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[September 15, 2017]

DATED September 15, 2017

CONCESSION AGREEMENT

**In connection with the Upgrade and Expansion of the Queen Elizabeth II Port in Freetown,
Republic of Sierra Leone**

By and among

SIERRA LEONE PORTS AUTHORITY

GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE

**REPRESENTED BY THE MINISTRY OF TRANSPORT AND CIVIL
AVIATION**

NATIONAL COMMISSION FOR PRIVATIZATION,

THE REPUBLIC OF SIERRA LEONE

SKY ROCK MANAGEMENT LIMITED

And

NATIONAL PORT DEVELOPMENT (SL) LIMITED

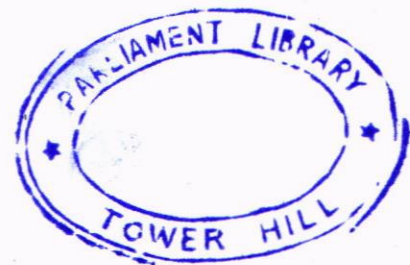
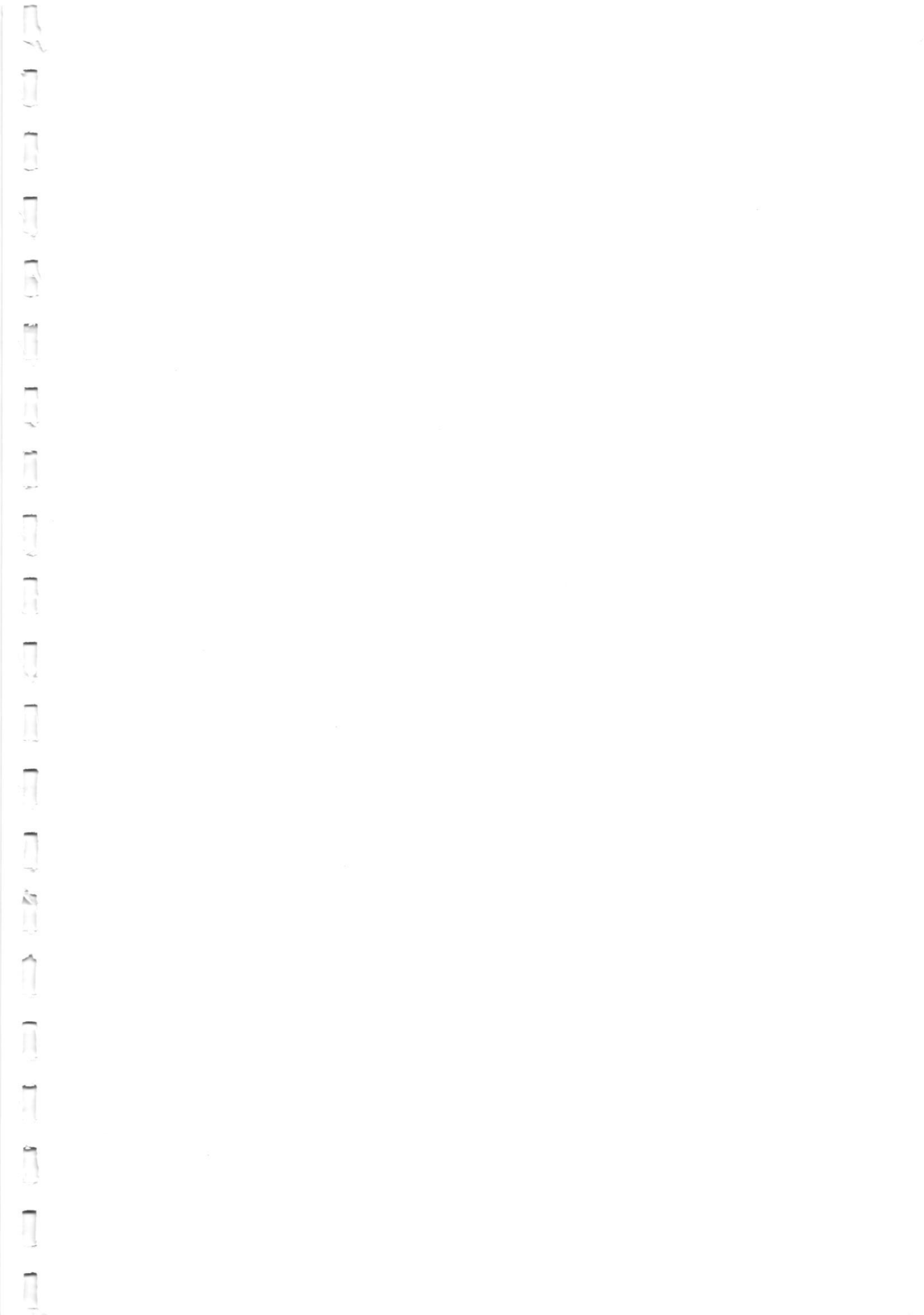




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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (this "**Agreement**") is made on the 15th day of September, 2017 BY AND BETWEEN:

On the Government's side:

- (1) **SIERRA LEONE PORTS AUTHORITY**, a statutory body established by the Ports Act No 56 of 1964 of the Republic of Sierra Leone, whose principal place of business is situated at Queen Elizabeth II Quay, P.M.B. 386, Cline Town, Freetown, the Republic of Sierra Leone, as the grantor (the "**Authority**");
- (2) **THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE** (the "**Government**"), represented by the MINISTRY OF TRANSPORT AND CIVIL AVIATION (the "**MOTA**"), whose principal office is situated at Youyi Building, Brookfields, Freetown, Republic of Sierra Leone;
- (3) **THE NATIONAL COMMISSION FOR PRIVATISATION, THE REPUBLIC OF SIERRA LEONE**, a statutory body established under the National Commission for Privatisation Act 2002, whose registered office is situated at Lotto House, OAU Drive, Tower Hill, Republic of Sierra Leone (the "**NCP**"), together with the Authority and the Government, the "**Government Parties**";

AND

On the developer's side:

- (4) **SKY ROCK MANAGEMENT LIMITED**, a private company incorporated under the laws of the British Virgin Islands, whose registered office is situated at No. 1 Sophia Road, #05-23 Peace Centre, Singapore 228149 (the "**Sponsor**"); and
- (5) **NATIONAL PORT DEVELOPMENT (SL) LIMITED**, a private company incorporated under the laws of the Republic of Sierra Leone, with registration number SL220916NATIO00719 and whose registered office is situated at 18 Charlotte Street, Freetown, Republic of Sierra Leone (the "**Concessionaire**"), together with the Sponsor, the "**Developer Parties**".

Each of the Authority, the Government, NCP, Sponsor and the Concessionaire shall be referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS:

- (A) The Government would like to upgrade and expand the Existing Port (as defined below) to stimulate economic development of Sierra Leone (as defined below).
- (B) The Authority, a statutory body established by the Ports Act No 56 of 1964 of Sierra Leone, manages and administers the ports of Sierra Leone and is permitted to appoint any other party to carry out its responsibilities on its behalf.

- (C) NCP, a statutory body established under the National Commission for Privatisation Act 2002, holds a mandate to privatise state enterprises.
- (D) Pursuant to the Public Private Partnership Act 2014, the Government may grant certain rights in connection with the expansion of the Existing Port to a private partner. With a view to improving the efficiency and effectiveness of the Authority, the Government has undertaken a privatisation exercise through the NCP in respect of the non-core activities of the Authority, one of which being the grant of rights for the implementation of the Project (as defined below). The Sponsor was selected by the Government as the private partner to implement the Project.
- (E) By a memorandum of understanding dated May 30th, 2014 and a framework agreement dated March 25th, 2015, both between the Government represented by MOTA and Tidfore Heavy Equipment Group, the Government intends to grant to a special purpose company incorporated in Sierra Leone, the right to design, construct, arrange the project finance for, operate and maintain New Port (as defined below) and collect relevant development fees to repay the loans.
- (F) The Sponsor, NCP and the Authority have agreed that in accordance with the technical proposal submitted during the bidding, the Sponsor may incorporate a new company (as a special purpose vehicle) to carry out its obligations. In such regard, the Sponsor established the Concessionaire in accordance with the laws of Sierra Leone.
- (G) The Authority has determined it to be appropriate, for the purpose of or in connection with, discharging its statutory functions, to enter into this Agreement to set out certain key terms and conditions relating to the implementation of the Project.

FOR GOOD AND VALUABLE CONSIDERATION, THE SUFFICIENCY OF WHICH IS ACKNOWLEDGED, IT IS HEREBY AGREED:

CHAPTER I. DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

“**Affected Party**” has the meaning given to such term in Clause 27.1 (*Relief from Liability*).

“**Agreement**” has the meaning given to such term in the preamble to this Agreement.

“**Annual Maintenance Schedule**” has the meaning given to such term in Clause 19.3 (*Maintenance Schedule*).

“**Applicable Law**” means:

- (a) any law, statute, order or decree of Sierra Leone;
- (b) any international conventions to which Sierra Leone is a party;

- (c) any injunction, license, permit, consent, approval, agreement or regulations of any Government Authority having jurisdiction over the subject matter;
- (d) any other legislative or administrative action of any Governmental Authority; and
- (e) any final decree, judgment or order of a court relating to the interpretation or the application of this Agreement,

in each case, as applicable at the date of this Agreement or at any time during the Concession Term.

"Approvals" means all licenses, consents, permits, authorizations and other approvals including employment permits for foreign employees, which may be required from any Government Authority and/or statutory bodies at any time during the Concession Term, whether by law or for any other reason, to enable the concessionaire to perform its obligations under this Agreement.

"Assessment Information" has the meaning given to such term in Clause 28.3 (*Assessment Information*).

"Authority" has the meaning given to such term in the preamble to this Agreement.

"Authority Event of Default" has the meaning given to such term in Clause 29.2 (*Termination upon Authority Event of Default*).

"Berth" means any of the three (3) Container Berths and the Ro-ro Berth comprising the New Port.

"Bribery" has the meaning given to such term in Clause 26.2(a)(iii) (*Anti-Corruption*).

"Business Day" means:

- (a) in respect of any day on which LIBOR is to be determined, a day (other than a Saturday or Sunday) on which banks are generally open for business in London;
- (b) in respect of any day on which any payment is to be made under this Agreement, a day (other than a Saturday or Sunday) on which banks are generally open for business in Freetown, London and New York; and
- (c) in respect of any other matter or determination, a day (other than a Saturday or Sunday) on which banks are generally open for business in Freetown.

"Cargo" means containerised, break-bulk, dry bulk, lift-on and lift-off cargo, including Project Cargo.

"Change in Law" means the introduction, amendment or repeal of any Applicable Law or changes in the interpretation, application or enforcement of any Applicable Law directly affecting the Project that occurs subsequent to the date of this Agreement.

"Change in Law Event" has the meaning given to such term in Clause 28.1 (*Change in Law Event*).

"Change in Law Notice" has the meaning given to such term in Clause 28.2 (*Change in Law Notice*).

"Commencement Date" means seven (7) days after the date on which the Concessionaire issues a notice for commencement of the Works to the New Port EPC Contractor pursuant to the New Port EPC Contract.

"Commercial Operation Date" means:

- (a) with respect to each Berth, the date when the Independent Engineer issues its Commissioning Certificate confirming that the Commissioning Tests for such Berth and the container, bulk Cargo or vehicle handling facilities (including quay walls and other infrastructure and superstructure and all fixtures, fittings and machinery, apparatus, equipment and any other moveable assets of any nature), navigation and navaid facilities, storage yards or warehouses, or any ancillary or auxiliary works relating to such Berth have been successfully completed; and
- (b) with respect to the New Port, the date when all four (4) Commissioning Certificates have been issued by the Independent Engineer, and the Independent Engineer has confirmed that all common facilities (including infrastructure and superstructure and all fixtures, fittings and machinery, apparatus, equipment and any other moveable assets of any nature), storage yards or warehouses, or any ancillary or auxiliary works relating to the New Port have been successfully completed.

"Commissioning Certificate" has the meaning given to such term in Clause 17.3 (*Commissioning Certificate*).

"Commissioning Tests" has the meaning given to such term in Clause 17.2 (*Commissioning Tests*).

"Common Area" means (a) the land area marked as common area depicted in APPENDIX I (*Description and Drawing of the Concession Area*), on which the New Port is to be constructed, and (b) any other land area that may be designated by the Authority from time to time for the Concessionaire's general non-exclusive use.

"Completion Date" means the date when the Taking-Over Certificate (as defined in the New Port EPC Contract) is issued by the Concessionaire to the New Port EPC Contractor.

"Concession Area" means both the Exclusive Area and the Common Area.

"Concession Fee" has the meaning given to such term in Clause 21.1 (*Concession Fee*).

"Concession Term" has the meaning given to such term in Clause 3.3(a) (*Concession Term*).

"Concessionaire" has the meaning given to such term in the preamble to this Agreement.

"Concessionaire Event of Default" has the meaning given to such term in Clause 29.3 (*Termination upon Concessionaire Event of Default*).

"Concessionaire London Account" has the meaning given to such term in Clause 12.1 (*Concessionaire Accounts*).



"Conditions Precedent" means the conditions precedent set out in APPENDIX III(*Conditions Precedent*);

"Container Berth" means each of the three (3) berths with the capacity to berth, unload, load and otherwise process container vessels of 50,000 DWT to be constructed, owned and operated by the Concessionaire in accordance with the terms of this Agreement.

"Construction Period" means the period starting from the Commencement Date to (but excluding)the date when the Commercial Operation Date for the New Port has occurred.

"Corruption" has the meaning given to such term in Clause 26.2(a)(ii) (*Anti-Corruption*).

"Customer" means the Persons using the New Port and receiving services provided by the Concessionaire (or its contractors, agents or designees) including but not limited to receivers (consignees or their agents or freight forwarders taking delivery of any Cargo), vessels owners, and shippers.

"Debt Due" means the aggregate of the following sums expressed in USD or in the currency of debt, as the case may be, outstanding and payable to the Finance Parties under the Finance Documents:

- (a) theoutstanding principal amount of the debt provided by the Lenders under the Finance Documents for financing the New Port; and
- (b) all accrued interest, financing fees, charges, costs, expenses and any other amount payable by the Concessionaire under the Finance Documents,

in each case, as at the date of payment of the Termination Amount by the Authority.

"Developer Parties"has the meaning given to such term in the preamble to this Agreement.

"Direct Agreement"has the meaning given to such term in Clause 7.2 (*Direct Agreement*).

"Dispute" has the meaning given to such term in Clause 33.3(a) (*Jurisdiction of English Courts*).

