respective dispatch.
- 12.6 The **Lessee** shall comply with CONAMA (National Council for the Environment) Resolution no. 306, dated July 5<sup>th</sup>, 2002, and present the report required in Clause 19 of this **contract**, as well as to keep updated the compliance with said resolution, and any updates or standards that may replace it.
- 12.7 Once an environmental disagreement has been identified, the **Lessee** must submit, for approval by **ANTAQ**, within 30 (thirty) days of the date of the identification of the nonconformity, Action Plan with measures to mitigate the impacts and risks or remediation of damages.

### 13. Allocation of Risks

- 13.1 Except as provided in this **Contract**, **Lessee** is fully and exclusively responsible for all risks related to the **Lease**, including but not limited to the following risks:
- 13.1.1 Design, engineering and construction risks;
  - 13.1.2 Refusal of **Users** to pay for services;
  - 13.1.3 Obtaining licenses, permits and authorizations related to **Lease**;
  - 13.1.4 Excess costs related to the **Activities** object of the **Lease**;
  - 13.1.5 Delay in complying with the schedules set forth in this **Contract** or other deadlines established between the Parties during the term of the contract;
  - 13.1.6 Technology employed in **Lease Activities**;
  - 13.1.7 Perishing, destruction, theft, robbery, loss or any other types of damage caused to the **Lease Assets**, liability that is not reduced or excluded due to **ANTAQ** inspection;



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- 13.1.8 Social and / or public manifestations that affect, in any way, the execution and performance of the **Activities** related to the **Contract** by:
- a) up to 15 (fifteen) days, successive or not, for each period of twelve (12) months counted from the **Date of Assumption**, if losses and damages caused by such events are not covered by insurance offered in Brazil in date of its occurrence, under normal conditions of the insurance market; and
  - b) up to ninety (90) days, successive or not, for each period of twelve (12) months as of the **Assumption Date**, if the losses and damages caused by such events are subject to the insurance coverage offered in Brazil on the date of its occurrence under normal conditions of the insurance market;
- 13.1.9 **Lessee Activities'** interruption due to the strike of its employees or its subcontractors;
- 13.1.10 Changes in the cost of capital, including those resulting from changes in interest rates;
- 13.1.11 Change in exchange rates;
- 13.1.12 Changes in the legislation of income taxes;
- 13.1.13 Fortuitous event and force majeure that may be subject to insurance coverage offered in Brazil at the time of its occurrence, under normal conditions of the insurance market;
- 13.1.14 Recovery, remediation and management of the **Environmental Liability** related to the Lease, with the exception of that expressly assumed by **Granting Authority** the under the terms of this **Contract**;
- 13.1.15 The possibility of inflation in a given period being higher or lower than the rate used to readjust the amounts set forth in the **contract** and its **Appendixes** for the same period;
- 13.1.16 Civil, administrative and criminal liability for environmental damages arising from the operation of the **Lease**;
- 13.1.17 Losses caused to third parties, by the **Lessee** or its administrators, employees, agents or service providers or any other person or entity related to it, in the exercise of the **Activities** covered by the **Lease**;



- 13.1.18 Vices of the **Lease Assets** acquired by it after the **Date of the Assumption**, leased or rented for operations and maintenance of the **Lease** along the **Lease Term**;
  - 13.1.19 Projected demand failure for any reason, including whether it results from the implementation of new organized ports or new private port facilities, within or outside the **Area of Influence of the Organized Port**;
  - 13.1.20 Delays in obtaining federal, state and municipal licenses, including licenses specifically related to the **Lease Area**, when there is no stipulation of a maximum legal or regulatory deadline for issuance by the competent authorities;
  - 13.1.21 Disorders caused by administrative limitations, right of way or easements borne by the **Lessee**, without prejudice to the right to be paid by the beneficiary, in accordance with the regulations;
  - 13.1.22 Value of investments, payments, costs and expenses arising from the imposition of administrative limitations, right of way, or easements benefiting **Lessee**.
  - 13.1.23 A judicial or administrative decision that makes it impossible for the **Lessee** to perform the activities that are the object of the **Contract**, in accordance with the conditions established therein, as well as in the legislation or in the **Exploration Regulation of the Organized Port**, in cases where the **Lessee**, directly or indirectly, by action or omission, has given cause or of any luck contributed to such decision.
- 13.2 The **Lessee** is also liable for the following risks, but will not be penalized, under the terms of this **Contract** and its **Appendixes**, in cases in which such risks materialize:
- 13.2.1 Social and / or public manifestations that affect in any way the execution or performance of the **Activities** related to the **Contract**, when such events exceed the periods established in Sub-Clause 13.1.8;
  - 13.2.2 Judicial or administrative decision that makes it impossible for the **Lessee** to perform the activities that are the object of the **Contract**, in accordance with the conditions established therein, as well as in the legislation or in the **Exploration**



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**Regulation of the Organized Port**, except in cases in which the **Lessee** has given cause to such a decision;

- 13.2.3 Fortuitous event or force majeure that can not be covered by insurance coverage offered in Brazil at the time of its occurrence, under normal conditions of the insurance market;
  - 13.2.4 Delay or discontinuance of **Activities** resulting from delays in obtaining federal, state and municipal licenses, when the periods of analysis of the competent bodies responsible for issuing them exceed legal and regulatory provisions regarding deadlines, except if the delay or stoppage is in fact attributable to the **Lessee**;
    - 13.2.4.1 Any delay arising from the non-delivery of all documents, studies and information required by the environmental agency, or at a quality lower than the minimum established by the licensing body, prior or subsequent to the request for licensing, shall be presumed as a fact attributable to the **Lessee**;
  - 13.2.5 Delay or interruption of the **Activities** resulting from the delay or impossibility of obtaining the environmental permits of the port facility due to the non-existence or withdrawal of the environmental permits of the **Organized Port**, as well as non-compliance with the conditions established therein, provided that such reason is expressly declared by the environmental agency respective official document.
  - 13.2.6 Delay or interruption of **Activities** arising exclusively from the execution of works to expand, renovate or modernize port facilities in the **Leasing Area**, provided that previously authorized by **ANTAQ**.
- 13.3 The **Lessee** is not responsible for the following risks related to the **Lease**, whose responsibility is of the **Granting Authority**:
- 13.3.1 Non-compliance with contractual obligations attributed to the **Granting Authority**.
  - 13.3.2 Costs arising from the recovery, remediation, monitoring and management of the Environmental Liability existing within the area of the Lease, since it was not known until the **Assumption**



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**Date** and identified in the technical environmental report mentioned in Clause 12 and that was not caused by the **Lessee**;

13.3.3 Paralysis of the Lessee's activities due to the environmental risks set forth in Sub-Clause 13.3.2, provided they have not been caused by the **Lessee**;

13.3.4 Costs arising from the delay in the availability of the **Lease Area** in which the **Activities** object of this contract will be developed, provided that the delay is greater than 12 (twelve) months from the date scheduled for the **Assumption Date** and there is evidence of significant loss; in this case, the **Lessee** shall be exempt from the penalties arising from the delay in complying with its obligations;

13.3.5 Change in tax legislation, with the exception of taxes levied on income.

13.4 The **Lessee** declares:

- a) To be fully aware of the nature and extent of the risks assumed by it in the **Contract**; and
- b) To have taken such risks into consideration in the formulation of your **Proposal**.

13.5 The **Lessee** will not be entitled to the re-composition of the economic-financial balance if any of the risks assumed by the **Contract** will materialize.

13.6 If the amount actually levied by the **Lessee** under IPTU (Urban Real Estate Property Tax) is higher or lower than the value that was considered in the studies that preceded the preparation of the **Auction Notice**, the **Lessee** or the **Granting Authority**, as the case may be, will be entitled to promote the re-composition of the economic-financial balance of the **Contract**, in case the impact on the revenue and expenses of the leased port terminal is proven.

### 14. Extraordinary Review to Recompose the Economic-Financial Balance

14.1 Whenever the conditions of the **Contract** are met and the risk allocation established therein is maintained, its economic-financial balance shall be maintained.

14.1.1 The **Lessee** may request the re-composition of the economic-financial balance in those cases where, after the execution of



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this **Contract**, any of the risks expressly assumed by the **Granting Authority** under this **Contract**, with negative economic-financial consequences for the **Lessee**, materialize.

14.1.2 The **Granting Authority** shall institute, *ex-officio*, the procedure for the re-composition of the economic-financial balance of the contract in the cases in which, after the execution of this contract, any of the risks expressly assumed by the **Granting Authority**, under the terms of this Contract, materialize positive economic and financial conditions for the **Lessee**.

14.1.3 The **Granting Authority** shall institute a concomitant procedure for the re-composition of the economic and financial balance of the **Contract**, if it determines or authorizes prior investments in or outside the **Lease** in the infrastructure of the Organized Port, as well as eventual executions of services of public interest or expansion or reduction of leased area.

14.1.4 For the request of the re-composition of the economic-financial balance of the **Contract**, the procedures, deadlines and requirements set forth in a regulation issued by the **Granting Authority** and **ANTAQ** must be observed.

14.2 The purpose of the **Extraordinary Review** procedure shall be to determine the requests for the re-composition of the economic and financial rebalancing effected in the terms and hypotheses set forth in a regulation issued by the **Granting Authority** and by **ANTAQ**, as well as in this **Contract**, and shall begin on the basis of the request presented by the **Lessee** or, through an official letter by the **Granting Authority**, directly, or through **ANTAQ**.

14.2.1 At the end of the **Extraordinary Review procedure**, if the need to re-compose the economic-financial balance of the **Contract** is confirmed, the **Granting Authority** shall adopt those forms of re-composition provided for in a regulation issued by the **Granting Authority** and **ANTAQ**.

14.3 Subject to the current regulations, the **Granting Authority** will be allowed to assign to any new **Lessee** the obligation to pay indemnification to the **Lessee**, if this is the elected form of re-composition of the economic and financial balance of the **Contract**, under the terms to be fixed in the future **Auction Notice**.



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14.4 The conversion of indemnity amounts into extension of contract is a faculty of the **Granting Authority** related to the judgment of convenience and opportunity, whose decision will be given in function of the public interest, in addition to technical and legal criteria, not having any subjective right to the extension in favor of the **Lessee**.

### 15. Lease Assets

15.1 Without prejudice to other provisions of this **Contract** on the subject, the following items shall be part of the **Lease**, the ownership, custody, maintenance and supervision of which are the responsibility of the **Lessee**:

15.1.1 All assets linked to the operation and maintenance of the **Activities**, assigned to the **Lessee**, as indicated in the Terms of Acceptance and Permission to Assets Use;

15.1.2 The goods and assets acquired by the **Lessee**, during the term of the **Contract**, that are used in the operation and maintenance of the **Lease** and in the provision of the **Activities**;

15.1.3 All installations that may be built by the **Lessee** during the term of the **contract** and applied in the performance of the **Activities**.

15.2 The **Lessee** receives the **Lease Assets**, including the areas, infrastructures and Port Facilities, in the state which they are found and at their own risk.

15.3 The **Lease Assets** must be maintained in normal conditions of use, so that, when reverted to the **Granting Authority**, they are in perfect condition, except for natural wear and tear.

15.4 The movable and immovable property mentioned in the previous Sub-Clause and existing on the date of execution of this **Contract** shall be assigned to the **Lessee** by signing a Term of Provisional Acceptance and Permission to Assets Use between the **Lessee**, the **Granting Authority** and **ANTAQ**, Appendix 2 to this **Contract**.

15.4.1 The **Lessee** may reasonably refuse to receive movable property deemed unnecessary to the operation and maintenance of the **Activities** or that are abnormally damaged; such refusal, however, shall not imply the right of the **Lessee** to receive any amount nor in the right to promote the re-composition of the economic-financial balance of the **Contract**.



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- 15.4.2 After signing the Term of Provisional Acceptance and Permission to Assets Use, the **Lessee** shall have up to 60 (sixty) days to present any disagreements and sign the Term of Final Acceptance and Permission to Assets Use, as set forth in **Appendix 3** to this **Contract**.
- 15.4.2.1 Disclosed disagreements by the **Lessee**, through written communication, the **Granting Authority** must manifest within a period of 30 (thirty) days. If the discrepancies are not resolved in a timely manner, the term for signing the Term of Final Acceptance and Permission to Assets Use will be extended for an equal period.
- 15.5 The **Lessee** may use equipment rental or assets leasing to enable the operation and maintenance of the **Lease** and the provision of the **Activities** over the term of the **Lease**. However, it must obligatorily mention these contracts as a Subrogation Clause to the **Granting Authority**, which will be exercised by the **Granting Authority** in its sole discretion, in the event of extinction of the lease.
- 15.5.1 The equipment rental or assets leasing provided for in Sub-Clause 15.5 shall not be adopted for non-compliance by **Lessee** with its duty to acquire, update and modernize the equipment that will be subject to reversion to the Federal Government, pursuant to this contract, which shall be regulated and audited by **ANTAQ**.
- 15.6 The **Lessee** declares that it is aware of the nature and conditions of the **Lease Assets** that will be assigned to it by the **Granting Authority**, under the terms of this **Contract** and its **Appendixes**.
- 15.7 Subject to the **Extraordinary Revision** cases provided for in Sub-Clause 14.1.3 or Sub-Clause 14.2, all **Lease Assets** or investments made therein, including maintenance of the current and modernity of the **Lease Assets** and Related **Activities**, shall be fully amortized by the **Lessee** within the term of the **Contract**, in accordance with the terms of the current legislation and this **Contract**, and there shall be no claim for re-composition of the economic-financial balance in the advent of the contractual term.
- 15.8 The control and monitoring of the **Lease Assets** will be carried out in accordance with the rules set forth in the regulation, this **Contract** and its **Appendixes**.





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15.9 The reversal of the **Lease Assets** to the **Granting Authority** in cases of extinction of the **Contract** is governed by the applicable provisions of this **Contract** and by the legislation in force at the time of the reversal event, subject to any clauses expressed in this instrument regarding the matter.

### 16. Contract Performance Guarantee

16.1 The **Lessee** shall maintain, during the contractual term, in favor of **the Granting Authority**, as a guarantee of the faithful fulfillment of the contractual obligations, the **Contract Performance Guarantee** in any of the modalities admitted in the **Contract**, in the amount of R\$ 47,308,791.59 (forty-seven million, three hundred and eight thousand, seven hundred and ninety-one reais and fifty-nine cents) which will be reduced to R\$ 9,461,758.32 (nine million, four hundred and sixty-one thousand, seven hundred and fifty-eight reais and thirty-two cents) when the minimum static capacity and paid the anticipated payment of revenue, provided in clauses 7.1.2.2, as well as the payment of the **Granting Value**, pursuant to clause 9.2.4 is finalized.

16.1.1 The **Contract Performance Guarantee** shall be adjusted annually in accordance with Sub-Clause 9.3 of the **Contract**.

16.2 The **Lessee** shall remain responsible for compliance with its contractual obligations, including the payment of any fines and indemnities, regardless of the use of the **Contract Performance Guarantee**.

16.3 The **Contract Performance Guarantee**, at the discretion of the **Lessee**, may be provided in one of the following ways:

16.3.1 Security deposit, in cash or federal government debt securities, in the latter case, the following securities are admitted: National Treasury Bills (LTN), Financial Treasury Bills (LFT), National Treasury Notes - Series C (NTN-C), National Treasury Notes - Series B (NTN-B) or Principal National Treasury Notes - Series B (NTN-B Principal) or National Treasury Notes - Series F (NTN-F), which must be issued in book-entry form, by registering in a centralized system of liquidation and custody authorized by the Central Bank of Brazil and evaluated for their economic values, as defined by the Ministry of Economy.

16.3.2 Bank guarantee, in the form of the model included in **Appendix 1** of this **contract**.



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- 16.3.2.1 If a bank guarantee is chosen, it must: (i) be presented in its original form (no copies of any kind will be accepted), (ii) be expressed in Brazilian Reais (R\$), (iii) appoint the **Granting Authority** as beneficiary (iv) be duly signed by the administrators of the financial guarantee institution and (v) provide for the renunciation of the order benefit, subject to the other conditions established to guarantee the proposal set forth in the **Auction Notice**.
- 16.3.3 Insurance-guarantee whose policy must observe at least the content **Appendix 1** of this **Contract**.
- 16.3.4 Letters of guarantee and insurance policies must be valid for a minimum of one (1) **Year** from the date of issue, and it is the responsibility of the **Lessee** to keep them in full force and in an uninterrupted manner throughout the contractual period, and to promote such renewals and updates as may be necessary at least sixty (60) days prior to the due date.
- 16.3.5 Any modification in the contents of the letter of guarantee or in the guarantee insurance must be previously submitted to the approval of the **Granting Authority**.
- 16.3.6 **The Lessee** shall submit to the **Granting Authority** and to **ANTAQ**, in accordance with current regulations, a document proving that the bank guarantee letters or insurance policies have been renewed and their values readjusted in accordance with Sub-Clause 16.1.1.
- 16.4 Without prejudice to the other cases provided for in the **Contract** and in the regulations in force, the **Contract Performance Guarantee** may be used in the following cases:
- 16.4.1 When the **Lessee** does not pay the value of the grant or portion thereof, under the conditions set forth in this **Contract**;
- 16.4.2 When the **Lessee** does not pay the fines that are applied to it, in accordance with the regulations in force at the time of the occurrence of the event, as well as in the cases provided for in this **Contract** and its **Appendixes**, especially Clause 20.