"Effective Date" has the meaning given to such term in Clause 3.2(a) (*Conditions Precedent to Effectiveness*);

"Equity" means the equity to be contributed by the Sponsor to the Concessionaire in accordance with Clause 9.1 (*Equity Contribution*).

"Exclusive Area"means (a) the land area marked as exclusive area asdepicted in APPENDIX II (*Description and Drawing of the Concession Area*), on which the New Port is to be constructed, owned and operated, and (b) any other land area that may be allocated to the Concessionaire by the Government Parties from time to timethat,in each case, is not part of the Common Area.

"Existing Port" means the berths, the facilities, storage yards, warehouses, ancillary works and all surrounding areas at the Queen Elizabeth II Quay in Freetown, Sierra Leone that are existing and in operation as at the date of this Agreement, as depicted in APPENDIX I (*Plan of the Existing Port*).



“Existing Port Carriers” means the shipping companies using the Existing Port and receiving services provided by the Existing Port Operators.

“Existing Port Concession Agreement” means the concession agreement dated November 4th, 2010 by and among the Authority, the Government, NCP, the one of the Original Existing Port Operator (Bollore) and Freetown Terminal Limited in connection with the operation of the Existing Port.

“Existing Port Development Levy Fee” means the fees charged by the Concessionaire to the Existing Port Carriers in connection with the use of the Existing Port by the Existing Port Carriers in accordance with the terms of this Agreement and the Existing Port Development Levy Fee Act.

“Existing Port Development Levy Fee Act” has the meaning given to such term in Clause 10.1 (*Existing Port Development Levy Fee*).

“Existing Port Operator” means:

- (a) any Original Existing Port Operator; and
- (b) any Person which become an operator of the Existing Port in accordance with Clause 13 (*Changes to the Existing Port Operators*).

“Expert” has the meaning given to such term in Clause 33.2 (*Expert Determination*).

“Extension of Construction PeriodEvent” means any of the events described in Clause 16.5 (*Extension of Construction Period*).

“Financing” means the loan facilities to be provided to the Concessionaire by the Finance Parties in connection with the development of the New Port and the implementation of the Project.

“Finance Document” means the loan, security and other agreement(s) entered into, or to be entered, into between the Finance Parties and the Concessionaire to provide Financing to the Concessionaire in order that the Concessionaire may fulfill its obligations under this Agreement.

“Finance Party” means the Lenders and any other Person designated by the Lenders as agent or finance party for the purpose of the Financing.

“Financial Close Date” means the date upon which loans are first advanced by the Finance Parties to the Concessionaire under the Finance Documents.

“Force Majeure Costs” has the meaning given to such term in Clause 27.6(b) (*Consequences of Force Majeure Events*).

“Force Majeure Event” has the meaning given to such term in Clause 27.4 (*Force Majeure Events*), including any Natural Force Majeure Event, any Political Force Majeure Event and any Government Force Majeure Events.

“Freight Ton” means a tonne or cubic metre, whichever is the bigger where measuring Cargo quantity.



"Full Term" has the meaning given to such term in Clause 3.3(b) (*Concession Term*).

"Functional Requirements" means the Authority's requirements in connection with the design and construction of the New Port as described in APPENDIX VI (*Functional Requirements*).

"Good International Practice" means the exercise of that degree of skill, diligence and prudence which would, in order to satisfy internationally expected standards of performance, reasonably be practiced by an experienced Person holding all applicable qualifications who is engaged in the same type or similar types of activity under the same or similar circumstances. To avoid doubt, the Parties agree that the standards of performance include Prudent Industry Standards.

"Government" has the meaning given to such term in the preamble to this Agreement.

"Government Authority" means any national, regional or local government or any governmental agency, ministry, minister, official, semi-governmental or judicial entity authority or other organization or Person (whether legal or natural), in each case of or in Sierra Leone (including the Authority, the Government and the NCP), or any court, tribunal, commission or arbitral body of competent jurisdiction, whose directives are legally enforceable or with which it is usual to comply.

"Government Majeure Event" means any Force Majeure Event within the meaning of the events listed under Clause 27.5(c) (*Government Force Majeure Events*).

"Government Party" has the meaning given to such term in the preamble to this Agreement.

"Health and Safety Requirement" has the meaning given to such term in Clause 24.1(b) (*General*).

"Identified Approvals" means the Approvals listed in APPENDIX V (*List of Identified Approvals*).

"Independent Engineer" means the Expert appointed in accordance with Clause 17.4 (*Independent Engineer*).

"Initial Term" has the meaning given to such term in Clause 3.3(a)(ii) (*Concession Term*).

"Innocent Party" has the meaning given to such term in Clause 29.5(a) (*Termination Procedure*).

"Insurance Cover" has the meaning given to such term in Clause 23.1(a) (*Insurance Requirements*).

"KPIs" means "key performance indicators" applicable to the Concessionaire in connection with this Agreement as agreed between the Concessionaire and the Authority from time to time.

"Lender" means the Industrial and Commercial Bank of China Limited and/or any other lender from whom the Financing for the New Port has been or may from time to time be obtained.



"LIBOR" means, in relation to any sum, the applicable London interbank offered rate for USD and for a period equal in length to three (3) months administered by ICE Benchmark Administration Limited (or any other Person that takes over the administration of that rate) (before any correction, recalculation or republication by the administrator) on page LIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate), or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters (if such page or service ceases to be available, any Party may specify another page or service displaying the appropriate rate after consultation with any other Parties) as of the 11 a.m. London time on the date when such sum becomes due and payable.

"License Fee" means the fees to be paid by the Concessionaire to the Government in accordance with APPENDIX VIII (*License Fee*) in return for the grant by the Government to the Concessionaire of the right to collect, for the Concessionaire's own account, the Port Development Levy Fees.

"Life-Cycle Maintenance" means all life-cycle maintenance, including all major and structural maintenance, replacement or refurbishment planned over the whole life of the New Port.

"MOFED" means the Ministry of Finance and Economic Development of Sierra Leone.

"Monitoring Committee" has the meaning given to such term in Clause 4.3 (*Monitoring Committee*).

"Natural Force Majeure Event" means any Force Majeure Event within the meaning of the events listed under Clause 27.527.5(a) (*Natural Force Majeure Events*).

"NCP" has the meaning given to such term in the preamble to this Agreement.

"New Port" means the four (4) Berths, and container, bulk Cargo or vehicle handling facilities (including quay walls and other infrastructure and superstructure and all fixtures, fittings and machinery, apparatus, equipment and any other moveable assets of any nature), navigation and navaid facilities, storage yards or warehouses, or any ancillary or auxiliary works relating to such Berths to be developed and constructed by the Concessionaire at the Queen Elizabeth II Quay in Freetown, Sierra Leone.

"New Port Assets" means any and all machinery and equipment attached to the land within the Exclusive Area and all movable assets (tangible or intangible) of the Concessionaire in connection with the New Port.

"New Port Carriers" means the shipping companies using the New Port and receiving services provided by the Concessionaire or its contractors, agents or designees.

"New Port Development Levy Fee" means the fee charged by the Concessionaire to the New Port Carriers in connection with the transshipment of containers, bulk Cargos or vehicles at the New Port by the New Port Carriers in accordance with the terms of this Agreement and the New Port Development Levy Fee Act.

"New Port Development Levy Fee Act" has the meaning given to such term in Clause 20.1 (*New Port Development Levy Fee*).



"New Port Development Levy Fee Rate" means \$50.00 per TEU.

"New Port EPC Contract" means the engineering, procurement and construction contract between the Concessionaire and the New Port EPC Contractor in connection with the design, construction, commissioning and completion of the New Port.

"New Port EPC Contractor" means the contractor to be selected by the Concessionaire for the engineering, procurement and construction of the New Port.

"New Port Operator" has the meaning given to such term in Clause 20.2 (*New Port Operator*).

"Notice of Intention to Terminate" has the meaning given to such term in Clause 29.5(a) (*Termination Procedure*).

"O&M Contract" means one or several operation and maintenance contracts to be entered into between the Concessionaire and a New Port Operator in connection with the New Port.

"O&M Fees" means the fees charged by a New Port Operator to the Concessionaire in connection with the operation and maintenance services provided by such New Port Operator to the Concessionaire in accordance with the relevant O&M Contract.

"Offshore Accounts" has the meaning given to such term in Clause 9.4(b) (*Offshore Accounts and USD*).

"Operation Period" means the period starting from the Commercial Operation Date of any Berth first to occur and ending on the earlier of (a) the Termination Date and (b) the last day of the Concession Term.

"Operation Charges" means the fees charged by the Concessionaire (or its contractors, agents or designees) from time to time for the provision by the Concessionaire (or its contractors, agents or designees) of each or any of the Services to the Customers as is relevant, including but not limited to the throughput fees, the storage fees, harbor dues and tonnage charges. For the avoidance of doubt, Operation Charges shall not include the New Port Development Levy Fee.

"Operational Rates" has the meaning given to such term in Clause 20.2 (*Operational Rates*).

"Original Existing Port Operator" means any Person as listed in APPENDIX IV (*List of Original Existing Port Operators*) which has the right to operate the Existing Port pursuant to the Existing Port Concession Agreement or any other relevant documents with the Authority.

"Party" has the meaning given to such term in the preamble to this Agreement.

"Party in Default" has the meaning given to such term in Clause 29.5(a) (*Termination Procedure*).

"Person" means any legal or natural Person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental or international body or agency, or other entity.

“Political Majeure Event” means any Force Majeure Event within the meaning of the events listed under Clause 27.5(b) (*Political Force Majeure Events*).

“Port” means either the Existing Port or the New Port, and **“Ports”** shall mean both the Existing Port and the New Port.

“Port Development Levy Fees” means both the Existing Port Development Levy Fee and the New Port Development Levy Fee.

“PRC” means the People’s Republic of China.

“Project” means:

- (a) the imposition, charging, collection and receipt of the Port Development Levy Fees (and all penalties accruing in connection with such Port Development Levy Fees); and
- (b) the finance, design, construction, testing, commissioning, operation and maintenance of the New Port.

“Project Cargo” means cargo which forms part of the shipment in excess of the five hundred (500) Freight Tons destined to one location or one project and containing parcels of goods of non-standard shapes and /or dimensions.

“Project Documents” means this Agreement, the New Port EPC Contract, each O&M Contract and any other documents designated as project documents by the Parties.

“Project Party” means each of the Authority and the Concessionaire.

“Prudent Industry Standards” means generally accepted practices, methods, techniques and standards in handling containers and Cargos at maritime port terminals throughout sub-Saharan Africa to achieve the objective of establishing and maintaining throughout the Concession Term, the New Port as having the status of a world class, modern container terminal, the main function of which is to be a central transshipment point in a container transport hub.

“Reactive Maintenance” all maintenance, repair, replacement or refurbishment which is outside the scope of Life-Cycle Maintenance and Routine Maintenance, and which is necessary or desirable to remedy damage to or defects in the New Port or otherwise restore the New Port so that it can be operated in accordance with this Agreement.

“Remedial Program” has the meaning given to such term in Clause 29.5(a)(iv) (*Termination Procedure*).

“Representations and Warranties” means the representations and warranties contained in Clause 8 (*Representations and Warranties*).

“Required Completion Date” has the meaning given to such term in Clause 16.3 (*Required Completion Date*).

"Required Commercial Operation Date" means, for the New Port, fifty-four (54) months after the Commencement Date.

"Required KPIs" means the KPIs to be agreed in writing by the Concessionaire and the Authority in connection with the New Port.

"Reviewing Committee" has the meaning given to such term in Clause 4.2 (*Reviewing Committee*).

"Reviewing Committee Meeting" means a meeting of the Reviewing Committee constituted in accordance with Clause 4.1 (*Review of Concession*) for the purpose of reviewing the performance of this Agreement.

"Ro-ro Berth" means the berth with the capacity to berth, unload, load and otherwise process roll-on roll-off vessels of 50,000 GT or bulk Cargo vessels of 50,000 DWT to be constructed, owned and operated by the Concessionaire in accordance with the terms of this Agreement.

"Routine Maintenance" means maintenance, repair or replacement which is routine, minor, short term or cyclical in nature and which is necessary or desirable to keep the New Port in good and safe working order so that it can be operated in accordance with the terms of this Agreement.

"Security" means a mortgage, charge, pledge, lien, or other security interest securing any obligation of any Person or any other agreement or arrangement having a similar effect.

"Services" means all those services provided within the New Port (however described and whether provided on a consolidated basis or not) as published or otherwise publicized by the Concessionaire (or its contractors, agents or designees) and as amended, varied or supplemented from time to time.

"Sierra Leone" means the Republic of Sierra Leone.

"SLL" means Sierra Leone Leones, the lawful currency of Sierra Leone.

"SLMA" means the Sierra Leone Maritime Administration.

"Sponsor" has the meaning given to such term in the preamble to this Agreement.

"Tax" includes any and all forms of taxes, levies, imposts, duties and charges and all withholdings and deductions in respect of taxes, levies, imposts, duties and charges of whatever nature and whether directly or primarily chargeable against, recoverable from, or attributable to the concessionaire or another Person, including those on or relating to: income, profits, gains, dividends, other distributions (of cash or non-cash assets), turnover, receipts, sales, consumption, use, transfer, ownership, inheritance, occupation, moveable property, land or other immoveable property, the cessation of business, the transfer of fiscal residence or domicile, insurance or social security contributions, documentary taxes, customs, excise and other import and export duties, repatriation of monies outside Sierra Leone the conversion of currency, the creation, transfer, increase or repayment of share capital.

"Termination" means the termination of this Agreement in accordance with Clause 29 (*Termination*).



"Termination Amount" means the amount to be paid by the Authority to the Concessionaire as compensation pursuant to Clause 29.6 (*Termination Compensation*), as a result of Termination of this Agreement.

"Termination Assets" means, at the time of payment of the Termination Amount or expiry of the Concession Term, the right, title, and interest of the Concessionaire in or to the Project, including:

- (a) all work-in-progress and the stock of construction materials of the New Port, if Termination occurs during Construction Period;
- (b) at all times all assets, materials, plant, machinery, equipment, vehicles, spare parts and other movable property owned by the Concessionaire in connection with the Project; and
- (c) all intellectual property rights and documents.

"Termination Date" means the date on which the Termination Amount, subject to the deductions expressly contemplated in this Agreement, is received in full by the Concessionaire.

"Termination Notice" has the meaning given to such term in Clause 29.529.5(c) (*Termination Procedure*).

"USCPI" means the United States Consumer Price Index for all urban consumers (CPI-U) published monthly by the United States Bureau of Labour Statistics within the United States Department of Labour, an index using a base of 100.

"USD", "\$" or "US\$" means the lawful currency of the United States of America.

"Works" means all the activities relating to the design, construction and equipping of the New Port necessary to meet the requirements of this Agreement.

1.2 Interpretation

This Agreement shall be interpreted according to the following provisions:

- (a) in the event of any ambiguity in the interpretation of this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement;
- (b) the word **"including"** means including without limitation;
- (c) reference in this Agreement to statutes, ordinances, regulation, instructions or any other laws made thereunder include those statutes ordinances regulations, instructions or other laws as amended, modified, re-enacted or replaced from time to time;
- (d) unless the context otherwise requires:
 - (i) words in singular include the plural, and vice versa;



- (ii) words importing the past tense shall include the present tense and vice versa; and
- (iii) word importing any gender include all genders;
- (e) unless otherwise indicated, all reference in this Agreement to recitals, clauses, and Appendices refer to the corresponding recitals, clause, and Appendices of this Agreement;
- (f) the Appendices to this Agreement shall form an integral part of this Agreement and have the same full force and effect as if they were expressly set out in the body of this Agreement. The provisions in the body of this Agreement shall prevail in the event of any conflict between such provisions and the provisions of the Appendices;
- (g) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or novated at the time of such reference;
- (h) the headings and sub-headings in this Agreement (and references to them) are included for convenience only and shall not be taken into account in interpreting this Agreement;
- (i) a reference to a Person shall include reference to any natural Person, corporation (wherever incorporated), partnership, unincorporated association, any form of governmental or supra governmental body, agency or authority (whether federal, national, provincial or otherwise) and any other entity or association of any nature (in each case whether or not having legal capacity);
- (j) references to a public organization shall be deemed to include a reference to any successor to such public organization or any organization or entity which has taken over either or both of the relevant functions and responsibilities of the public organization;
- (k) unless the context otherwise requires, any reference to "day" shall mean a reference to a calendar day and any reference to "month" shall mean a reference to a calendar month; and
- (l) the last day for performance of an obligation under this Agreement falls on a day which is not a Business Day, the latest time for performance shall be ended to noon on the next following Business Day.

CHAPTER II. THE CONCESSION

2. SCOPE OF CONCESSION

2.1 Grant of Concession for the New Port

Subject to the provisions of this Agreement, the Concessionaire shall have the exclusive right and obligation to finance, design, construct, equip, test, commission, operate and maintain the New Port and to impose, charge, collect, receive (and have full legal and beneficial title to) the New Port Development Levy Fee (and all relevant penalties imposed in connection with such New Port Development Levy Fee).

2.2 Grant of Concession for the Existing Port

Subject to the provisions of this Agreement and the Governing Law, the Concessionaire shall have the exclusive right and obligation to impose, charge, collect, receive (and have full legal and beneficial title to) the Existing Port Development Levy Fee (and all relevant penalties imposed in connection with such Existing Port Development Levy Fee).

2.3 Exclusive Concession

The Authority hereby irrevocably undertakes that it shall not grant any of the rights and interests referred in Clause 2.1 (*Grant of Concession for the Existing Port*) and Clause 2.2 (*Grant of Concession for the Existing Port*) to any party other than the Concessionaire during the Concession Term. The rights of the Concessionaire shall not affect any right or obligation before created by the Authority or the Government, including the Existing Port Concession Agreement.

2.4 Non-Competition

- (a) Except as provided in this Agreement, during a period starting from the Effective Date (inclusive) and ending on the last day of the Concession Term, no Government Party shall:
 - (i) implement, develop, establish, construct, manage or operate any port or container or ro-ro terminals in Sierra Leone, or grant a right to or permit any third party to do so, which would adversely affect the utilisation by vessel owners and operators of the transshipment services at the New Port or the revenue streams earned by the Concessionaire from the New Port; or
 - (ii) introduce or impose additional taxes, charges or duties on users of the Existing Port or the New Port if such taxes, charges or duties are reasonably likely to have a negative impact on the usage of the Existing Port and the New Port by such Persons, unless agreed by the Concessionaire in writing;
- (b) Paragraph (a) above shall not prevent a Government Party from granting the right to operate or manage the Existing Port to the Existing Port Operators and to provide such services and conduct such activities (but excluding at all times transshipment



services) as are provided or are being conducted by the Existing Port Operators as at the date of this Agreement).

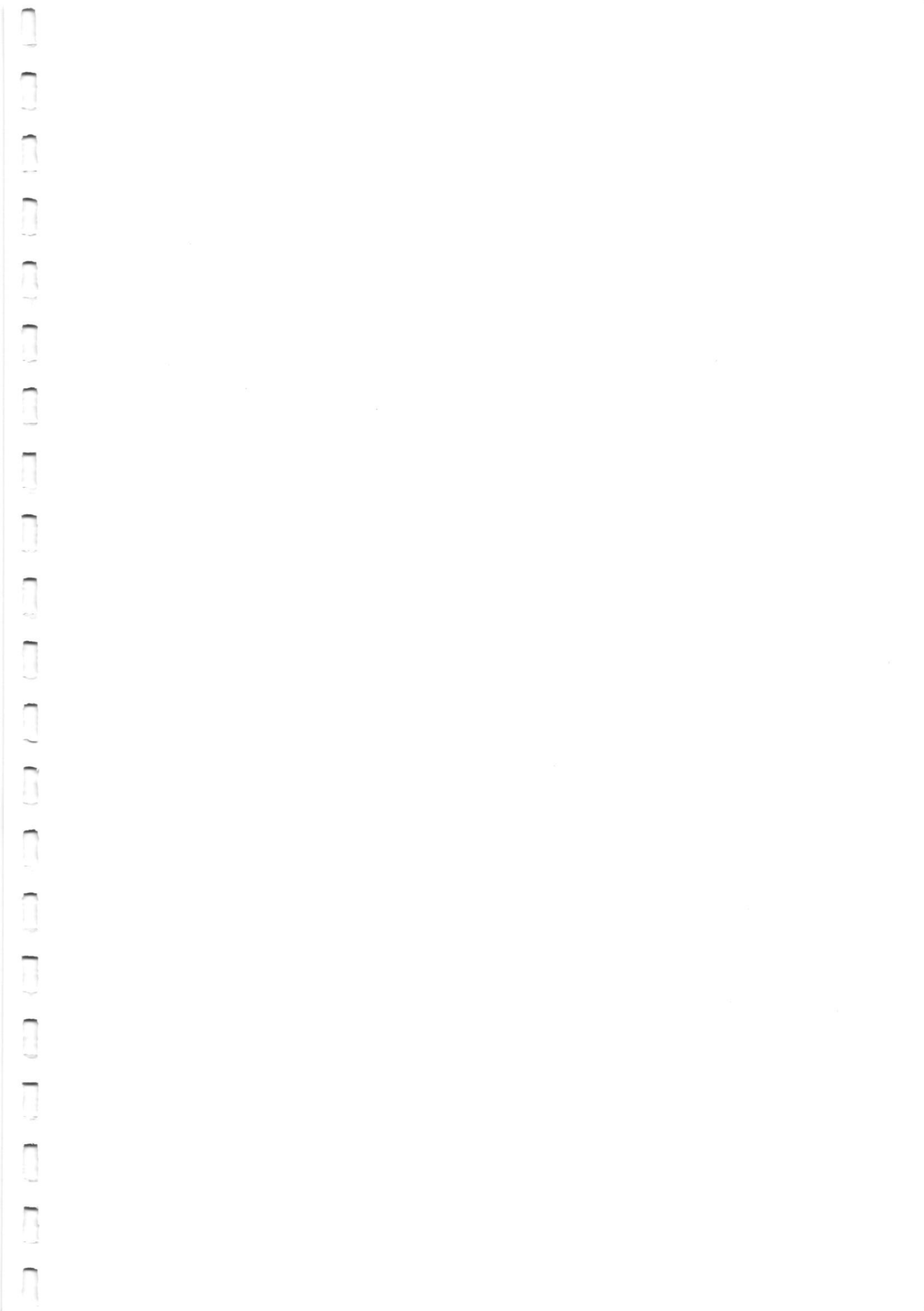
3. EFFECTIVENESS AND TERM OF CONCESSION

3.1 Effective upon Signing

The provisions of this Clause 3.1 (*Effective upon Signing*) and of Clause 8 (*Representations and Warranties*), Clause 27 (*Force Majeure*) (only for the purpose of Clause 3.3 (*Concession Term*)), Clause 31 (*Confidentiality*), Clause 33 (*Governing Law and Dispute Resolution*), Clause 34 (*Waiver of Immunity*), and such other provisions of this Agreement as may be necessary to refer to in order to give meaning and effect to those clauses shall be in full force and effect and binding upon and enforceable against the Parties on the date of this Agreement.

3.2 Conditions Precedent to Effectiveness

- (a) Except as described in Clause 3.1 (*Effective upon Signing*), the rights and obligations of the Parties under this Agreement are conditional upon and shall not come into force until the earlier of (such date being the "**Effective Date**"):
 - (i) the date on which the last outstanding Condition Precedent has been satisfied or waived by each Government Party (in the case of any Condition Precedent to be fulfilled by the Developer Parties) or each Developer Party (in the case of any Condition Precedent to be fulfilled by the Government Parties); and
 - (ii) the date falling ninety (90) days (or such other period as the Parties may agree in writing) after the date of this Agreement (provided that such period shall be extended for an additional period not exceeding six (6) months if the ability to satisfy such Condition Precedent is prevented or delayed by a Force Majeure Events).
- (b) The Parties may in writing waive all or any of the Conditions Precedent.
- (c) The Developer Parties shall keep the Government Parties fully informed of (and consult with the Government Parties concerning) the status of the Developer Parties' efforts to satisfy the Conditions Precedent to be satisfied by the Developer Parties and in particular:
 - (i) shall provide a written report summarizing all material matters relevant to understanding the then current status of its efforts to satisfy such Conditions Precedent as soon as reasonably practicable after receipt of a reasonable request from the Government Parties; and
 - (ii) immediately notify the Government Parties in writing of the occurrence of any event or circumstance which might reasonably be expected to prevent satisfaction or delay satisfaction of such Conditions Precedent until after the anticipated Effective Date, of any of the Conditions Precedent.



- (d) The Government Parties shall keep the Developer Parties fully informed of (and consult with the Developer Parties concerning) the status of the Government Parties' efforts to satisfy the Conditions Precedent to be satisfied by the Government Parties and in particular:
 - (i) shall provide a written report summarizing all material matters relevant to understanding the then current status of its efforts to satisfy such Conditions Precedent as soon as reasonably practicable after receipt of a reasonable request from the Developer Parties; and
 - (ii) immediately notify the Developer Parties in writing of the occurrence of any event or circumstance which might reasonably be expected to prevent satisfaction or delay satisfaction of such Conditions Precedent until after the anticipated Effective Date, of any of the Conditions Precedent.

3.3 Concession Term

- (a) Subject to any extension to the term of this Agreement (i) due to any Force Majeure Event, Change in Law Event or Extension of Construction Period Event, (ii) pursuant to Clause 19.1(e) (*Maintenance Responsibility*), or (iii) pursuant to paragraph (b) below, this Agreement shall commence on the Effective Date and continue in full force until the earlier of the following (the "**Concession Term**"):
 - (i) the Termination Date; and
 - (ii) the twenty-fifth (25th) anniversary of the Effective Date (the "**Initial Term**").
- (b) If the Authority and the Government are satisfied with the performance of this Agreement, the Concession Term may be extended to the thirty-fifth (35th) anniversary of the Effective Date (the "**Full Term**") by written approval of both the Authority and the Government and acceptance by the Concessionaire no later than six (6) months before the expiry of the Initial Term.

4. REVIEW AND MONITORING

4.1 Review of Concession

Parties shall establish the Reviewing Committee to review the performance of this Agreement. The Reviewing Committee shall hold a meeting (the "**Reviewing Committee Meeting**") every ten (10) years from the Effective Date to review the performance of this Agreement.

4.2 Reviewing Committee

The Reviewing Committee shall be comprised by nine (9) members, four (4) of which shall be appointed by the Concessionaire and five (5) of which shall be appointed by the Government Parties. The chairman of the Reviewing Committee shall be appointed by the Government Parties. The appointment of each member of the Reviewing Committee shall



be made promptly by the Parties but in any event no later than two (2) months before the date of each Reviewing Committee Meeting.

4.3 Reviewing Procedure

- (a) The Government Parties shall notify the Concessionaire that it wishes to hold a Reviewing Committee Meeting no later than three (3) months before the date of such Reviewing Committee Meeting. The venue of each Reviewing Committee Meeting shall be in Freetown, Sierra Leone and the duration of each Reviewing Committee Meeting shall not be more than three (3) consecutive days. The Parties shall notify each other of the names of the members appointed by it to attend the Reviewing Committee Meeting. The Government Parties shall prepare an agenda for each Reviewing Committee Meeting (including details of the Reviewing Committee's members, venue, etc.), which shall be circulated at least fifteen (15) Business Days before the date of such Reviewing Committee Meeting.
- (b) The costs and expenses in connection with each Reviewing Committee Meeting shall be shared equally between the Government Parties and the Concessionaire.
- (c) If after the conclusion of any Reviewing Committee Meeting it is agreed by the Government Parties and the Concessionaire that any amendment to this Agreement proposed by any Party should be made, such amendment shall be made by way of a written agreement entered into between the Government Parties and the Concessionaire in accordance with Clause 32.6 (*Variations*) of this Agreement.

4.4 Monitoring Committee

- (a) The Government Parties and the Concessionaire shall establish a monitoring committee (the "**Monitoring Committee**") within two (2) weeks after the Effective Date. The Monitoring Committee shall consist of Seven (7) members. Each of the Authority, NCP, MOTA, MOFED, PPP may appoint one (1) member and the Concessionaire shall appoint two (2) members. Details of the members of the Monitoring Committee shall be notified to each Party before the Monitoring Committee is established;
- (b) The Monitoring Committee shall monitor and facilitate the implementation of this Agreement to enhance effective and efficient operations of the Project and to ensure the Concessionaire's compliance with Applicable Laws. The mandate of the Monitoring Committee includes examination of the operations and relevant documentation of the Project against the provisions of this Agreement and Prudent Industry Standards. Such examination shall be undertaken in good faith and shall allow equal conversation between the Concessionaire and the Government Parties.
- (c) The Monitoring Committee shall not interfere with the Concessionaire's internal management.

4.5 Monitoring Procedure

The Monitoring Committee shall meet at least twice a year after its constitution to carry out its mandate as provided in Clause 4.3 (*Monitoring Committee*). If requested by any Party, the Monitoring Committee may hold additional meetings. After each meeting, the Monitoring

Committee shall prepare a meeting report setting out its findings and recommendations as regards the construction and/or operation by the Concessionaire of the Project as against the requirements of this Agreement, three (3) copies of which shall be delivered to the Authority, the NCP and the Concessionaire respectively.