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- 16.4.3 In the cases of return of **Reversible Assets** in disagreement with the requirements established in this **Contract** and in its **Appendixes**;
  - 16.4.4 In the event of non-payment of the **Lease Value**; or
  - 16.4.5 Due to proven losses arising from the **Lessee's** non-compliance with **Lease** obligations and their consequences.
- 16.5 Whenever the **Granting Authority** uses the **Performance Guarantee of the Contract**, **Lessee** shall reinstate its full amount within 10 (ten) business days from the date of its use, during which time the **Lessee** shall not be exempt from the responsibilities assigned to it by the **Contract**.

### 17. Insurances

- 17.1 The **Lessee** shall maintain the insurance during the whole execution of the **Activities**, until the closing of the **Contract** and full compliance with its object, considered essential to ensure an effective coverage for all risks inherent to the **Activities**.
- 17.2 All insurance policies to be contracted by the **Lessee** shall contain a waiver Clause about the subrogation rights in favor of the **Granting Authority**, its representatives, the **Financiers**, and its successors, and shall contain Clauses stipulating that they will not be canceled nor altered without the consent of the **Granting Authority**.
- 17.3 Any action or omission of the **Lessee** that causes loss or reduction of the coverage of any insurance required under the **Contract** will imply full liability of the **Lessee** for the amounts that would be indemnified by the insurer in the event of an accident, without prejudice to the imposition of the penalties provided in this Contract and in its Appendixes, as well as those set forth in the regulations of **ANTAQ** and the **Granting Authority**.
- 17.4 Before beginning any of the works provided in the **Contract** and its Appendixes, and effective until its conclusion, the **Lessee** shall:
  - 17.4.1 To contract insurance in the modality Risks of Engineering - Civil Works in Construction and Installations and Assembly; the policy must cover the basic coverage, including all acceptance tests, with insured amount equal to the value of the expenses with the execution of works, value of the supplies, the electromechanical assembly, beds and other costs that totalize



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the portion of investments, according to the projects presented by the **Lessee**. The following additional coverage must be included in the policy:

- a) Project Error;
- b) Manufacturer's Risks;
- c) Expenses for rescuing and containing claims;
- d) Construction machinery and equipment;
- e) Damage to property;
- f) Machinery failure;
- g) Extraordinary Expenses representing a limit of 10% (ten percent) of the basic coverage;
- h) Removal of debris of the Site representing a limit of 10% (ten percent) of the basic coverage;
- i) At **Lease's** discretion, additional hedges available in the Engineering Risks category may be included.

17.4.2 To contract insurance in the General and Cross-Linked Civil Liability modality, covering the risks arising from the implementation of the works and any others established in the **Contract** and its **Appendixes**, covering the **Lessee** and the **Granting Authority**, as well as its administrators, employees, workers and contractors, for the amounts with which they may be liable for material damages (consequential damages and loss of profits), personal and moral, arising from the activities of the works execution, including procedural costs and any other charges related to personal, material or moral damages, with minimum coverage for personal involuntary damages, death, property damage to third parties and their vehicles, including the **Granting authority**, including damages for soil survey, groundwater retraction, excavation, opening of galleries, staking, related services (foundations) and moral damages (with a coverage of at least 20% of the sum insured). The following additional coverage must be included in the policy:

- a) Material damages caused to the neighboring Properties;



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- b) Employer's Civil Liability, with limits according to market practices;
- c) Sudden pollution;
- d) Damage to public networks and services;
- e) Civil Liability Provision of Services in Third Parties, if applicable, in an amount compatible with the potential damages that may occur in each situation;
- f) Transport of all materials and equipment of your responsibility during construction.

17.5 From the beginning of the provision of the **Activities** and until the end of the Lease Term:

- 17.5.1 To contract insurance in the Nominated / Multi-Risk Risks category, including loss of profits during the operation, with coverage for the fixed expenses necessary for the continuity of the **Activities**, for a minimum period of six (6) months, against fire, lightning, explosion of any kind, electric damage, gale, smoke, flooding and landslides for buildings, structures, machinery, mobile equipment and stationary, relating to the assets under its responsibility or possession, especially the reversible assets forming part of the **Lease**;
- 17.5.2 To contract insurance in the form of General and Cross-Linked Civil Liability, covering the risks arising from the **Activities**, covering the **Lessee** and the **Granting Authority**, as well as their administrators, employees, employees and contractors, for the amounts with which they may be held liable for material damages (including damages and loss of profits), personal, moral, including procedural costs and any other charges related to material, personal or moral damages arising from the **Activities**, with minimum coverage for personal involuntary damages, deaths, material damages caused to third parties and their vehicles , including the **Granting Authority**;
- 17.5.3 To contract insurance for accidents at work related to employees and workers of the **Lessee** allocated to the provision of the services provided for in the **Contract**.



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- 17.6 Due to non-fulfillment of the obligation to contract or keep insurance policies up to date, **ANTAQ** will impose a fine until such policies or respective endorsement are presented, without prejudice to other measures provided for in the **Contract**.
- 17.7 The **Lessee** assumes all responsibility for the extent or omissions arising from the contracting of the insurance covered by this **Contract**.
- 17.8 The **Lessee** is responsible for the full payment of the deductible value, in case of use of any insurance provided for in the **Contract**.
- 17.9 The insurance policies must be valid for a minimum of one (1) **Year** from the date of issue, and it is the responsibility of the **Lessee** to keep them in full force and in an uninterrupted manner throughout the contractual period, and to promote renewals and updates that are necessary at least 60 (sixty) days before the due date.
- 18. Supervision by ANTAQ**
- 18.1 The powers to supervise the execution of the **Contract** shall be exercised by **ANTAQ**, without prejudice to the supervision to be exercised by the **Port Administration** and by the customs authorities, fluvial / maritime, sanitary, environmental and health, within the scope of their respective duties, and directly or through a contract, and in the exercise of its duties, **ANTAQ** shall at all times have free access to the data relating to the management, accounting and technical, economic and financial resources pertinent to the **Lease**, as well as to the **Lease Assets**.
- 18.2 It is up to **ANTAQ**:
- a) To stimulate the increase of quality and productivity and demand the conservation of the goods object of this **Contract**;
  - b) To comply with and enforcing safety and environmental preservation requirements in the performance of this **Contract**;
  - c) To curb abusive prices and practices that are harmful to free competition or discriminatory treatment in the provision of **Activities**;
  - d) To watch over the good quality of the **Activities**, to receive, to investigate and to adopt the measures to solve the complaints of the **Users**.



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- 18.3 **ANTAQ's** supervisory and control bodies are responsible for the supervision, inspection and audit of the **Contract**, as well as for the evaluation of the performance of the **Lessee**, which may be carried out at any time.
- 18.4 The determinations that will be issued in the scope of the planned inspections will be immediately applicable and will bind the **LESSEE**, without prejudice to any appeal that may be appropriate.
- 18.5 In the event that the **Lessee** does not comply with **ANTAQ's** determinations in the scope of the inspection, it will assist the latter to correct the situation, directly or through a third party, at the expense of the **Lessee** without prejudice to the applicable penalties.
- 18.6 **ANTAQ** will periodically inspect the Lease in order to guarantee that it will be in the conditions set forth in the **Contract** and in its **Appendixes**.
- 18.7 **ANTAQ** will carry out, until 12 (twelve) months before the end of the term of the **Contract**, an inspection to evaluate the condition of the **Reversible Assets**.
- 18.8 Once the notifications issued by **ANTAQ** have been received, the **Lessee** may exercise the right of defense in accordance with the regulations in force.
- 18.9 It is also incumbent upon **ANTAQ** to arbitrate any conflicts of interest between **Users**, the **Lessee**, **Port Administration** and other agents acting in the **Organized Port**, preserving the public interest and preventing situations that constitute abuse of market dominance or infraction of the economic order.
- 18.10 The inspection carried out by **ANTAQ** or the other competent bodies does not exclude, limit or attenuate the responsibility of the **Lessee** for damages caused to the **Granting Authority**, the **Port Administration**, **Users** or third parties, in accordance with the regulations.

### 19. Lease Follow Up

- 19.1 Without prejudice to other economic, financial, corporate and operational information that may be requested by the **Granting Authority** and / or **ANTAQ**, pursuant to the regulations, it is the obligation of the **Lessee** to forward the following information to **ANTAQ**:
  - 19.1.1 Annually, by the tenth (10th) day of the month following the close of each **Year** as of the **Assumption Date**, an Operational Report containing the following information:



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- a) Cargo handling, including total volumes for all months of terminal operation broken down by type of cargo;
- b) Follow-up of the **Leasing Parameters** containing all the necessary information to verify the parameters indicated in this **Contract**;
- c) Updated Inventory of **Lease Assets**, informing the quality of each equipment, nominal and effective capacity (when applicable) and equity report;
- d) Results of audits and environmental performance reports of the **Lease**, in accordance with the guidelines set forth in NBR ISO 14.031 or equivalent accepted by **ANTAQ**;
- e) Audit report in the terms required by Conama (National Council for the Environment) Resolution no. 306, of July 5<sup>th</sup>, 2002 or another to replace it. This report may be presented every 2 (two) years;
- f) Financial statements related to the months covered by the Operational Report.