CHAPTER III. OWNERSHIP, FINANCING AND ASSIGNMENT

5. CONCESSIONAIRE AS THE PROJECT COMPANY

5.1 Special Purpose Vehicle

- (a) The Concessionaire was established by the Sponsor on September 22, 2016 for the sole purpose of implementing the Project.
- (b) The Government Parties hereby agree that the Sponsor may transfer any of its shares to any party without the advance approval or consent from any Government Party.

5.2 Business of the Concessionaire

During the Concession Term, the only business of the Concessionaire shall be:

- (a) imposing, charging, collecting and receiving the Port Development Levy Fees (and any relevant penalties imposed in connection with such fees); and
- (b) financing, designing, building, testing and commissioning, equipping, operating and maintaining the New Port pursuant to this Agreement.

6. OWNERSHIP

6.1 The Government Parties' Ownership

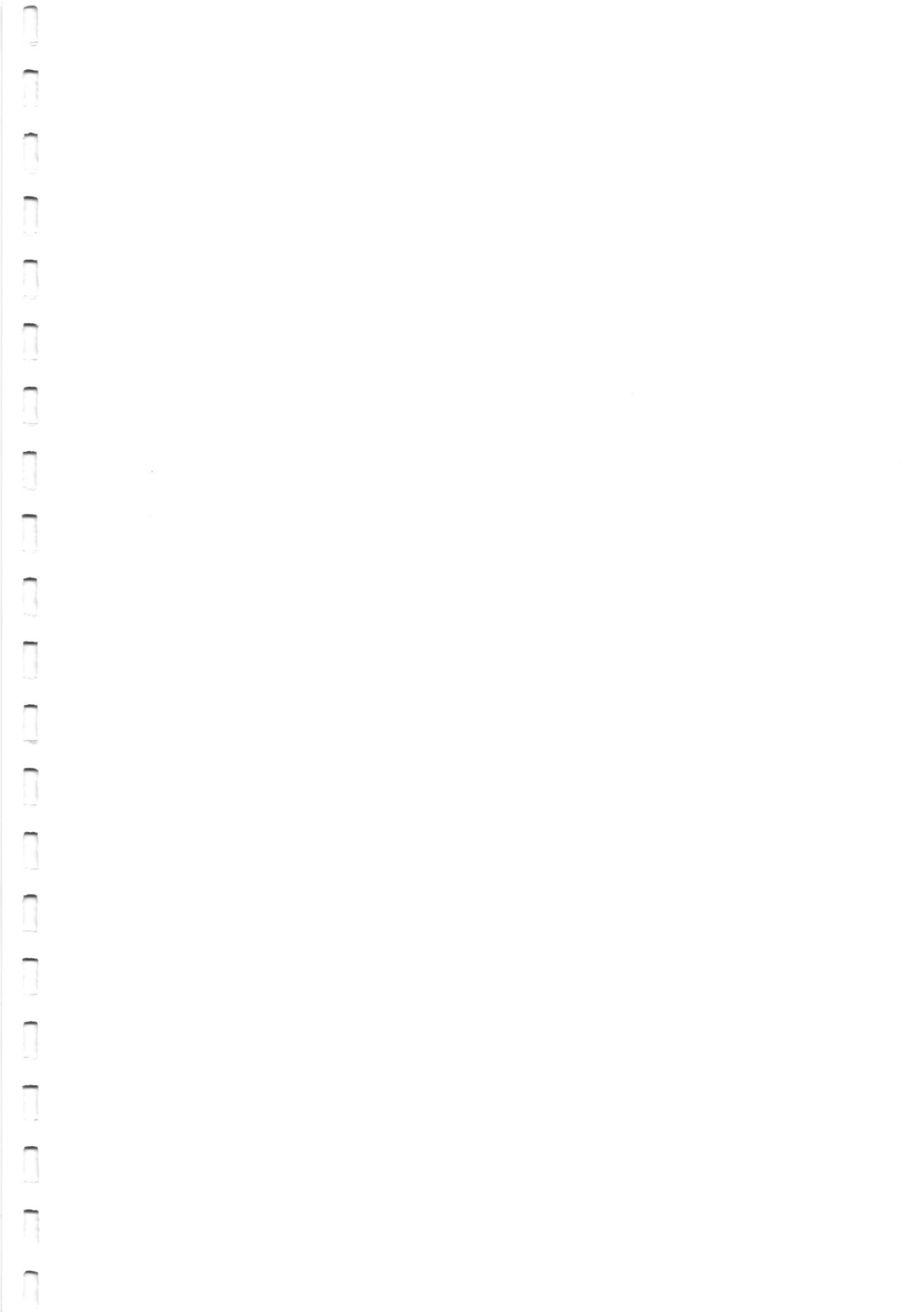
The Authority shall have sole ownership in the Existing Port and the Common Area.

6.2 The Concessionaire's Rights

- (a) All lands within the Exclusive Area shall be reclaimed from the sea. After the reclamation, the Concessionaire shall have sole ownership of the lands within the Exclusive Area.
- (b) The Concessionaire shall have (i) sole right to impose, charge, collect, receive (and have full legal and beneficial title to) the Port Development Levy Fees (and any relevant penalties imposed on such fees) and (ii) all legal and beneficial title to all the New Port Assets.
- (c) Upon the Termination and full payment of the Termination Amount by the Authority to the Concessionaire (or its designee) in accordance with the provisions of this Agreement, the Concessionaire shall transfer all its rights in the Exclusive Area to the Authority and the Concessionaire's rights in the Exclusive Area shall cease to have effect without the need for any further action to be taken by the Authority.

6.3 Common Area and other Rights

- (a) The Concessionaire and its employees, contractors, suppliers, Customers and designees shall have the non-exclusive right to use the land within the Common Area during the Concession Term. Such right to use shall be at least equal to the rights of other Persons having any right in using the Common Area.



- (b) Subject to Applicable Laws and the Authority's prior written approval (such approval not to be unreasonably conditioned, delayed or withheld), the Concessionaire shall have the right to negotiate rights of way, easements and other types of access to land, other properties and utilities near or adjacent to the Common Area in order to perform its obligations hereunder. The Authority shall also grant (or procure that any other Person grants) the Concessionaire such rights of easement, access, exit and other use of all land in the vicinity of the New Port and the Existing Port as required for the Concessionaire to implement the Project.
- (c) Subject to the Authority providing 21 days prior notice in writing to the Concessionaire and *provided that* the performance of operations within the Exclusive Area by the Concessionaire are not adversely affected as a result of the matters described in paragraphs (i) to (v) below, the Authority reserves the right from time to time to:
 - (i) make changes to any portions of the Common Area;
 - (ii) temporarily close any portion of the Common Area;
 - (iii) construct, remove or change the location of any facilities or construct additional buildings and other facilities in the Common Area;
 - (iv) prohibit unauthorized Persons from using or accessing the Common Area, or
 - (v) perform such other activities and make such other changes to or with respect to the Common Area as the Authority may deem appropriate.

6.4 Peaceful and Quiet Enjoyment by the Concessionaire

- (a) The Authority undertakes to the Concessionaire that it shall procure that all and any rights in the Common Area enjoyed by any Person shall not prejudice the Concessionaire's peaceful and quiet enjoyment of the Common Area or its rights and interests to own, access or use the Exclusive Area.
- (b) In the event that any third party conducts activities or presents claims which interfere with the Concessionaire's peaceful and quiet possession and enjoyment of the Common Area or the Concessionaire suffers from claims, causes of action, damages, or losses which may arise from the acts or omissions of a Person having a right of use over the Common Area, the Authority shall indemnify, defend, and hold the Concessionaire harmless from and against any such claims.

6.5 Security over the Port Development Levy Fees and the New Port Assets

- (a) The Concessionaire shall be entitled to create Security over its rights, title and interest in the Port Development Levy Fees and the New Port Assets in favor of the Finance Parties for the purpose of the Financing, provided that any such Security shall not continue for a period exceeding the Concession Term. The Concessionaire may enter into all such transactions, and may become party to the related debt obligations that may be evidenced or secured by the Finance Documents.

- (b) Except as permitted by paragraph (a) above, the Concessionaire shall not create or permit the creation of any Security over any of its rights, title and interest in the Port Development Levy Fees and the New Port Assets.

7. FINANCING, ASSIGNMENT AND STEP-IN RIGHTS

7.1 Financing and Government Guarantee

- (a) The Parties acknowledge that the construction of the New Port will require financing by the Lenders. The Concessionaire shall be solely responsible for arranging and providing all the financing required for the New Port.
- (b) In support of the Financing, the Government hereby agrees that:
 - (i) it shall provide a guarantee in favor of the Finance Parties in connection with all payment obligations of the Concessionaire pursuant to the Finance Documents;
 - (ii) it shall obtain all consents and approvals required (and provide all legal opinions required by the Concessionaire in form and substance satisfactory to the Lenders) in connection with the Financing; and
 - (iii) it shall grant all consents and effect all registrations as may be necessary to enable the Concessionaire to grant a first ranking Security over all Port Development Levy Fees and New Port Assets.
- (c) The Concessionaire agrees that the Government shall review the Financing Documents and the Government shall consent to such document before it is executed. Such consent not to be unreasonable withheld.

7.2 Direct Agreement

To facilitate the Financing, the Government Parties hereby agree to enter into any direct agreements and other relevant documents in connection with this Agreement and any of the other Project Documents with the Finance Parties (the "**Direct Agreements**"). The Authority agrees to negotiate in good faith with the Finance Parties regarding the terms of such Direct Agreements as may be reasonably required by the Finance Parties in connection with the Financing.

7.3 Assignment to the Finance Parties

- (a) Notwithstanding the provisions in Clause 32.9 (*Assignment*), for the sole purpose of the Financing, the Concessionaire may assign, by way of security, the benefit of, or its interest in, this Agreement and any of the other Project Documents, according to the requirements of any of the Finance Documents in favor of the Finance Parties.
- (b) The Concessionaire shall furnish each Government Party with a written notice setting forth the names of the Finance Parties and the addresses of the Finance Parties to which any notices are to be sent pursuant to the assignment referred to in paragraph (a) above. Each Government Party shall promptly upon notification, provide acknowledgments and consents in connection with the notices sent by the



Concessionaire, and shall not unreasonably withhold such acknowledgments and consents.

7.4 Finance Parties' Step-in Rights

- (a) From and after Financial Close Date for so long as any Finance Document remain in effect, upon the occurrence of a Concessionaire Event of Default, the Finance Parties may make any payment or perform any act required to be made or performed by the Concessionaire with the same effect as if it had been made or performed by the Concessionaire itself, so that such Concessionaire Event of Default is cured.
- (b) The Government Parties shall not, upon a Concessionaire Event of Default, terminate this Agreement without first providing a Notice of Intention to Terminate to the Finance Parties and otherwise in accordance with any Direct Agreement and granting the Finance Parties a period of not less than 180 days to remedy or cure such Concessionaire Event of Default.
- (c) Upon receipt of a copy of the Notice of Intention to Terminate from the Government Parties as a result of a Concessionaire Event of Default, the Finance Parties may within a period of 180 days after receipt by the Finance Parties of such Notice of Intention to Terminate, but shall have no obligation to:
 - (iv) remedy or procure the remedy of such Concessionaire Event of Default; or
 - (v) assume, or arrange for a substitute company or companies to assume, all of the interests, rights and obligations of the Sponsor and the Concessionaire under this Agreement and in the Concessionaire.
- (d) If the Finance Parties or their nominees assume the Concessionaire's rights and obligations under this Agreement, the Authority hereby agrees not to terminate this Agreement.
- (e) If the Finance Parties choose not to exercise their options under this Clause 7.4 (*Finance Parties' Step-in Rights*) or any Direct Agreement within thirty (30) days after receiving the Notice of Intention to Terminate, or fail to cure a Concessionaire Event of Default within the period provided for in such the Notice of Intention to Terminate or Clause 29.5 (*Termination Procedure*), the Authority shall be entitled to terminate this Agreement in accordance with the terms hereof.
- (f) Except as set forth in this Clause 7.4 (*Finance Parties' Step-in Rights*), the Finance Parties shall have no liability for the performance of this Agreement, or shall otherwise have any obligations hereunder or thereunder.



CHAPTER IV. REPRESENTATIONS AND UNDERTAKINGS

8. REPRESENTATIONS AND WARRANTIES

8.1 The Government Parties' Representations and Warranties

Each Government Party represents and warrants to the Concessionaire on the date of this Agreement and on the Effective Date the following representations and warranties:

- (a) with respect to each of the Authority and NCP only, it is a public authority duly constituted and validly existing under the laws of Sierra Leone;
- (b) it has the power and authority to enter into this Agreement and perform all its obligations hereunder and grant the Concessionaire the rights granted hereunder;
- (c) it has obtained all authorizations that are required under the laws of Sierra Leone to enter into and perform all its obligations under this Agreement;
- (d) it does not enjoy under the laws of Sierra Leone, any right of immunity from suit, judgment, set-off, execution on a judgment, attachment or other legal process concerning any of its obligations hereunder;
- (e) no litigation, administrative, arbitration or other proceedings before any court or any judicial, administrative or other authority or arbitrator is taking place, pending or, to the best of its knowledge, information and belief, threatened against it concerning entry into this Agreement and/or the performance of the obligations undertaken by it in terms of this Agreement and/or the other Project Documents to which it is a party which, if adversely determined against it, would have a material and adverse effect on its ability to perform its obligations under this Agreement;
- (f) all obligations expressed to be assumed by it under this Agreement constitute its legal, valid, binding and enforceable obligations;
- (g) the entering into or performance by it of this Agreement will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default or require any consent under any instrument or arrangement to which it is party and by which it is bound or violate any of the terms of the Ports Act 1964 of Sierra Leone and regulations made thereunder and any other statute, rule or regulation applicable to it or any writ, order, injunction or judgment by which it is bound;
- (h) the use by the Concessionaire of the Concession Area in the manner contemplated by this Agreement will not contravene any Law;
- (i) the Concession Area is not and if properly used or operated by the Concessionaire do not constitute an environmental hazard or a source of pollution or contamination;



- (j) the Authority is the sole legal and beneficial owner of the Common Area free from any Security, encumbrance, lien, claim or interest of any other Person; and
- (k) throughout the Concession Term, the Concession Area is and will be fit for the purpose of the operations in accordance with this Agreement.