19.1.2 Annually, by April 30<sup>th</sup> of each **Year**, a **Lessee's** Accounting and Financial Report containing the following information:

- a) Financial statements about the period ended at December 31<sup>th</sup> of the **previous Year**, prepared in accordance with accounting practices adopted in Brazil, based on the laws cited, rules and regulations of the Brazilian Securities and Exchange Commission (CVM) and Accounting Standards issued by the Federal Accounting - CFC, including, but not limited to, the Management Report, Balance Sheet, Profit and Loss Account, the Statement of Income for the Year and the Statement of Cash Flows, the Notes to the Financial Statements, Independent Auditors' Report and of the Fiscal Council, in compliance with the provisions of Law no. 6,404 / 76, Law no. 11638/07 and other legal provisions in force, without prejudice to the authority granted to **ANTAQ** to carry out diligences and audits to verify the situation; such documents must be audited by independent auditors, registered and authorized by CVM;





- b) The ownership structure of the **Lessee**, direct and indirect, up to the level of individuals, considering all types of participation, including minority shareholders, in excess of five percent (5%) of the voting and non-voting capital, as well as all shareholder contracts entered into in the period;
  - c) Report on the compliance by shareholders with the obligation to pay the minimum capital stock of the **Lessee**, without prejudice to the authority granted to **ANTAQ** to carry out diligences and audits to verify the situation;
  - d) Documents proving that the insurance policies have been renewed or will be automatically and unconditionally renewed immediately after their expiration, accompanied by the respective policy.
- 19.1.3      Annually, until the tenth (10<sup>th</sup>) day of the following month to the closure of each **Year** as of the **Date of Assumption**, User Assistance Report containing:
- a) The measures adopted to resolve the complaints of **Users, Port Administration** and Port Operators forwarded by **ANTAQ** or received directly by the **Lessee**, as well as the time elapsed between the complaint and the resolution of the problem;
  - b) The report shall also include references to requests from third parties for the use of the **Port Facility** or equipment owned by the **Lessee**, indicating at least: (a) the attendance or not of the requests, accompanied by the necessary justifications; (b) the term by which the use was agreed; and (c) the prices charged - without prejudice to **ANTAQ** requesting the full contract between the parties.
- 19.1.4      Other reports and information to be provided to **ANTAQ**:
- a) Report, to be presented annually as of the **Date of Assumption**, informing **ANTAQ** of the proposal to deactivate or dispose of reversible assets, respecting the obligation to replace the asset deactivated or disposed by another with identical or higher



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operating and operating conditions, always up to the tenth (10<sup>th</sup>) day of the month following the **Year** due;

- b) Progress report regarding to the activities included in the Implementation Schedule presented in the **BIP (Basic Implementation Project)**, to be presented every 6 (six) months counted from the **Assumption Date**, always until the tenth (10<sup>th</sup>) day of the month following the expiration of the semester, until the conclusion of the Deployment;
- c) Independent technical report to verify the operational conditions of the reversible assets, to be presented every 5 (five) **Years** as of the **Assumption Date**, always until the tenth (10<sup>th</sup>) day of the month following the five-year period.

19.1.5 The format of the documents and the way the information is made available will be determined by **ANTAQ**.

19.2 For the purposes of monitoring and controlling the competition, the **Lessee** shall provide to **ANTAQ**, annually, for the Influence Area of the **Organized Port**, information on the loads operated, of the same type as the activities included in the object of the lease, by the **Lessee** and Related Parties, covering areas inside and outside the **Organized Port**.

19.2.1 The **Lessee** must provide all the information according to the regulation to be issued by **ANTAQ**.

19.2.2 The format of the documents and the way the information is made available will be determined by **ANTAQ**.

19.2.3 The information provided under the terms of this Clause may be provided to the bodies of the Brazilian Competition Defense System by **ANTAQ** or upon request.

## 20. Penalties

20.1 Failure to comply with the Clauses of this **Contract**, its **Appendixes**, the **Auction Notice** and the **Regulations for the Exploitation of the Organized Port** shall entail the application of the penalties provided in this Contract, without prejudice to other penalties provided for in **ANTAQ's** other legal and regulatory provisions.



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- 20.2 Due to non-compliance or delay in complying with this **Contract**, **ANTAQ** or the **Granting Authority**, subject to their respective powers, may, subject to prior defense, apply, either individually or cumulatively, to the **Lessee** the following sanctions:
- a) Warning;
  - b) Contractual fine;
  - c) Suspension of the right to participate in Auction and to contract with the Federal Public Administration;
  - d) Extinction of the **Contract** due to fault of the **Lessee**;
  - e) Declaration of inability to tender or contract with the Public Administration, as long as the reasons for the punishment continue or until its rehabilitation is promoted, by reimbursement for the resulting damages and expiration of the term of the sanction applied based on the "letter c" above.
- 20.3 The application of the sanctions referred to in the previous Sub-clauses does not prevent the **Granting Authority** from declaring the **Lease** termination due to the **Lessee**, in compliance with the procedures set forth herein, or apply other sanctions provided for therein, nor does it imply a removal of the civil or criminal liability of the **Lessee** and / or of its administrators or extinction of the obligation to correct the faults practiced or verified failures.
- 20.4 After completion of the administrative process of application of penalty, the **Lessee** shall pay the value of the sentence within a maximum period of thirty (30) days; if the **Lessee** does not pay the penalty within the established period, **ANTAQ** and / or the **Granting Authority** shall execute the **Contract Performance Guarantee**.
- 20.5 The debit not payed by the **Lessee** and not covered by the **Contract Performance Guarantee** may be registered by the Register Sector of Unpaid Debts from the Federal Public (CADIN) until the effective payment.
- 20.6 The administrative procedure for the application of penalties shall comply with the provisions of the legislation and regulations in force.
- 20.7 The suspension of the right to participate in Auctions and to contract with the Federal Public Administration will be applied in case of repeated practices of contractual infractions, in accordance with the terms of this **Contract** and the current regulations.



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20.8 The imposition of penalties to the **Lessee** does not exclude the possibility of applying precautionary measures by **ANTAQ**, aiming to preserve the physical or patrimonial integrity of third parties, such as: detention, interdiction of premises, seizure, seizure of works, in addition to other measures legislation and regulation of the sector.

### 21. Specific Purpose Company - SPC

21.1 The **Lessee** will remain as an **SPC**, in the form of a corporation, incorporated under Brazilian law, for an indefinite period, with the exclusive purpose of exploring the **Lease**.

### 22. Minimum Capital Stock

22.1 The minimum initial capital, duly subscribed and fully paid up, of the **Specific Purpose Company** established for the exploration of the **Lease** is R\$ 22,149,209.40 (twenty-two million, one hundred and forty-nine thousand and two hundred and nine reais and forty cents).

22.1.1 The **Lessee** may not, during the contractual period, reduce its capital stock below the minimum amount specified above, without prior and express authorization from the **Granting Authority**.

### 23. Financing

23.1 The **Lessee** is the sole and exclusive responsible for obtaining the necessary financing for the exploitation of the **Lease**, as provided in this **Contract**, in order to comply fully and in a timely manner with all the obligations assumed in the **Contract**.

23.2 The **Lessee** shall submit to **ANTAQ** a certified copy of the financing and guarantee contracts that it will be concluded and of documents representing the securities issued by it, as well as any changes to those instruments, within a period of 10 (ten) business days from the date of its signature and issue, as the case may be.

23.3 The **Lessee** may not invoke any provision, Clause or condition of the financing contracts, or any delay in the disbursement of resources, in order to exempt, totally or partially, from the obligations assumed in the **Contract**.



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23.4 The **Lessee** may guarantee the financing contracted under this Clause, the rights arising from the **Lease**, such as the operating revenues of the **Lease**, subject to the limits that do not jeopardize the regular performance of the **Contract**, and in compliance with the provisions of article 28-A of Law no. 8,987/1995.

23.5 It is forbidden to the **Lessee**:

- a) To grant loans, financing and / or any other form of transfer of funds to its shareholders and / or **Related Parties**, except transfers of funds in the form of dividend distribution, interest payments on equity and / or payments for the contracting of **Activities**, entered into on fair market conditions; and
- b) To provide bail, endorsement or any other form of guarantee in favor of its shareholders and / or its **Related Parties** and / or third parties.

### 24. Assumption of Control by Financiers

24.1 When the **Lessee** is incorporated as a Specific Purpose Entity (SPE), the **Granting Authority** may authorize, through prior analysis by **ANTAQ**, the assumption of control of the Lessee by its **Financiers** and Guarantors, in case of default of the financing contracts and for promote its financial restructuring and ensure the continuity of **Activities**, also observing the provisions of Article 27-A of Law 8,987 / 95.

24.1.1 The assumption referred to in the previous Sub-Clause may occur in cases where the **Lessee's** breach of contractual obligations impairs or jeopardizes the continued operation of the **Lease**.

24.1.2 After the corresponding administrative process has been carried out on a regular basis, upon request, the **Granting Authority** will authorize the assumption of control of the **Lessee** by its **Financiers** and **Guarantors** with the purpose of promoting the financial restructuring of the **Lessee** and ensuring the continued operation of the **Lease**.

24.2 In case of assumption of control by the **Financiers** and **Guarantors**, the execution of the **Activities** may occur through the hiring of pre-qualified third parties for both in the form of this **Contract**.



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- 24.3 The authorization will only be granted upon proof by the **Financiers** and **Guarantors** that they meet the legal and fiscal regularity requirements set forth in the **Auction Notice**, as well as the operational requirements set forth in the applicable regulations and standards.
- 24.4 The assumption of the control of the **Lessee** under the terms of this Clause shall not alter the obligations of the **Lessee** and of the Controlling **Financiers** and **Guarantors** to the **Granting Authority**.

### 25. Intervention by the Granting Authority

- 25.1 The **Granting Authority** may intervene in the **Lease** in order to ensure the adequacy in the provision of the **Activities**, as well as the faithful compliance with the pertinent contractual, regulatory and legal norms.
- 25.2 The intervention will be done by decree of the **Granting Authority**, duly published in the **D.O.U. (Federal Official Gazette)**, which will contain the designation of the intervener, the term of the intervention, the objectives and limits of the measure.
- 25.3 Once the intervention is approved, the **Granting Authority** will, within thirty (30) days, initiate an administrative process that must be completed within a maximum period of 180 (one hundred and eighty) days, to investigate the determining causes of the intervention and establish the respective accountabilities, assuring the **Lessee** is entitled to the full defense.
- 25.4 Once the intervention is terminated, if the **Lease** does not terminate, the **Activities** object of the **Contract** will be returned to the **Lessee's** responsibility, and the intervener must be accountable for its actions.
- 25.5 The **Lessee** agrees to make available to the **Granting Authority** the **Lease** and other **Lease Assets** immediately after the intervention is issued.
- 25.6 Revenues earned during the period of intervention will be used to cover the investments, costs and expenses necessary to restore the normal operation of the **Lease Activities**.
- 25.6.1 If the intervention period revenues are not sufficient to cover the value of **Granting Authority's** investments, costs and expenses arising from the **Lease**, the **Granting Authority** may use the **Contract Performance Guarantee** to:
- a) Cover them, fully or partially; and / or

- b) Discounting, in the event of any future remuneration to be received by the **Lessee**, the amount of the investments, costs and expenses incurred.

## 26. Cases of Extinction

26.1 The **Lease** shall be terminated by:

- a) Advent of the contractual term;
- b) Anticipated extinction of the **Contract** in the public interest;
- c) Termination of the **Contract** due to the fault of the **Lessee**;
- d) Termination of the **Contract** due to the **Granting Authority**;
- e) Cancellation; or
- f) Dissolution of the SPC.

26.1.1 After the **lease** has been extinguished, all leasehold goods shall be automatically reimbursed to the **Granting Authority**, free and clear of any liens or charges, and all rights arising under the **Lease** shall cease to the **Lessee**.

26.1.2 Upon the termination of the **Lease**, there shall be immediate assumption of the **Activities** related to Lease by the **Granting Authority**, which shall be authorized to occupy the premises and to use all the **Lease Assets**, without prejudice to the maintenance of the **Lease** obligations assumed to third parties or their employees.

26.2 Advent of the Contractual Term

26.2.1 At the end of the contractual term, the **Lessee** will be responsible for closing any **Lease** contracts entered into with third parties, assuming all the charges, liabilities and burdens resulting therefrom.

26.2.2 The **Lessee** shall take all reasonable steps and cooperate fully with the **Granting Authority** so that the **Activities** subject to the **Lease** continue to be provided under this **Contract**, without interruptions, as well as preventing and mitigating any inconvenience or risk to the health or safety of **Users** and servers of the **Granting Authority and ANTAQ**.



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26.2.3 The **Lessee** shall not be entitled to any indemnity related to investments related to the **Lease Assets** as a result of termination of the **Contract**.

### 26.3 Early termination of the contract in the public interest

26.3.1 The **Granting Authority** may, at any time, under the terms of current legislation, terminate the duly justified Public Interest **Contract**, upon prior payment of indemnity, to be calculated pursuant to Sub-Clause 26.3.2.

26.3.2 The indemnity due to the **Lessee** will cover:

- a) The installments of investments made, including Maintenance **Activities**, goods and installations, not yet amortized or depreciated, that have been performed for the fulfillment of this **Contract**, provided that they are duly authorized by the **Granting Authority**, less the remaining financial charges;
- b) The reduction of the **Lessee** in relation to the obligations arising from financing contracts contracted and proven to be used for the fulfillment of this **Contract**, provided that they relate to investments not yet fully amortized.
- c) The charges and costs arising from fines, contractual terminations and indemnities due to costs of demobilization, to suppliers, contractors and third parties in general, including attorney's fees, as a result of the consequent disruption of the respective contractual links entered into and provided that they are proved to be used in compliance of this **Contract**.

26.3.3 The part of the indemnity due to the **Lessee**, corresponding to the outstanding balance of the financing referred to in sub-clause "b" of Sub-Clause 26.3.2, may be paid directly to the **Financiers**, and the remaining value may be paid directly to the **Lessee**.

26.3.4 The fines, indemnities, amounts received as insurance coverage related to the events or circumstances that led to the **Contract** extinction and any other amounts due by the **Lessee** will be deducted from the compensation provided in this case of extinction.





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### 26.4 Termination of contract due to fault of the Lessee

26.4.1 The **Granting Authority** may declare the termination of the **Contract** due to the **Lessee** in the event of total or partial non-performance of the **Contract**, in compliance with the applicable legal and regulatory standards, and especially when the **Lessee**:

- a) Presents a **BIP (Basic Implementation Project)** that is rejected for failure to comply with the requirements of the **Contract** and Appendixes, in compliance with Clause 4 and their respective Sub-Clauses;
- b) Provides the **Activities** object of this **Contract** in an inadequate or deficient manner, based on the Lease Parameters;
- c) Failures to comply with the deadlines for the implementation and operation of the **Activities**;
- d) Breaches **Contract** clauses or legal and regulatory provisions concerning the **Lease**;
- e) Paralyzes the **Activity** or concurring thereto, except for the hypotheses arising from a fortuitous event or force majeure, and those authorized by **ANTAQ** or by the **Granting Authority**, pursuant to the applicable legislation;
- f) Loses the economic, technical or operational conditions to maintain the adequate performance of the **Leased Activity**;
- g) Failures to comply with the penalties imposed, in due time;
- h) Misuses the contractual object or promotes social change or modification of the corporate purpose or structure of the company that prevents or impedes the execution of the **Contract**, including the dissolution of the company;
- i) Carries out, without previous and express authorization, a transfer transaction of corporate control or ownership of the **Lease**, or the total or partial sub-lease;
- j) Failures to pay contractual charges to the **Port Administration** for more than 4 (four) months;
- k) Failures to comply with the subpoena of the **Granting Authority** or **ANTAQ**, in order to regularize the provision of the **Activity**;



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- l) Is condemned in a final judgment for tax evasion, including social contributions; or
  
  - m) It is judicially convicted for acts dealt with in Law no. 12.846 / 2013, especially when the penalties provided for in items II and III of art. 19 of said Law.
- 26.4.2 The **Granting Authority** may not declare the termination of the **Contract** due to the fault of the **Lessee** in the event of unforeseeable events or force majeure.
- 26.4.3 The termination of the **Contract** due to the fault of the **Lessee** shall be preceded by the verification of the contractual default of the **Lessee** in an administrative proceeding, with the right to defence.
- 26.4.4 No administrative procedure shall be instituted for this purpose without prior notice to the **Lessee**, and in each case, it shall be given a period to correct the faults and transgressions mentioned above and to comply with the contractual terms.
- 26.4.5 Once the administrative procedure is established and the default is proven, the **Contract** termination shall be declared by the **Granting Authority**, regardless of the payment of prior indemnity, which shall be calculated in the course of the proceeding and in accordance with Sub-Clause 26.4.7.
- 26.4.6 Termination of the Contract and concluded the payment of the respective indemnity will not result in the **Granting Authority** any kind of responsibility in relation to the charges, burdens, obligations or commitments with third parties or with employees of the **Lessee**.
- 26.4.7 Indemnity
- 26.4.7.1 The indemnity due to the **Lessee** in the event of termination of the **Contract** due to the fault of the **Lessee** shall be limited to the value of the investments approved by the **Granting Authority**, related to **Lease Assets** not yet amortized.
  - 26.4.7.2 Regarding the amount provided in the previous Sub-Clause will be discounted:



- i. The losses caused by the **Lessee** to the **Granting Authority** and to the company, calculated through administrative process;
- ii. The contractual and regulatory fines applied to the **Lessee** that are not paid; and
- iii. Any amounts received by the **Lessee** as insurance coverage related to the events or circumstances that led to the declaration of termination of the **Contract** due to the fault of the **Lessee**.