8.2 The Concessionaire's Representations and Warranties

The Concessionaire represents and warrants to each Government Party on the date of this Agreement and on the Effective Date the following representations and warranties:

- (a) it is a limited liability company duly incorporated and validly existing under the laws of Sierra Leone;
- (b) it is a special purpose vehicle incorporated for the sole purpose of performing its duties in accordance with this Agreement;
- (c) it has all necessary power and authority to execute, deliver and perform all its obligations under this Agreement;
- (d) it has taken all necessary corporate actions to authorize the entry into and performance of this Agreement and the signatories on behalf of the Concessionaire has been duly authorized to execute and deliver this Agreement on behalf of the Concessionaire;
- (e) it has obtained all necessary authorizations to execute, deliver and perform this Agreement, including but not limited to any authorizations to be obtained from any third party or any Government Authority;
- (f) it is financially solvent, able to pay its debts as they fall due and possesses sufficient working capital to perform its obligations hereunder;
- (g) no order has been made or petition presented or filed in any court of competent jurisdiction or resolution passed for the appointment of an administrative or other receiver, manager or liquidator of the concessionaire or any Person with a similar function, or for its winding up, nor has any distress, execution or other process been levied on the Concessionaire or any of its assets;
- (h) no litigation, administrative, arbitration or other proceedings before any court or any judicial, administrative or other authority or arbitrator is taking place, pending or, to the best of its knowledge, information and belief, threatened against it concerning entry into this Agreement and/or the performance of the obligations undertaken by it in terms of this Agreement and/or the other Project Documents to which it is a party which, if adversely determined against it, would have a material and adverse effect on its ability to perform its obligations under this Agreement;
- (i) all obligations expressed to be assumed by the Concessionaire hereunder constitute legal, valid, binding and enforceable obligations of the Concessionaire in accordance with the provisions of this Agreement;



- (j) the entry into and performance of this Agreement by it does not and will not conflict with its constitutional documents, any restriction or other obligation which is legally binding on the Concessionaire or any of its present or future assets;
- (k) to the best of its knowledge, information and belief, neither the Concessionaire nor the Sponsor, nor any of their respective group or associated companies, nor any of their respective officers, employees or authorized agents has committed any act of Bribery or Corruption; and
- (l) to the knowledge of the Concessionaire, nothing that is within its reasonable control has occurred or is existing which might or will materially adversely affect the Concessionaire's ability to fulfill its obligations in accordance with this Agreement.

8.3 Reliance

Each Party acknowledges that each other Party has relied on the Representations and Warranties when entering into this Agreement.

9. UNDERTAKINGS

9.1 Equity Contribution

The Sponsor shall contribute by way of subscription of shares in, or an advance of a loan to, the Concessionaire (the Equity") in an amount equal to Eight Million Five Hundred Thousand USD (USD8.5 million) promptly after the date of this Agreement.

9.2 Concessionaire's Undertakings

Up to and including the Effective Date the Concessionaire will immediately disclose in writing to the Authority:

- (a) any fact or circumstance which may become known to it which is a breach of the Concessionaire's Representations and Warranties;
- (b) any fact or circumstance which can reasonably be expected to be likely (whether with the passing of time, giving of a notice, fulfillment of a condition or in some other way) to cause or constitute a breach of the Concessionaire's Representations and Warranties;
- (c) The Concessionaire shall, with prior approval from the Authority, represent the Authority at all levels when dealing with any partner (public or private), any carriers, any shippers, any ship owners or any stake holders in respect of the Port Development Levy Fees and make full disclosure of the Port Development Levy Fees to the Authority; and
- (d) The Concessionaire shall deploy its team of experts and personnel for the performance of its obligations hereunder. The Concessionaire covenants that the experts and personnel made available by it for the performance of this

Agreement are suitable and qualified for the duties for which they have been deployed.

9.3 Government Parties' Undertakings

- (a) Up to and including the Effective Date, the Authority will immediately disclose in writing to the Concessionaire:
 - (i) any fact or circumstance which may become known to it which is a breach of the Authority's Representations and Warranties; and
 - (ii) any fact or circumstance which can reasonably be expected to be likely (whether with the passing of time, giving of a notice, fulfillment of a condition or in some other way) to cause or constitute a breach of the Authority's Representations and Warranties.
- (b) The Authority shall and shall procure each other relevant Government Authority to, upon application by the Concessionaire, grant all such Approvals as the Authority and any other Government Authority may be required to give under Applicable Laws and are such as are required for the performance of the Concessionaire's obligations under this Agreement, including but not limited to the Identified Approvals.
- (c) The Authority shall, at all times, keep the Ports open to berthing and un-berthing of vessels so that the Concession Area may be accessible by the Customers both by sea and by land. The Authority shall maintain a minimum depth of seventeen (17) meters at the Berths at all times in order to ensure that the maximum utilization can be achieved.
- (d) The Government Parties shall procure MOFED to approve the application by the Concessionaire in respect of the exemption of customs duty and all other Taxes imposed on equipment and supplies in connection with the Project in accordance with the applicable laws of Sierra Leone;
- (e) The Government Parties shall ensure that their personnel, contractor, agent, employees and agents shall not unreasonably delay or interfere with the operations of the Concessionaire.
- (f) The Authority shall ensure the timely and efficient provision of pilotage, towage, navigational aids, mooring and unmooring of vessels, vessel traffic management systems and such other marine services as required by vessels calling at the Ports.
- (g) The Authority will grant the Concessionaire full access to all covered and open storage areas and buildings located within the Concession Area from the Effective Date. Such areas will be handed over to the Concessionaire in vacant clean and uncluttered condition. The Concessionaire shall have no responsibility in relation to any arrangements for the storage areas and buildings that have already been in place prior to the handover to the Concessionaire.

9.4 Offshore Accounts and USD

Each Government Party hereby consents and agrees that:

- (a) the Concessionaire may impose Port Development Levy Fees and Operation Charges on the Existing Port Carriers, the Customers and the New Port Carriers in USD and confirms that all such payments shall be due and payable to (and settled in) USD;
- (b) the Concessionaire shall (i) have the right to open the Concessionaire London Account and any other accounts with a bank outside the territory of Sierra Leone (together the “**Offshore Accounts**”) for the purpose of this Agreement or the Financing, (ii) have the right and freedom to withdraw, use and transfer any proceeds in such Offshore Accounts and (iii) be entitled to maintain all such sums in the Offshore Account at all times; The Government shall be a co – signatory to any such account created.
- (c) the Existing Port Carriers, the New Port Carriers, the New Port Operators and any other Person that has an obligation to pay the Concessionaire shall have the right and freedom to make direct USD payments to the Concessionaire London Account;
- (d) there will be no (i) requirement to settle any such payment to the Concessionaire in any currency other than USD or (ii) obligation to convert such sums into SLL or to otherwise remit such sums to an account in Sierra Leone; and
- (e) no foreign exchange restrictions or limitations on the availability and transferability of USD and the convertibility between USD and SLL shall be imposed on the Concessionaire.

CHAPTER V. THE EXISTING PORT

10. IMPOSITION OF THE EXISTING PORT DEVELOPMENT LEVY FEE

10.1 Existing Port Development Levy Fee

- (a) The Government shall, promptly after the date of this Agreement, pass legislation (the "**Existing Port Development Levy Fee Act**") to allow the Concessionaire to impose, charge, receive and collect the Existing Port Development Levy Fee with effect from the Effective Date and require that all Existing Port Development Levy Fee shall be paid by the Existing Port Carriers to the Concessionaire directly. The Existing Port Development Levy Fee Act shall reflect relevant requirements hereunder in connection with the Existing Port Development Levy Fee.
- (b) The Concessionaire shall have the right to collect the Existing Port Development Levy Fee from the Effective Date in accordance with Clause 11 (*Existing Port Development Levy Fee Rates*).

10.2 No Other Charges

Except the fees provided in Clauses 10.1 above, the Concessionaire shall not impose any other charges in connection with the Existing Port on any Existing Port Operators or any Existing Port Carriers.

10.3 Date of Collection

The Concessionaire shall have the right to collect the Existing Port Development Levy Fee twenty-four (24) hours a day and seven (7) days a week starting from the Effective Date (inclusive) and until the last day of the Concession Term (inclusive).

10.4 Existing Port Operator Activity

The Authority will ensure full compliance by each Existing Port Operator with Good Conducting Standards, the Existing Port Concession Agreement and other operation documents so as to support the implementation of the Project in accordance with this Agreement.

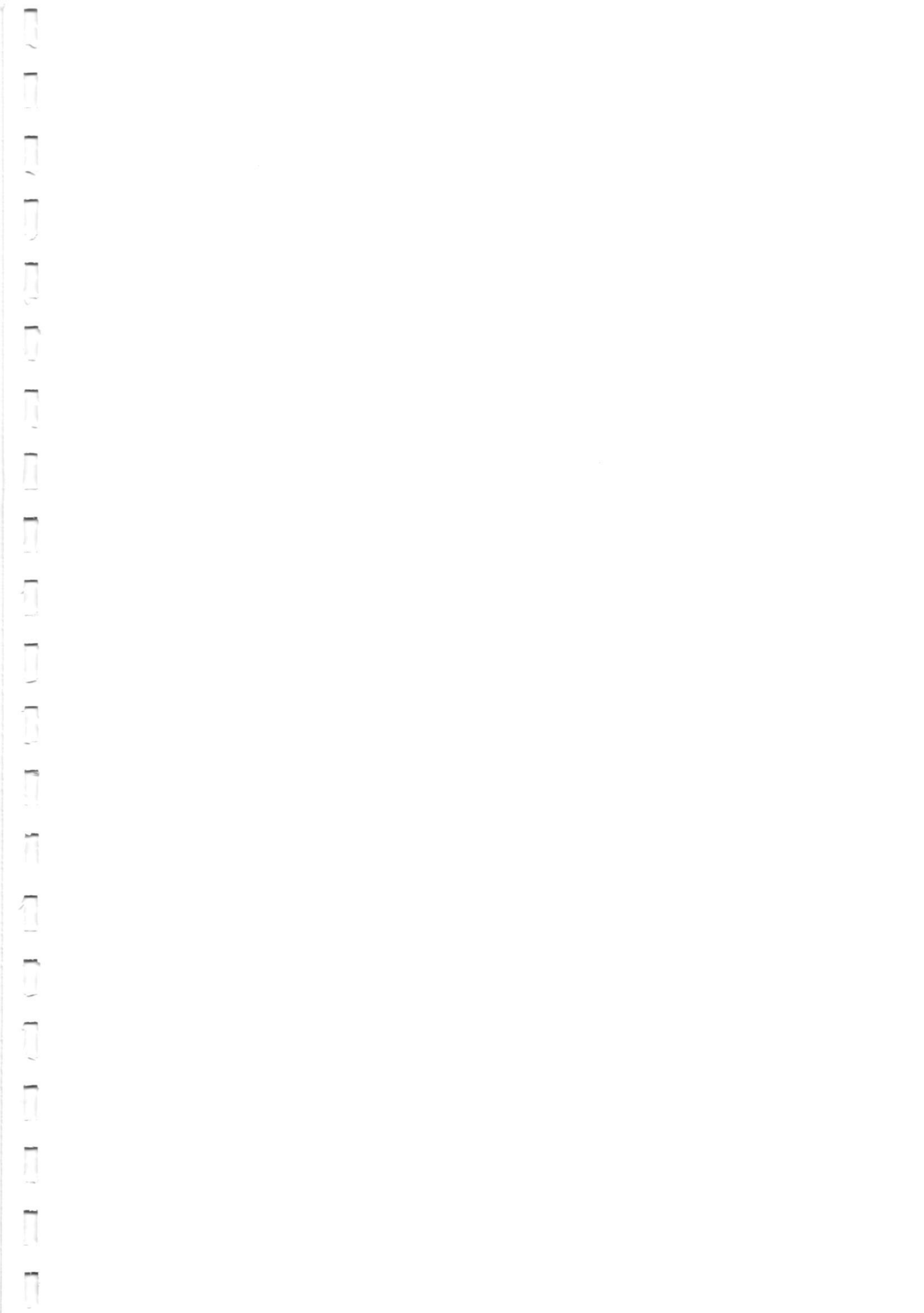
11. EXISTING PORT DEVELOPMENT LEVY FEE RATES

11.1 Rates

The Existing Port Development Levy Fee shall be charged by the Concessionaire at the rates as provided in APPENDIX VII (*Existing Port Development Levy Fee Rates*).

11.2 Change of Rates

- (a) The rates of the Existing Port Development Levy Fee shall not be changed, amended, escalated or reduced during the Concession Term except as provided in paragraph (b) below.



- (b) If the costs of developing or operating the New Port increase significantly as a result of any Change in Law Event, Force Majeure Event or any other event which has a material adverse effect on the Project, the Concessionaire and the Authority may discuss in good faith the mechanism of increasing the rate of the Existing Port Development Levy Fee.

11.3 No Tax Imposed

The Existing Port Development Levy Fee shall not be taxable in Sierra Leone. The Government hereby confirms that the Existing Port Development Levy Fee is exempted from all Taxes in Sierra Leone. If for any reason any Tax is imposed on the Concessionaire or paid by the Concessionaire or any other party on the Concessionaire's behalf, the Government shall reimburse the Concessionaire such amount of imposed Tax as is necessary to leave the Concessionaire (after that reimbursement) in the same position as it would have been in had such Tax not been required to be paid by the Concessionaire.

11.4 Penalty for Delayed Payment

The Concessionaire may impose a penalty fee on the Existing Port Carriers in accordance with the Existing Port Development Levy Fee Act in the event of any delay by the Existing Port Carriers in the payment of any Existing Port Development Levy Fee. Details of the penalty (including the amount, the starting date and end date for calculation of such penalty fees) shall be agreed in writing no later than 90 days after the date of this Agreement by the Concessionaire and the Authority and included in the Existing Port Development Levy Fee Act.

12. COLLECTION OF THE EXISTING PORT DEVELOPMENT LEVY FEE

12.1 Concessionaire Accounts

The Concessionaire shall open an account with a bank acceptable to the Authority and the Finance Parties in London for the collection of the Existing Port Development Levy Fee and any relevant penalties (the "**Concessionaire London Account**").

12.2 Payment of Existing Port Development Levy Fee

- (a) Any Existing Port Development Levy Fee and any relevant penalties shall be paid by the Existing Port Carrier to the Concessionaire London Account on a date as required by the Concessionaire.
- (b) All payments pursuant to this Clause 12 (*Collection of the Existing Port Development Levy Fee*) shall be made in USD.

13. CHANGES TO THE EXISTING PORT OPERATORS

- (a) The Authority may, at its sole discretion, replace or supplement any Original Existing Port Operator with a new operator.
- (b) Immediately following the replacement or addition of any Original Existing Port Operator (but in any event no later than two (2) Business Days after such



replacement), the Authority shall provide written details as to the identity of each new operator to the Concessionaire.