26.4.7.3 The part of the indemnity due to the **Lessee**, corresponding to the outstanding balance of the investments effectively invested, may be paid directly to the **Financiers**, at the discretion of the **Granting Authority**, and the remaining amount paid directly to the **Lessee**.

26.4.8 The declaration of termination of the **Contract** due to the fault of the **Lessee** will also entail:

- a) The execution of the **Contract Performance Guarantee** to reimburse fines and possible damages caused to the **Granting Authority**; and
- b) The retention of any credits arising from the **Contract** up to the limit of the losses caused to the **Granting Authority**.

## 26.5 Termination due to the Granting Authority

26.5.1 The **Lessee** shall notify the **Granting Authority** of its intention to terminate the **Contract**, in the event of non-compliance with the contractual rules by the **Granting Authority**, through a legal action specially attempted for that purpose, under the terms established in the legislation.

26.5.2 The **Activities** provided by the **Lessee** may only be interrupted or paralyzed after the final decision of the judicial that decrees the termination of the **Contract**.

26.5.3 **Indemnity**



- a) The indemnity due to the **Lessee** in the event of termination by fault of the **Granting Authority** shall be calculated in accordance with Sub-Clause 26.3.2.
- b) For the purposes of the calculation indicated in the previous item, the amounts received by the **Lessee** will be considered as insurance coverage related to the events or circumstances that gave rise to termination.

## 26.6 Annulment

- 26.6.1 The **Granting Authority** shall declare the nullity of the **Contract**, preventing the legal effects that it ordinarily must produce, in addition to **Contract** deconstructing those already produced, if it is found illegal in its formalization or in the **Auction**.
- 26.6.2 In the case described in Sub-Clause 26.6.1, if the unlawfulness is attributable only to the **Granting Authority**, the **Lessee** shall be indemnified for what has been executed until the date on which the nullity is declared and for other regularly proven losses, however, any amounts received by the **Lessee** as insurance coverage related to the events or circumstances that led to the declaration of nullity.

## 26.7 Bankruptcy or Extinction of Lessee

- 26.7.1 The **Lease** will be terminated if the **Lessee** has its bankruptcy decreed, by a final decision, or in case of judicial recovery that makes the execution of this **Contract** impossible.
- 26.7.2 In the event of the extinction of the **Lessee** by decree of fraudulent bankruptcy or dissolution of the **Lessee** by resolution of its shareholders, an administrative procedure will be instituted to determine the actual loss and determination of the applicable sanctions.
- 26.7.3 There shall be no sharing of the eventual net assets of the extinct **Lessee** among its shareholders, before payment of all the obligations to the **Granting Authority**, and without the issuance of an inspection report attesting to the state in which the **Lease Assets** are located.
- 26.7.4 Indemnity



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- a) The indemnity due to the **Lessee** in the event of the bankruptcy or extinction of the **Lessee** shall be limited to the value of the investments related to **Lease Assets** not yet amortized.
- b) Regarding the amount provided in the previous paragraph will be discounted:
  - i. The losses caused by the **Lessee** to the **Granting Authority** and to the society calculated by administrative process;
  - ii. The contractual and regulatory fines applied to the **Lessee** that are not paid until the date of termination of the **Contract**; and
  - iii. Any amounts received by the **Lessee** as insurance coverage related to the events or circumstances that led to the termination of the **Contract**.
- c) The part of the indemnity due to the **Lessee**, corresponding to the outstanding balance of the investments effectively invested, may be paid directly to the **Financiers**, at the discretion of the **Granting Authority**, and the remaining amount paid directly to the **Lessee**.

26.7.5 Decreed the dissolution of the SPC, the **Granting Authority** shall immitate itself in possession of all the **Property of the Lease** and shall immediately assume the execution of the object of this **Contract**.

### 27. Intellectual property

- 27.1 The **Lessee** assigns, free of charge, to the **Granting Authority** all projects, plans, blue prints, documents, systems and computer programs and other materials, of any nature, which are necessary for the performance entrusted to the **Granting Authority** or the exercise of rights attended, under the terms of the **Contract**, and which have been specifically acquired or elaborated in the development of the **Activities** integrated in the **Lease**, either directly by the **Lessee** or by third parties contracted by it.
- 27.2 Intellectual property rights over studies and projects developed for the specific purposes of the **Activities** included in the **Lease**, as well as projects, plans, blueprints, documents, computer systems and programs and other materials



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referred to in the previous Sub-clause, shall be transmitted free of charge and on an exclusive basis to the **Granting Authority** at the end of the **Lease**, and the **Lessee** shall take all necessary measures for this purpose.

### 28. Final dispositions

#### 28.1 Rights Exercise

28.1.1 The non-exercise or the late or partial exercise of any right that comes to any of the **Parties** by the **Contract** does not matter in resignation, neither prevents its subsequent exercise at any time, nor constitute any novation of the respective obligation or precedent, provided that it has not operated the prescription or decay.

#### 28.2 Partial Invalidity

28.2.1 If any provision of the **Contract** is found to be void, invalid, unlawful or unenforceable in any respect, the validity, legality and enforceability of the other provisions contained in the **Contract** shall not, in any way, be affected or restricted thereto. The **Parties** shall negotiate in good faith the replacement of invalid, unlawful or unenforceable provisions by valid, legal and enforceable provisions whose economic effect is as close as possible to the economic effect of provisions considered invalid, unlawful or unenforceable.

28.2.2 Each declaration and warranty made by the **Parties** to this **Contract** shall be treated as an independent declaration and guarantee and the liability for any failure shall be solely by the party who performed it and shall not be modified or modified for its knowledge by either **Party**.

#### 28.3 Forum

28.3.1 The forum of the Judicial Section of the Federal District is elected to settle any disputes arising from this **contract**.

#### 28.4 Notifications

28.4.1 Communications and notifications between the **Parties** shall be made in writing and sent: (i) by hand, provided they are proven by protocol; (ii) by registered mail, with acknowledgment of receipt; or (iii) by electronic mail, provided



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it is possible to unequivocally prove the origin of the message and its receipt.

28.4.2 Either **Party** may change its address by simple communication to the other **Party**.

### 28.5 Counting of Deadlines

28.5.1 In the terms established in days, in the **Contract**, the start date will be excluded and the expiration date will be included, counting in consecutive days, unless reference is expressly made to business days.

28.5.2 The terms and dates referred to in this **Contract** only start and expire on a business day in the **Granting Authority**.

### 28.6 Language

28.6.1 All documents related to the **Contract** and the **Lease** must be written in Portuguese, or translated by a sworn translator, in the case of foreign documents, and the Portuguese language version shall prevail in case of any conflict or inconsistency.

### 28.7 Regarding the Publication

28.7.1 The **Granting Authority** shall provide for the publication of an extract from this **contract** and its respective additions to the D.O.U. (Federal Official Gazette), which is indispensable for its effectiveness.

And, being fair and contracted, the **parties** sign the **Contract** in 3 (three) ways of equal content and form, each of them being an original, in the presence of the witnesses identified below.

Brasília/Federal District Date:

[signatures]

**Appendix 1. Minimum Conditions for the contracting of Guarantee and Bank  
Guarantee**

**Minimum Terms and Conditions of Insurance-Guarantee**

**1. Policy holder**

**1.1 Lessee**

**2. Insured**

2.1 The Federal Government, represented by the Ministry of Infrastructure (**Granting Authority**)

**3. Regarding the insurance**

3.1 To guarantee the faithful performance of all obligations contracted by the **Lessee** before the **Granting Authority**, under the terms of the Contract, and the Insured shall be indemnified, for the amount set forth in item 5 below, whenever any breach of contractual obligation, penalties and default that may occur.

**4. Instrument**

4.1 Insurance-Guarantee Policy issued by an insurer duly constituted and authorized to operate by the SUSEP Private Insurance Superintendence, observing the normative acts of SUSEP applicable to insurance-guarantee.

**5. Value of Warranty**

5.1 The Insurance-Guarantee Policy shall provide for the indemnification amounts provided for in the Contract and in its **Appendixes**.

5.2 The Performance Guarantee of the Contract will be adjusted annually on the same date of the readjustments of the other values of the Contract, observing the adjustment rules set forth therein.