14. MONITORING SYSTEM

- (a) For the purpose of collecting the Existing Port Development Levy Fee, the Authority hereby:
 - (i) grants the Concessionaire all access to information and statistics of the operations of the Existing Port; and
 - (ii) will provide the Concessionaire each day with such information as is necessary (including records demonstrating the identity of each Existing Port Carrier that utilizes the Existing Port) so as to enable the Concessionaire to charge and collect the Existing Port Development Levy Fee from each Existing Port Carrier.
- (b) The Authority shall procure that the Existing Port Operators comply with the monitoring mechanism to be agreed by the Concessionaire and the Existing Port Operators.
- (c) The Authority shall provide an office space at the Existing Port for the Concessionaire perform its obligations under this Agreement. The rent for such office space shall be agreed by the Authority and the Concessionaire in a lease agreement.

15. REPORTING

- (a) The Existing Port Development Levy Fee and any relevant penalties (if any) shall be recorded using a statistical reportsheet to be jointly developed and agreed by the Concessionaire and the Authority.
- (b) The Concessionaire shall, on a yearly basis, provide to each of the Authority and the NCP a detailed report in connection with the Existing Port Development Levy Fee and any relevant penalties (if any), using the format referred to in paragraph (a) above.



CHAPTER VI. THE NEW PORT

16. DESIGN AND CONSTRUCTION OF THE NEW PORT

16.1 Functional Requirements

The Concessionaire shall design and construct the New Port. The New Port shall comply with the Functional Requirements as requested by the Authority.

16.2 The New Port EPC Contract

The Concessionaire shall have the right to and responsibility for selecting the New Port EPC Contractor and agreeing the provisions of the New Port EPC Contract, without the approval of the Authority.

16.3 Required Completion Date

Subject to Clause 16.5 (*Extension of Construction Period*), the Concessionaire shall ensure that the Works shall be completed within forty-eight (48) months after the Commencement Date (the "**Required Completion Date**").

16.4 Progress Reviews

Throughout the period from the Effective Date until the Commercial Operation Date for the New Port, the Concessionaire shall keep the Authority fully informed on the progress of the Works and in particular:

- (a) the Concessionaire shall provide the Authority with monthly progress reports, in such initial form and containing such information, as the Concessionaire and the Authority may agree and thereafter in such other form and containing such other information as the Authority may reasonably require from time to time as agreed between the parties;
- (b) the Concessionaire and the Authority shall hold regular progress meetings to review performance of the Works and discuss any co-ordination issues;
- (c) at the completion of each stage of major construction activity, the Authority shall provide written acceptance and confirmation within fifteen (15) days that the completed construction is in accordance with the Authority's requirements. Absence of any written confirmation or written objection from the Authority within fifteen (15) days of completion of each such stage of major construction activity shall be deemed as acceptance by the Authority.

16.5 Extension of Construction Period

- (a) For the purpose of this Clause 16.5 (*Extension of Construction Period*), an "**Extension of Construction Period Event**" means:
 - (i) a breach by the Authority of its obligations under any Project Document to which the Authority is a party which results in a material adverse impact on the construction schedule of the New Port;



- (ii) a Force Majeure Event affecting the Concessionaire or its contractors, agents or designees including the New Port EPC Contractor;
- (iii) a delay in obtaining any Approval required for carrying on the design, construction and/or commissioning of the New Port for reasons beyond the control of the Concessionaire;
- (iv) loss of time or delay resulting from delay in obtaining or interruptions in the supply of utilities such as electricity and water notwithstanding reasonable efforts by the Concessionaire; or
- (v) loss of time or delay resulting from the sub-soil conditions of the Concession Area and its surroundings being materially different from the conditions the Concessionaire could reasonably have foreseen; the occurrence of which, in any case, prevents or delays the Concessionaire from complying with this Agreement.

For the Avoidance of any doubt, Extensionsof Construction Period are restricted to the Construction Period of the New Port.

- (b) As soon as possible and in any event within seven (7) Business Days after the Concessionaire in good faith determines that any Extension of Construction PeriodEventhas occurred, the Concessionaire shall notify the Authority of:
 - (i) the occurrence of the Extension of Construction Period Event, giving a reasonable description of its nature and cause;
 - (ii) the Concessionaire's assessment of the effect of the Extension of Construction PeriodEventon the performance of the Works and in particular the effect on the construction schedule of the New Port, quantifying its assessment of the period of delay caused by the Extension of Construction Period Event, with supporting reasons for that assessment;
 - (iii) the Concessionaire's proposed measures for mitigating the consequences of delay; and
 - (iv) the cost implications of the Extension of Construction Period Eventand proposals as to how the Concessionaire will fund them,*provided that* such proposals shall be made without admission of liability on the part of the Concessionaire or without prejudice to the Concessionaire's rights at either law or under this Agreement in respect of the recovery or reimbursement of such funding and/or damages from the Authority or any other Person.
- (c) The Concessionaire shall provide such further information concerning the Extension of Construction Period Event as the Authority may reasonably require from time to time.
- (d) The Concessionaire shall use all reasonable efforts to prevent the delay and costs resulting from an Extension of Construction Period Event.



- (e) Subject to the terms of this Clause 16.5 (*Extension of Construction Period*), if the Authority is satisfied that or it is determined by the Expert pursuant to Clause 33.2 (*Expert Determination*) that an Extension of Construction Period Event has occurred, the Concessionaire shall be entitled to such extension of time as shall be reasonable (taking into account not only the Extension of Construction Period Event itself but the reasonably foreseeable consequences of the Extension of Construction Period Event agreed with the Authority or determined by the Expert) by fixing a new Required Completion Date which shall replace the existing Required Completion Date.
- (f) For the purpose of paragraph (e) above:
 - (i) no account shall any extension of time be for a period greater than the period of delay caused by an Extension of Construction Period Event;
 - (ii) if the Concessionaire is unable by reason of an Extension of Construction Period Event to commence or continue construction of the New Port in accordance with the construction schedule of the New Port, the Operation Period, the Concession Term and the term of this Agreement shall automatically be extended by the period represented by such extension of time.

17. COMMISSIONING

17.1 Commercial Operation Date

The Commercial Operation Date of each Berth and the New Port shall occur when the Independent Engineer issues its certificate that the Commissioning Tests for such Berth and the New Port have been successfully completed.

17.2 Commissioning Tests

- (a) The Commissioning Tests (the "**Commissioning Tests**") for each Berth and the New Port shall be conducted by the Concessionaire in accordance with the test procedures and requirements set out in APPENDIX IX (*Commissioning Tests*) and in the presence of the Independent Engineer.
- (b) The Concessionaire shall give the Authority and the Independent Engineer not less than sixty (60) days' notice of the date on which it wishes to conduct the Commissioning Tests.
- (c) The Commissioning Tests shall be conducted on the dates specified in the notice given by the Concessionaire pursuant to paragraph (b) above or such other date as the Concessionaire and the Authority may subsequently agree in writing with the Independent Engineer *provided that* the Concessionaire shall not be liable if, due to a cause outside the control of the Concessionaire, the Independent Engineer fails to present itself at the appointed time and place.
- (d) The Authority shall be entitled to have representatives attend and observe the Commissioning Tests. The Concessionaire shall notify the Authority and the



Independent Engineer of the precise time and precise place for carrying out the tests.

17.3 Commissioning Certificate

- (a) The certificate issued by the Independent Engineer (the "**Commissioning Certificate**") shall state that the relevant Berth (or the New Port, as the case may be) comply with all Functional Requirements and other requirements of this Agreement. The Independent Engineer shall be provided by the Concessionaire with full information as are reasonably required and stipulated by the Independent Engineer, and as agreed between the Project Parties and confirmed by the Independent Engineer, to enable it to issue a Commissioning Certificate.
- (b) The issuance of a Commissioning Certificate shall not affect the Concessionaire's responsibility to ensure the New Port satisfy all the requirements of this Agreement.

17.4 Independent Engineer

- (a) The Independent Engineer shall be a Person or corporate entity specializing in the business of port construction and equipment verification and able to deploy suitably qualified and experienced personnel. In particular, the Independent Engineer shall have appropriate civil, mechanical and electrical engineering qualifications and specific experience in the commissioning of a container handling port installation. The Authority and the Concessionaire shall seek to agree the identity of the Independent Engineer as soon as possible after the date of this Agreement but in any event no later than six (6) months after the Effective Date. If the parties fail to agree on the appointment of the Independent Engineer by no later than nine (9) months after the Effective Date, either party may apply to the Institution of Engineers to appoint the Independent Engineer. To avoid any doubt, the same Independent Engineer shall wherever practicable be appointed to carry out Commissioning Tests on all four (4) Berths.
- (b) The costs of the Independent Engineer shall be shared equally by the Concessionaire and the Authority.
- (c) The Independent Engineer shall act as an Expert. Without affecting the general powers of the Independent Engineer to obtain information pursuant to Clause 33.2 (*Expert Determination*), the Concessionaire shall and shall procure that the New Port EPC Contractor shall, provide all information concerning the design and construction of the New Port as may be required by the Independent Engineer for the purpose of the Commissioning Tests under Clause 17.2 (*Commissioning Tests*).
- (d) The Concessionaire shall be responsible for the provision of all electricity, fuel, other utilities, labour, test equipment, instruments and other apparatus, facilities and materials as may be required in order that the Independent Engineer may fully and properly examine each Berth during Commissioning Tests.



17.5 Rejection for Issuing a Commissioning Certificate

If the Independent Engineer is not willing to issue a Commissioning Certificate following Commissioning Tests, it shall so notify the Concessionaire and the Authority giving its reasons. Following such notification:

- (a) the Concessionaire shall carry out the work on the Berth at its own cost and expense as soon as possible in order to rectify the problems that led to the failure; and
- (b) Commissioning Tests shall then be repeated on a date set by the Independent Engineer after consultation with the Concessionaire and the Authority.

17.6 Required Commercial Operation Date

The Concessionaire shall procure that the Commercial Operation Date of the New Port occurs on or before the Required Commercial Operation Date of the New Port.

18. OPERATION

18.1 Scope of Operation

The Concessionaire shall have the sole and exclusive right and obligation to perform the functions of an operator of the New Port, including the following functions in relation to the New Port:

- (a) procuring the supply of all utilities, including power telecommunications, water and sewerage, *provided that* where the Authority is able to do so without affecting the Concessionaire's operations, the Authority shall grant any reasonable request of the Concessionaire to access or connect to such utilities belonging to or used by the Authority and that all costs in this regard shall be borne by the Concessionaire; the procurement and operation of all communication, control and administrative systems necessary for the efficient operation of the New Port;
- (b) subject to Clause 20 (*Tariffs and Payments*), deciding the prices at which it provides its services to Customers;
- (c) handling all Cargos allocated by the Authority to be handled within the Exclusive Area, including
 - (i) all grain and cereals (e.g. rice, soya, etc.);
 - (ii) all break-bulk, general Cargo (e.g. steel, Project Cargo, pipes etc.);
 - (iii) cement;
 - (iv) coal;
 - (v) clinker;
 - (vi) containers;



- (vii) vehicles, plants and machineries;
 - (viii) base minerals; and
 - (ix) any other subjects that may be deemed as Cargos as a result of development in the trade conditions.
- (d) deciding the terms and conditions on which it provides its services to Customers;
 - (e) the marketing of the New Port to potential Customers;
 - (f) subject to Clause 25 (*Employment*), deciding staff recruitment, training, working practices and conditions, other employment policies and industrial relations generally;
 - (g) the procurement and implementation of systems and services for the prevention, monitoring and detection of fire, including the appointment of a fully competent, trained fire officer and the provision of adequate fire alarm appliances;
 - (h) the manner of establishing and maintaining a working environment which is reasonably safe and designed to avoid injury or illness to any Persons present on the Concession Area or loss or damage to containers, vessels or other moveable or immovable property (the working environment shall include the provision of adequate numbers of trained first aid personnel and adequate quantities of first aid supplies);
 - (i) garbage and waste disposal;
 - (j) carrying out temperature checks on reefer (temperature controlled) containers;
 - (k) checking the condition of containers and, where appropriate, shipping lines' chassis;
 - (l) ship and yard planning (including ship stowage planning);
 - (m) preparing equipment interchange reports;
 - (n) ship-to-shore transfer operations, including lifting of hatch covers and lashing of containers;
 - (o) stacking and unstacking of containers;
 - (p) transfers of containers within the Concession Area;
 - (q) delivery and receipt for shipment of containers;
 - (r) documentary controls (whether manual or computerized);
 - (s) inventory control of all containers, chassis and other assets at the New Port;
 - (t) communication with and reporting to shipping lines, agents and other users;



- (u) transit storage of containers;
- (v) weighing of containers;
- (w) cleaning, washing and disinfection of containers;
- (x) transfers of containers between terminals;
- (y) allocation and sequencing of containers; and
- (z) all other yard and matters internal to the New Port.

18.2 Operation Performance Standard Requirements

- (a) The Concessionaire shall ensure, throughout the Concession Term, that the standards of operation performance of the New Port and other assets which form part of the New Port satisfy Good International Standards for a world class, modern port the main function of which is to be a central transshipment point in a container transport hub, taking into account local conditions.
- (b) The Concessionaire shall operate the New Port in a proper, efficient and workmanlike manner and shall not do, cause or willingly permit any act or omission that may materially adversely affect such operations.
- (c) In performing the operation of the New Port, the Concessionaire shall cooperate with the regulators so as to enable the regulator to perform their monitoring, supervisory and other activities relating to the New Port. The Concessionaire shall observe the directions it may receive from the Authority regarding its method of operation to the extent the Authority reasonably considers such directions to be necessary for the safe performance of the operations in accordance with the standards set out in this Agreement.
- (d) Upon notice by the Authority in advance, the Concessionaire shall permit the Authority and its designated representatives and agents to enter into and inspect the Concession Area during the Concessionaire's working hours (in any event no more than one (1) time per month) for the purpose of verifying Concession Area's compliance with this Agreement and any other requirements in accordance with Applicable Laws, *provided that* any such visit shall not unreasonably interfere with the Concessionaire's operations.
- (e) The Concessionaire shall not allow any Cargo that may cause damage to the Concession Area or its facilities or other property to be handled or stored at the Concession Area without proper precautions and the prior consent of the Authority (such consent not to be unreasonably conditioned, delayed or withheld).
- (f) The Concessionaire shall be entitled to operate twenty four (24) hours a day and three hundred and sixty five (365) days a year and the Authority shall provide all necessary access and assistance to enable the Concessionaire to operate on this basis.