## 6. Term

6.1 The Insurance-Guarantee Policy must have a minimum term of validity of 12 (twelve) months and must be renewed in accordance with the provisions of the contract and its **Appendixes**.

## 7. Additional Provisions

7.1 The Insurance-Guarantee Policy shall contain the following additional provisions: (i) Declaration by the Insurer that it knows and accepts the terms and conditions of the **Lease Contract** and its **Appendixes**; (ii) Prohibition of cancellation of the Insurance Policy due to lack of total or partial payment of the premium; (iii) When it is confirmed that the Insured fails to comply with the obligations covered by the Insurance, the Insured shall be entitled to demand from the Insurer the indemnity due; (iv) any legal conflicts will be dealt with in the jurisdiction of the Insured's domicile.

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### Bank Guarantee Model

[place],

Date:

To Federal Government, represented by the Ministry of Infrastructure (**Granting Authority**)

Reference: Letter of Bank Guarantee, number. [•] ("Letter of Guaranty") R \$ [·] (Reais – Brazilian currency)

1. By means of this Letter of Guarantee, the Bank [•], with registered office at [•], registered with the CNPJ (Corporate Taxpayer's Registry) / MF Ministry of Economy), under the number. [•] ("Guarantor Bank"), directly by you and by any successors thereto, to the Federal Government, represented by the Ministry of Infrastructure [full qualification], expressly waiving the rights provided for in articles 827, 835, 837, 838 and 839 of Law no. 10,406, dated January 10<sup>th</sup>, 2002 (Brazilian Civil Code), for the faithful fulfillment of all obligations assumed by [•], a company incorporated in the



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form of a corporation, with headquarters in [City], State of [address], enrolled with the CNPJ (Corporate Taxpayer's Registry) / MF (Ministry of Economy), under the number [•], (the "Insured Entity"), in the **Lease Contract**, number: entered into between the Federal Government and the Secured Party, whose execution occurred in [•], whose terms, Clauses and conditions the Guarantor Bank expressly declares to know and accept.

2. As a result of this Letter of Guarantee, the Guarantor Bank is obliged to pay to the Federal Government, in case of breach of the obligations assumed by the Insured Entity in the Contract, the amounts indicated below, for each period of the Lease: **Appendixes**). Notes: (1): The values indicated above shall be readjusted annually on the same date as the readjustments of the lease amounts, according to the formula set forth in the **Lease Contract**.
3. It is also required the Bank Guarantor in the scope of the amounts indicated above, payable for the damages caused by the Insured Entity, as well as fines applied by the Federal Government or ANTAQ related to the **Contract**, amounts resulting from a contractual default to the **Port Administration**, committing itself to make payments from these securities when are required, within a maximum period of 48 (forty-eight) hours, counted from the receipt, by the Bank Guarantor, of the written notification sent by the Federal Government.
4. The Bank Guarantor may not admit any objection or opposition of the Insured Entity or invoked by it in order to excuse itself from the fulfillment of the obligation assumed before the Federal Government under the terms of this Letter of Guarantee, unless there is a formal statement by the Federal Government that does not pay the respective payment, or in the existence of a court decision that prevents or suspends payment.
5. The Bank Guarantor and the Insured Entity may not change any of the terms of the Guaranty without the prior and express authorization of the Federal Government.
6. Whenever Insured Entity uses part of the Bail Bond total value, the Guarantor Bank undertakes to make immediate notification to the Insured Entity so that it may, within 10 (ten) business days of the date of use, recompose the full amount of the Bail Bond.



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7. In the event that the federal Government joins a court to demand compliance with the obligation referred to in this Letter of Guarantee, Bank Guarantor is obligated to pay the judicial or extrajudicial expenses.
8. The Guarantee will be in force for a minimum term of 1 (one) **Year**, counted from this date, according to the conditions mentioned in the Contract and in its **Appendixes**.
9. The Guarantor Declares that:
  - 9.1 The present Letter of Guarantee is properly accounted for, fully observing the regulations of the Central Bank of Brazil currently in force, in addition to complying with the provisions of the applicable Banking Law;
  - 9.2 The signatories of this instrument are authorized to provide the guarantee in their name and in their responsibility; and
  - 9.3 Its capital stock is R \$ [•] (• Reais - Brazilian currency), being authorized by the Central Bank of Brazil to issue Letters of Guarantee, and that the amount of this Letter of Guarantee, in the amount of R \$ [•] (• reais – Brazilian currency), is within the limits authorized by the Central Bank of Brazil.
10. The terms that have not been expressly defined in this Letter of Guarantee will have the meanings attributed to them in the **Lease Contract**.

[signature of attorneys-in-fact with recognized signature]

[signature of witnesses]

**Appendix 2. Term of Provisional Acceptance and Permission to Assets Use**

On the one hand:

- (1) The **Federal Government**, hereinafter referred to as the “**Union**”, through the Ministry of Infrastructure, with its \_\_\_\_\_, in this act represented by its representative, Mr. [●], [qualification], appointed by Decree of [●], published in the Federal Official Gazette of [●], hereinafter referred to as "MINFRA (Ministry of Infrastructure)", as "**Granting Authority**"; and
- (2) **The National Waterway Transportation Agency**, a permanent member of the Federal Administration, with headquarters in \_\_\_\_\_, herein represented by its Director General, [●], [qualification], appointed by Decree of [●], published in the Federal Official Gazette of [●], and by its Director [●], appointed by the [●] Decree, published in the Official Gazette of [●], hereinafter referred to as "“**ANTAQ**”, in the role of "CONSENT PARTY"; and

And on the other hand:

- (3) [●], [Specific Purpose Company], headquartered in [City], State of [●], at [address], registered in the National Register of Legal Entities of the Ministry of Economy under no. .... act duly represented by the [●], [qualification], as "**Lessee**";

Together, referred to as "Parties" and individually, as "Party":

Clause 1<sup>a</sup> - Object

1.1 The purpose of this Term is:

- 1.1.1 The presentation of the inventory with all existing assets and components of the **Lease**, pursuant to the **Contract** and its **Appendixes**, indicating the state of conservation and operation of said assets, and
- 1.1.2 The permission to use and access the inventoried assets indicated in the attached list, according to the **Contract** and its **Appendixes**, from which this Term becomes an integral part, in order for the **Lessee** to execute the object of the **Lease**.

1.2 The inventory of assets is included in the **Appendix** to this Provisional Acceptance and Assets Use, with its description, state of conservation and operational capacity, with the other complementary technical specifications.

Clause 2<sup>a</sup> - Term

2.1 The **Lessee** hereby agrees to verify the accuracy of the inventory presented, as well as to request adjustments, if necessary, in a justified manner.

2.2 After granting the requested adjustments, the **Granting Authority** and **ANTAQ** will issue a new inventory, which will be **attached** to the Term of Final Acceptance and Permission to Assets Use to be signed by the Parties.

2.3 This Term of Provisional Acceptance and Permission for Assets Use shall have the term of validity commenced on the date of its signature and of termination on the same date as the Term of Final Acceptance and Permission to Assets Use.

Clause 3<sup>a</sup> – **Improvements**

3.1 Any improvements, whether useful, necessary or voluptuous, as well as accesses, consented or not, that **Lessee** may make in the area subject to the Permission for Use, shall be incorporated therein, giving up the **Lessee** any right of retention or indemnification.

Clause 4<sup>a</sup> - – **Extinction**

4.1 This Term of Provisional Acceptance and Permission to Assets Use will be extinguished in the same extinction hypotheses provided for in the **Lease Contract**.

4.2 The extinction of this Term of Provisional Acceptance and Permission to Assets Use will imply the immediate vacating of the area by the **Lessee** or in a maximum period of 180 (one hundred and eighty days), at the discretion of the **Granting Authority**, when necessary for the demobilization of its assets, and restitution of the assigned areas, under penalty of the **Lessee** being considered as a spoiler, for the purpose of reintegration of possession, according to articles 560 and following of the Code of Civil Procedure and its subsequent alterations, as well as the return of all equipment ceded, without prejudice to indemnities to the **Granting Authority**, when applicable.



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The parties agree with the terms in contract and the their representatives sign this Term of Provisional Acceptance and Permission to Assets Use, in two copies of equal content and form.