18.3 Interruption of Concessionaire's Operation

- (a) The Parties shall ensure that the Concessionaire's performance of the operations shall be as continuous and without interruptions as is reasonably practical. The Concessionaire shall maintain records of the number, duration, location and extent of all interruptions.
- (b) If the performance of the operations is adversely affected by the interruptions during an operational year, Required KPIs shall be reduced by ratably to the number of days that an interruption prevents operations over three hundred and sixty five (365) days.
- (c) When calculating the number of days for an interruption, any interruption of operation for less than twenty four (24) consecutive hours shall not be taken into account, unless there have been interruptions for a period of seventy-two (72) cumulative hours in an operational year, in which case all time of interruption shall be taken into account.
- (d) The time of any interruption caused by the gross negligence or willful misconduct of the Concessionaire shall not be calculated into the duration of an interruption for the purposes of this Clause.
- (e) If an interruption to operation is caused by a Force Majeure Event, Clause 27 (*Force Majeure*) shall apply.

19. MAINTENANCE

19.1 Maintenance Responsibility

- (a) The Authority shall maintain the Concession Area in good condition and shall repair and remedy defects which may impair the Concessionaire's operations in the Concession Area within thirty (30) days of the Concessionaire's notification of such defects to the Authority or other time period as agreed between the Project Parties.
- (b) The Authority shall be responsible for the maintenance of the Common Area, the apron of each Berth, and other structures agreed between the Parties and ensure that the above areas are kept in good conditions to allow the Concessionaire to carry out operations in accordance with this Agreement.
- (c) If the Authority fails to remedy any defects which impair the Concessionaire's ability to carry out operations in accordance with paragraph (b) above, the Concessionaire may notify the Authority in writing. Within thirty (30) days from the date of such notification, the Concessionaire may have the option to carry out such repairs at a reasonable cost and deduct such cost from payment due to the Authority hereunder.



- (d) The Concessionaire shall be responsible for the maintenance of all Cargo handling equipment, machinery, facilities and warehouses within the Exclusive Area. The Concessionaire shall carry out at its own cost all:
 - (i) Life-Cycle Maintenance;
 - (ii) Routine Maintenance; and
 - (iii) Reactive Maintenance, which is necessary or desirable to maintain or restore the New Port to the standards required by this Agreement, including compliance by the Concessionaire with Good International Practice and using materials and goods of sound quality which are fit for their respective purposes.
- (e) If the Authority considers it necessary that replacement of, reconstruction of, or repairs to all or any portion of the Common Area or any adjoining property be carried out, the Concessionaire shall cooperate in allowing such replacement, reconstruction or repairs to take place to the extent that it does not interfere with the performance of its operations. If the above such replacement, reconstruction or repairs restrict the Concessionaire's use of the Concession Area or interfere with the performance of the Concessionaire's operations, the Authority and the Concessionaire may, subject to approvals from the Finance Parties, agree a time period for such replacement, reconstruction or repairs, under which circumstance the Concession shall be entitled to an extension of the Concession Term by a period equivalent in length to the duration of such time period for such replacement, reconstruction or repairs.
- (f) No Concession Fee shall be charged during the period when the Concessionaire's operations in the New Port are affected by replenishment, reconstruction or repair carried out by the Authority under paragraph (e).

19.2 Maintenance Standard

The Concessionaire shall maintain all Cargo handling equipment and machinery in accordance with Prudent Industry Standards and ensure that the New Port is maintained in good conditions. The Authority reserves the right to request the Concessionaire to repair or remove from the Concession Area any machinery or equipment which the Authority reasonably considers unsafe for the operations, or hazardous to its property. A written notice for such repair or removal shall be delivered to the representatives of the Concessionaire.

19.3 Maintenance Schedule

- (a) The Concessionaire shall prepare an annual maintenance schedule (the "**Annual Maintenance Schedule**"), which describes:
 - (i) arrangements for Life-Cycle Maintenance and Routine Maintenance (including the start and end dates for each material item of work and a summary of the work to be carried out);
 - (ii) the expected effect of the Life-Cycle Maintenance and Routine Maintenance on the operation of the New Port; the measures to be taken to continue to achieve the performance standards; and



- (iii) contingency arrangements made to enable it to undertake Reactive Maintenance for that year (and how the work shall be funded).
- (b) The Concessionaire shall comply with the Annual Maintenance Schedule or a replacement schedule containing equivalent information. A copy of the Annual Maintenance Schedule for a particular year shall be delivered to the Authority not later than the 30th day of November in the preceding year. The Concessionaire shall give the Authority as much advance notice of proposed changes of a material nature to the Annual Maintenance Schedule in respect of any year as is reasonable in the circumstances and deliver a copy of the changed Annual Maintenance Schedule to the Authority within seven (7) days of the change being made.

20. TARIFFS AND PAYMENTS

20.1 New Port Development Levy Fee

- (a) The Government shall, promptly after the date of this Agreement, pass legislation (the "**New Port Development Levy Fee Act**") allowing the Concessionaire to impose, charge, receive and collect the New Port Development Levy Fee with effect from thirty (30) days after the Commercial Operation Date of any Berth first to occur, and requiring that the New Port Development Levy Fee shall be paid by the New Port Carriers directly to the Concessionaire at the New Port Development Levy Fee Rate. The New Port Development Levy Fee Act shall reflect relevant requirements hereunder in connection with the New Port Development Levy Fee.
- (b) The Concessionaire shall have the right to collect the New Port Development Levy Fee in connection with each Berth from the thirtieth (30th) day after the Commercial Operation Date of such Berth until the last day of the Concession Term.
- (c) The Concessionaire shall have the right to collect the New Port Development Levy Fee twenty-four (24) hours a day and seven (7) days a week.
- (d) The Concessionaire may impose a penalty fee on the New Port Carriers in accordance with the New Port Development Levy Fee Act in the event of any delay by the New Port Carriers in the payment of any New Port Development Levy Fee. Details of the penalty (including the amount, the starting date and end date for calculation of such penalty fees) shall be agreed in writing by the Concessionaire and the Authority no later than 90 days after the date of this Agreement by the Concessionaire and the Authority and included in the New Port Development Levy Fee Act.

20.2 New Port Operators

- (a) The Concessionaire may appoint certain operators (each a "**New Port Operators**") to carry out relevant operation and maintenance works in connection with the New Port in accordance with the O&M Contracts. Each New Port Operator shall act as agent of the Concessionaire in the conduct of its activities under the terms of the applicable O&M Contract.



- (b) Each Government Party hereby confirms that all rights and responsibilities of the Concessionaire in connection with the operation and maintenance of the New Port hereunder may be enjoyed and performed by each New Port Operator.

20.3 Operation Charges and O&M Fees

- (a) The Concessionaire shall have the right to charge the Customers the Operation Charges from time to time for the provision by the Concessionaire (or its contractors, agents or designees) of each and any of the Services to the Customers.
- (b) The Concessionaire may authorize the New Port Operators to collect the Operation Charges on its behalf in accordance with the relevant O&M Contract.
- (c) The level, categories, calculation standards and payment terms of the Operation Charges shall be (i) agreed by the New Port Operator and the Concessionaire in the O&M Contract (the "**Operational Rate**") (ii) consistent with Applicable Laws; and (iii) competitive with the Existing Port and other competing ports having similar facilities in sub-Saharan Africa.
- (d) Each New Port Operator may charge the Concessionaire an O&M Fee. The level of the O&M Fee shall be agreed between the Concessionaire and each New Port Operator in the relevant O&M Contract, *provided that* the total amount of the O&M Fees to be paid by the Concessionaire in each year shall not exceed:
 - (i) before the Commercial Operation Date of the New Port, 40% of the total amount of the Operation Charges in such year; and
 - (ii) on and after the Commercial Operation Date of the New Port, the difference between 40% of the total amount of the Operation Charges in such year and the License Fee due and payable to the Government in such year.

20.4 Fee Adjustment

- (a) The rate of the New Port Development Levy Fee shall not be changed, amended, escalated or reduced during the Concession Term other than in accordance with paragraph (b) below.
- (b) If the costs of developing or operating the New Port increase significantly as a result of any Change in Law Event, Force Majeure Event or any other event which has a material adverse effect on the Project, the Concessionaire and the Authority may discuss in good faith the mechanism of increasing the rate of the New Port Development Levy Fee.
- (c) The Concessionaire shall not, and shall procure that no New Port Operator shall, increase the Operational Rate within the first three (3) years of the Operation Period, *provided that* the Concessionaire may request a review of the Operational Rates in such three (3) years of the Operation Period if the



USCPI of any such year exceeds 110% of the preceding year. If after such review the Concessionaire determines that the Operational Rates shall be increased, such increase shall be approved by the Authority.

- (d) From January 1 of the fourth (4th) year in the Operation Period, the Concessionaire may adjust the Operational Rates in accordance with the following formulae to reflect the change in the USCPI:

$$R_i = (1 + (CPI_{(i-1)} - CPI_{(i-2)}))R_{(i-1)}$$

where:

- *R_i* means the Operational Rate effective from January 1 of year *i* during the Operation Period (*i* ≥ 4).
 - *R_(i-1)* means the Operational Rate effective during the year preceding year *i* during the Operation Period
 - *CPI_(i-1)* means the USCPI for December of the year immediately preceding year *i* during the Operation Period
 - *CPI_(i-2)* means the USCPI for December of the year that is two years before year *i* during the Operation Period
- (e) The Concessionaire shall, and shall procure that each New Port Operator to, publish the Operational Rates and any other charges for the operations and make relevant information available to the Customers in accordance with Applicable Laws.

20.5 Taxes

- (a) The New Port Development Levy Fee shall not be taxable in Sierra Leone. The Government hereby confirms that the New Port Development Levy Fee is exempted from all Taxes in Sierra Leone. If for any reason any Tax is imposed on the Concessionaire by the Government or paid by the Concessionaire or any other party on the Concessionaire's behalf, the Government shall reimburse the Concessionaire such amount of imposed Tax as is necessary to leave the Concessionaire (after that reimbursement) in the same position as it would have been in had such Tax not been required to be paid by the Concessionaire.
- (b) Subject to paragraph (c) below, the Concessionaire shall pay all Taxes required to be paid by it in connection with the Operational Revenues in accordance with Applicable Laws.
- (c) The Concessionaire shall be entitled to all tax exemptions and incentives provided under the laws of Sierra Leone
- (d) The Concessionaire may be entitled to apply to the relevant authority for exemption of any tax, duties, and/or levies on importation of its bagging equipment, handling equipment, operational vehicle, tools, spare parts, and

materials necessary for the performance of the operation. The Authority shall give all necessary support for any such application under Applicable Laws.

20.6 Payment of New Port Development Levy Fee and Operation Charges

- (a) Any New Port Development Levy Fee (and any relevant penalties imposed thereon) shall be directly paid by the New Port Carrier to the Concessionaire London Account.
- (b) Any Operation Charges collected by each New Port Operator, shall be, after deducing the relevant O&M Fees due and payable by the Concessionaire to such New Port Operator, directly paid to the Concessionaire London Account on a monthly basis. The date of payment shall be agreed by the Concessionaire and each New Port Operator.
- (c) All payments pursuant to this Clause 20 (*Tariffs and Payments*) shall be made in USD.

21. CONSIDERATIONS

21.1 Concession Fee

During the period starting from the Commercial Operation Date of the New Port and ending on the last day of the Concession Term, the Concessionaire shall pay the Authority 10% of all Operation Charges as concession fee (the "**Concession Fee**") on a quarterly basis. Such Concession Fee shall be paid each quarter on the basis of the Operation Charge received by the Concessionaire in the prior quarter.

21.2 License Fee

- (a) The Concessionaire shall pay to the Government the License Fee on a yearly basis during the Concession Term.
- (b) The first installment of the License Fee shall be paid within ninety (90) days after the Commercial Operation Date of the New Port. Any subsequent installments of the License Fee shall be paid on or before each anniversary of the payment date of the first installment of the License Fee.

22. INFORMATION SUPPLY AND REPORTING

22.1 Monthly Report

By no later than the fifteenth (15th) day of each month throughout the Concession Term, the Concessionaire shall provide the Authority with a written report (in such initial form and content as the Concessionaire and the Authority may agree and thereafter in such other form and content as the Authority and the Concessionaire shall agree) on its activities in the preceding month. The report shall include all information reasonably necessary, including but not limited to:

- (a) type and any volume of Cargo handled;



- (b) average vessel call time;
- (c) types and number of vessels handled;
- (d) accidents and injuries(if any);
- (e) compliance with Required KPIs;
- (f) all payments due to the Authority; and
- (g) achievement of performance standards.

22.2 Access to Records

At all reasonable times, the Authority shall be entitled to access all records of the Concessionaire to the extent reasonably required by the Authority to verify the Concessionaire's compliance with its obligations under this Agreement and the other Project Documents, *provided that* such access shall not interfere the Concessionaire's operations in the New Port. The Concessionaire shall provide reasonable co-operation to the Authority in responding to all the Authority's reasonable requests for information in this regard.

23. INSURANCE

23.1 Insurance Requirements

- (a) The Concessionaire shall take out and maintain in force, or procure its contractors, agents or designees (including the New Port EPC Contractor) to take out and maintain in force (in such case the Concessionaire shall be listed as an insured under the relevant insurance policies), at its own cost, the following insurances for such maximum sums as may be required as would be taken out and maintained in force from time to time by a reasonable and prudent Person exercising the rights and performing the obligations of the Concessionaire under this Agreement (except to the extent of minimum deductibles which are at a level consistent with prudent market practice, the "Insurance Cover"):
- (i) all insurances required under the Finance Documents and Applicable Laws;
- (ii) during Construction Period:
 - (A) in respect of the New Port EPC Contract all risk insurance;
 - (B) third party liability insurance;
 - (C) employer's liability insurance; and
 - (D) insurances necessary for mitigating the risks that may evolve on the Authority as a consequence of any act or omission of the Concessionaire; and
- (iii) during the Operation Period:



- (E) property and casualty insurance;
 - (F) third party liability insurance;
 - (G) business interruption insurance; and
 - (H) employer's liability insurance.
- (b) The Concessionaire shall:
- (i) inform the Authority about any material variation of its insurance proposals in good time before taking out the insurance; *provided that* where any of the insurances required by this Agreement cannot be obtained on reasonable commercial terms, the Concessionaire shall seek the approval of the Authority to waive or amend compliance with such requirements, which approval may not be unreasonably withheld;
 - (ii) pay or procure the payment of all premium payable for any insurance effected under this Clause 23; and
 - (iii) on request supply to the Authority copies of the insurance policies and evidence that the policies are in force (including payment of premium).
- (c) If the Concessionaire fails to take out or maintain in force any of the insurances required by this Agreement, the Authority shall be entitled (without prejudice to its other rights and remedies for the breach) to take out and maintain such part or all of those policies as it considers (in its complete discretion) appropriate and to recover the cost of doing so (including payment of premiums, reasonable administration and other expenses and charges) from the Concessionaire as a debt due on demand. Nothing in this paragraph shall entitle the Authority to recover from the Concessionaire any costs of taking out or maintaining in force insurances in excess of that required to be taken out and maintained under this Agreement by the Concessionaire.