Brasília, Federal District,

[date]

[signatures]

### Provisional List of Assets and Inventory

<b>Asset description</b>	<b>Conservation state</b>	<b>Operating Capacity</b>	<b>Other technical specifications</b>

**Appendix 3. Term of Final Acceptance and Permission to Assets Use**

On the one hand:

- (1) The **Federal Government**, hereinafter referred to as the “**Union**”, through the Ministry of Infrastructure, with headquarters in \_\_\_\_\_, hereby represented by its \_\_\_\_\_, Mister [●], [role], appointed by Decree of [●], published in the Official Gazette of [●], hereinafter referred to as "**MINFRA (Ministry of Infrastructure)**", as "**Granting Authority**"; and
- (2) **The National Waterway Transportation Agency**, a member of the indirect Federal Administration, headquartered in \_\_\_\_\_, in this act represented by its Director General, Mr. [●], [qualification], appointed by Decree of [●], published in the Official Gazette of [●], and by its Director [●], appointed by [●], published in the Official Gazette of [●], hereinafter referred to as "**ANTAQ**", as "**Consent Party**"; and on the other side:
- (3) [●],[Specific Purpose Company], headquartered in [City], State of [●], at [address], registered in the National Register of Legal Entities, under the number [●], herein duly represented by the Srs [●], [qualification] as "**Lessee**";

Together, referred to as "Parties" and individually, as "Party":

Clause 1<sup>a</sup> – Object

1.1 The purpose of this Term is:

- 1.1.1 The formal acceptance by the **Lessee** of the inventory with all existing assets and members of the **Lease**, presented in the Term of Provisional Acceptance; and
- 1.1.2 The permission to use and access the inventoried assets indicated in the attached list, according to the **Contract** and its **Appendixes**, from which this Term becomes an integral part, in order for the **Lessee** to execute the object of the Lease.

Clause 2<sup>a</sup> – Term

2.1 This Term of Definitive Acceptance and Permission to Assets Use shall have the term of validity commenced on the date of its signature and of termination on the same date on which the **Lease Contract** is terminated.

Clause 3<sup>a</sup> – **Permit Conditions**

3.1 The **Lessee** agrees to:

- 3.1.1 Have inspected the **Lease Assets**, being in accordance with the description in the inventory, which becomes an integral part of the present Term, having nothing more to complain to the **Granting Authority** in relation to said assets;
- 3.1.2 Use the area, equipment and assets exclusively for the execution of the object of the **Lease**, forbidden its use for any other purpose;
- 3.1.3 Ensure the safeguarding and conservation of the areas and equipment so that they can be returned to the **Granting Authority** in the same operating conditions in which they are at this moment delivered;
- 3.1.4 Pay any taxes that may or may not be levied on the areas due to the execution of the **Lease Contract**, as well as expenses related to electricity, water and telephony of construction sites, also responding to all demands of the public authorities to which cause; and
- 3.1.5 occupy the properties and assume responsibility for the custody of them, their equipment and goods, as of the signing of this instrument.

Clause 4<sup>a</sup> – **Improvements**

4.1 Any improvements, whether useful, necessary or voluptuous, as well as accesses, consented or not, that **Lessee** may make in the area subject to the Permission for Use, shall be incorporated therein, giving the **Lessee** any right of retention or indemnification.

Clause 5<sup>a</sup> – **Extinction**

5.1 This Term of Final Acceptance and Permission to Assets Use will be extinguished in the same cases of extinction provided for in the **Lease Contract**.

5.2 The extinction of this Term of Final Acceptance and Permission to Assets Use will imply the immediate vacating of the area by the **Lessee**, or in a maximum term of 180 (one hundred and eighty days), at the discretion of the **Granting Authority**, when necessary for the demobilization of its assets and restitution of the assigned areas, under pain of the **Lessee** to be considered to be spoiler, for the purpose of repossession, pursuant to Articles 560 and the following articles of the Code of Civil Procedure and its amendments, as well as the return of all equipment ceded, without prejudice to indemnities to the **Granting Authority**, when applicable.



The parties agree with the terms in contract and the their representatives sign this Term of Final Acceptance and Permission to Assets Use, in two ways of equal content and form.

Brasília, Federal District,

[date:]

[signatures]

**Definitive List of Assets and Assets and Inventory**

<b>Description of Assets</b>	<b>Conservation state</b>	<b>Operating Capacity</b>	<b>Other technical specifications</b>

#### **Appendix 4. Basic Implementation Plan Requirements**

The Basic Implementation Plan ("BIP") must include all the necessary and sufficient elements, with an adequate level of accuracy, to inform the **Granting Authority** the steps and strategies of implementation of the **Activities** by the **Lessee**.

The BIP also ensure that the **Lessee** has the necessary conditions and plans to implement the structures needed to carry out all the **Activities** object of the **Contract** without generating unnecessary interference in the port system and in the surroundings of the **Organized Port**. In particular, the BIP must demonstrate clearly and accurately that the **Lessee** has all the necessary conditions to comply with all the Technical Guidelines and **Lease Parameters** indicated in the Contract and in its **Appendixes**.

The BIP shall also characterize the port facilities to be used by the **Lessee**, whether or not existing on the **Lease**, existing or to be implemented by the **Lessee**, as well as their adequacy to the requirements specified in this **Appendix** and their consistency with the services that will be provided.

The following items establish the minimum content to be presented in the BIP (Basic Implementation Project).

##### A.1. Introductory Documentation:

A.1.1. Description of the location of the **Lease** and the locations in which the **Activities** will be carried out, including the area georeferencing, identifying physical and / or operational interferences with the neighbor leases and surrounding public areas, and mitigation proposals, when applicable;

A.1.2. Preliminary list of leased assets and evaluation of the physical condition and use conditions of them;

A.1.3. Description of the operational flow and mass flow chart of the activities to be carried out, showing the equipment, the main infrastructure elements, and its main technical characteristics, including static storage capacity and nominal handling capacity.

- a) In case of multiple stages of development of the **Lease**, the above description must be presented for each phase.

A.2. Commercial Lease Plan:

A.2.1 Description of the services to be provided in the **Lease**;

A.2.2 Handling projections of cargoes throughout the entire period of the lease and assumptions used.

A.3. Technical and operational feasibility of the lease:

A.3.1 Presentation, by means of technical drawings in plants and cuts, in an appropriate scale, with legends and quotas, and duly subscribed by qualified professionals, of the general arrangement of the proposed installation, presenting:

- b) Map of location within the **Organized Port**;
- c) Elements of infrastructure, superstructure and main equipment, existing and to be implemented;
- d) Access to road, rail, waterway and pipelines, existing and to be implemented, in a single line diagram, as the case may be;
- e) Proposed environmental prevention systems (gases, dedusting, garbage disposal, noise, among others), existing and / or to be implemented, with their respective descriptions;
- f) In case of multiple phases of development of the **Lease**, items "b" to "d" above must be presented for each phase.

A.3.2 Description of equipment leased or to be acquired by the **Lessee**, including, for those to be acquired, type, model, main dimensions, nominal capacity, expected efficiency, reach;

A.3.3 Proof, by means of a calculation memo, that the port facilities and equipment existing and / or to be implanted in the **Lease** are sufficient to meet the projected demand, according to the mass flow chart presented. For this purpose, an assessment of the dynamic capacity of the following systems over the term of the Lease, including expansions planned by the **Lessee**, shall be submitted:

- a) Boarding and disembarking systems.
- b) Storage system; and
- c) System of reception and terrestrial expedition.

A.3.4 Proof by means of a descriptive memorandum that the port facilities and equipment existing and / or to be deployed by the **Lessee** are sufficient to meet the Leasing Parameters.

- a) In case of multiple stages of development of the **Lease**, the proof referred to in this item must be presented for each phase.

A.3.5 Preliminary assessment, in case of expansion of maritime infrastructure (piers, berths, dolphins, etc.), that they are feasible from the point of view of maneuverability, and that do not interfere in the waterway access to other port facilities in the region;

A.3.6 Presentation of the physical and financial schedule of the project, which must comply with the maximum deadlines indicated in the Contract and in its **Appendixes**;

A.3.7 Description of facilities for use by the Brazilian Internal Revenue Service and consenting bodies in the **Organized Port**, when applicable.

#### A.4. Environmental viability of the lease:

A.4.1 Evaluation, by means of a descriptive memorial, of the impacts of the **Lease** on the land traffic of trucks and railroad compositions in the surroundings, including:

- a) Estimating the flow of road and / or rail vehicles that require the terminal, in order to meet the expected handling;
- b) Description of actions to be implemented by the **Lessee** with the purpose of avoiding the formation of queues of vehicles, including the constitution or use of regulatory yards that minimize these impacts;

A.4.2 Evaluation, through a descriptive memorial, of the environmental impacts of the **Activities**, as well as mitigating measures to be adopted, such as engineering solutions and management measures to control the emission of particulates, effluent treatment and solid waste, among others.

The Plan must also provide a state-of-the-art system that guarantees the enclosure, filtration, banding and depletion of the particulate material, in which:

- (i) Transfer points between conveyors, equipped with suction systems;
- (ii) Aspiration of dust from the region of operation of trucks and / or wagons and use of Manifold filters, centrifugal exhaust, discharge valve, duct network for capturing and capturing flaps for flow and chimney flushing adjustments;



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- (iii) Installation of platforms around manifolds for maintenance on solenoids, as well as compressed filters and internal design with bushing for filtering.

A.4.3 Acknowledgment of the effectiveness of the measures to be implemented through the comparison with terminals and analogous situations, as well as the adoption of international best practices.