23.2 Application of Insurance Proceeds

- (a) The Concessionaire shall apply the proceeds of the insurance policies required under this Agreement as follows:
- (i) in the case of third party legal liability or employers liability insurance, in satisfaction of the liability in respect of which the proceeds are payable; or
 - (ii) in the case of any other insurance, so as to ensure the performance of its functions and obligations under this Agreement, including, where relevant, the repair or replacement of the New Port in respect of which the proceeds are payable.
- (b) The Concessionaire shall not grant, or permit the creation of, a Security in or relating to any of those policies except as provided for in the Finance Documents under which it is provided that the Finance Parties shall have



Security over the insurance proceeds until all sums due and owing by the Concessionaire to the Finance Parties shall have been paid in full.

24. SECURITY AND SAFETY

24.1 General

- (a) The Concessionaire shall be responsible during the Operation Period for the security and safety of the operations of its contractors, suppliers and agents, as well as for the security and safety of the Cargos it handles and stores while within its custody in the Exclusive Area.
- (b) The Concessionaire shall implement appropriate health and safety procedures within the Concession Area in accordance with APPENDIX X (*Health and Safety Requirements*) (the "**Health and Safety Requirements**"). The Concessionaire shall have the right to refuse to provide any operation to any Customer if it reasonably considers that such operation would violate the Health and Safety Requirements.
- (c) The Concessionaire shall allow the security officers of the Authority and their representatives to inspect the facilities and the warehouses in the New Port.
- (d) The Concessionaire shall at all times throughout the Concession Term take measures in accordance with Prudent Industry Standards so as to prevent fire hazards and ensure the safety of the Cargos.
- (e) The Concessionaire shall engage security guard companies to provide security services to ensure the security and safety of the New Port.
- (f) The Authority shall remain responsible for the security and safety at the New Port and shall comply with the international ship and port facility security code (ISPS).
- (g) The following shall be kept clear and unobstructed in the New Port at all times:
 - (i) the initial three (3) metres from the face of any Berth, except for instant lifting or landing of Cargos; and
 - (ii) Life-saving and fire-fighting equipment.

24.2 Fire Fighting

- (a) The Concessionaire shall ensure that its contractors, suppliers or agents are familiar with the location of emergency telephones, fire-alarm boxes and firefighting equipment and that they can operate them efficiently. The Concessionaire shall procure that its employees comply with this provision.
- (b) The Concessionaire shall comply with requirement of the Authority with respect to the fire protection and safety in accordance with Applicable Laws.



24.3 **Flammable Substances**

- (a) The Concessionaire shall obtain prior written permission from the Authority for the handling of any flammable substances other than those required for the operation or maintenance of mechanical equipment as the Concessionaire may require for the proper and safe performance of its operations in the New Port.
- (b) The Authority shall not grant permission until arrangement, satisfactory to the Authority, has been put in place for the safe handling and storage of such substances (such permission not to be unreasonably conditioned delayed or withheld).
- (c) Notwithstanding the above, the Concessionaire shall be entitled to handle or store flammable substances in buildings that are specifically designed for the handling and storage of such substances (for example, flammable liquids or liquefied petroleum gases).
- (d) For the purpose of this Clause 24.3, the flammable substance does not include the following:
 - (i) flammable substance stored in any inbound or outbound Cargo, which will be handled by a Person authorized by the Authority;
 - (ii) flammable substance stored in the fuel tank of a vehicle used to transport Cargos to and from the Berths and other areas of the Concession Area; and
 - (iii) flammable substance stored in an underground tank which has been installed to the Authority's property to the satisfaction of the Authority.

24.4 **Dangerous Cargos**

The Concessionaire shall not handle dangerous Cargos as defined in Applicable Laws at the New Port without the prior written consent of the Authority.



CHAPTER VII. GENERAL PROVISIONS

25. EMPLOYMENT

- (a) The Concessionaire is free to select its permanent or temporary employees in accordance with Applicable Laws. Such selection may include employees from a pool of employees currently employed by the Authority.
- (b) The Concessionaire shall comply with the labor laws and regulations of Sierra Leone and respect the rights of workers provided therein, including in relation to the payment of social security insurance contributions for its employees.
- (c) The Authority shall, upon written request from the Concessionaire, assist the Concessionaire in obtaining employment permits and residential permits for any foreign personnel engaged or employed by the Concessionaire in connection with the implementation of the Project.

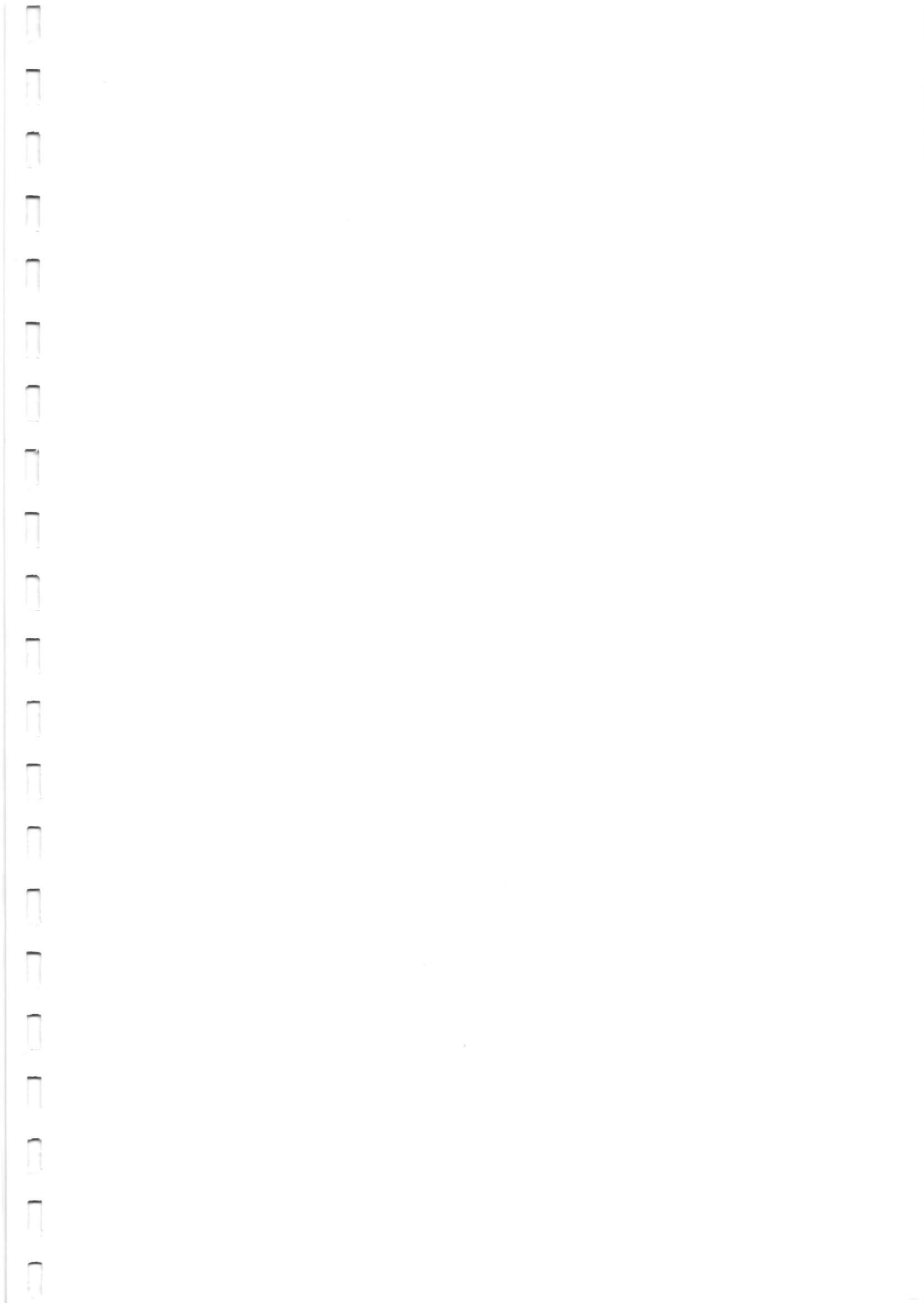
26. LEGAL COMPLIANCE

26.1 General

The Concessionaire and the Authority shall, at all times during the term of the Concession, comply with all Applicable Laws.

26.2 Anti-Corruption

- (a) The Concessionaire shall not:
 - (i) offer, agree to pay, pay or approve the payment by another Person of, any money for the purpose of influencing, improperly or unlawfully, any act, decision or judgment of any Person relating to the performance of this Agreement or in any other way relating to this Agreement; or
 - (ii) offer, agree to give, give or approve the gift by another Person of anything of value, whether directly or indirectly, to any Person (whether a public servant as defined by the Anti-Corruption Act 2008, or a political party or candidate, or any other individual) which either results in such Person committing the offence of corruption or in any other way is for the purpose of influencing, improperly or unlawfully, any act, decision or judgment of any such Person relating to the performance of this Agreement or in any other way relating to this Agreement (all such acts collectively described as “**Corruption**”); or
 - (iii) commit, offer, agree to or approve any act of bribery for the purpose of influencing, improperly or unlawfully, any act, decision or judgment of any Person relating to the performance of this Agreement or in any other way relating to this Agreement (all such acts collectively described as “**Bribery**”).



- (b) In exercising its rights and remedies under this Clause 26.2 (*Anti-Corruption*), the Authority shall:
 - (i) act in a reasonable and proportionate manner, having regard to such matters as the nature of the breach; and/or
 - (ii) in addition, in cases of Bribery or Corruption, have regard to the gravity of and the identity and status of the Person performing, the act of Bribery or Corruption and whether the Person committing the act of Bribery or Corruption has been found guilty of committing such an offence by a competent court of law; and/or
 - (iii) give consideration and where appropriate require the Concessionaire to terminate the appointment of an authorized agent (where the authorized agent committed the act of Bribery or Corruption).
- (c) The Concessionaire shall establish procedures designed to prevent and to identify the performance of acts of Bribery or Corruption. Those procedures will include a regular review by the board of directors of the Concessionaire of the effectiveness of the measures.

26.3 **Environment**

The Concessionaire shall comply with applicable environmental law in order to minimize any nuisance, waste and/or pollution by equipment operated by the Concessionaire. It shall not do, cause or willingly permit any act or omission that may damage or contaminate the Concession Area in any material respect. The Concessionaire shall in all respects comply with Applicable Laws with respect to the environment.

27. **FORCE MAJEURE**

27.1 **Relief from Liability**

A Party (the "**Affected Party**") shall be relieved from liability for any delay in the performance of or inability to perform an obligation under this Agreement which is directly caused by or results from any Force Majeure Event and shall not be considered to be in breach of this Agreement for so long as such Force Majeure Event or the inability to perform continues.

27.2 **Mitigation**

The Affected Party shall use all reasonable efforts to mitigate and overcome the effects of the occurrence of any Force Majeure Event in order to maintain or resume performance, *provided that* no Party shall be required under this provision to settle any strike or other labour dispute under terms it considers being unfavorable to it. The Affected Party shall resume the performance of its obligations as soon as practicable after such Force Majeure Event has ceased.



27.3 Notification

If a Force Majeure Event occurs, the Affected Party shall notify the other Parties as soon as reasonably practicable and in any event within seven (7) Business Days after the Affected Party has reasonably determined that the occurrence of such Force Majeure Event might affect its performance in a material way of:

- (a) the occurrence and nature of the Force Majeure Event;
- (b) its expected duration (so far as can be reasonably assessed);
- (c) the obligations which cannot be fully performed as a result; and
- (d) the proposed mitigating action (if possible).

The Affected Party shall keep the other fully informed of developments, including performance of its mitigation steps.

27.4 Force Majeure Events

In this Agreement, a “**Force Majeure Event**” means, subject to Clause 27.5 (*Categories of Force Majeure Events*), any event or circumstance or combination of events or circumstances whenever occurring which, in each case:

- (a) is outside the control of the Affected Party;
- (b) could not be avoided, prevented, overcome or mitigated with reasonable foresight, prudence and diligence or otherwise by taking action according to Good International Practice; and
- (c) materially prevents performance of a Party’s obligations under this Agreement.

27.5 Categories of Force Majeure Events

Without limiting the generality of Clause 27.4 (*Force Majeure Events*), the Force Majeure Events include the following categories of events or circumstances:

- (a) Natural Force Majeure Events:

Events or circumstances of a natural or general nature, including without limitation:

- (i) acts of God;
- (ii) severe, adverse weather conditions outside the design tolerance of the any Port, including but not limited to storms or floods;
- (iii) natural disaster including but not limited to earthquakes, drought or landslides;
- (iv) fires, nuclear explosion, radioactive or chemical contamination or ionizing radiation (unless, in connection with the New Port, the source or cause of the fire, explosion, contamination or radiation is brought

onto or near the New Port by the Affected Party or its suppliers, subcontractors or other Persons for whom it is responsible);

- (v) pressure waves caused by aircraft or other aerial devices;
- (vi) meteorites; and
- (vii) epidemic, plague or quarantine,

(b) Political Force Majeure Events:

Political events or circumstances in Sierra Leone, including, without limitation:

- (i) labor disputes, boycotts, industrial disturbances, strikes or other industrial action in Sierra Leone of a political nature that are not due to the breach of any labor agreement by the Affected Party;
- (ii) war (whether declared or not), invasion embargo, revolution, military coup, armed conflict, act of foreign enemy, in each case in Sierra Leone;
- (iii) riot, civil commotion, civil disturbance, military action revolts, public disorder rebellion, insurrection or terrorism, in each case in Sierra Leone,
- (iv) blockade or closure of the Ports resulting from any of the matters referred to in paragraphs (i) to (iii) above;
- (v) curfews in or restrictions on travel within Sierra Leone resulting from any of the matters referred to in paragraphs (i) to (iii) above;
- (vi) sabotage or criminal damage to any Port resulting from any of the matters referred to in paragraphs (i) to (iii) above; and

(c) Government Force Majeure Events:

Any of the following events or circumstances caused by acts and omissions of any Government Authority:

- (i) restrictions on imports imposed by any Government Authority;
- (ii) pollution that was not caused by the non-compliance of the Affected Party with its obligations under this Agreement or Applicable Laws;
- (iii) confiscation (except for confiscation of goods or other assets resulting from the exercise of Applicable Laws including customs and importation duties and laws concerning dangerous goods), compulsory acquisition, takeover, expropriation, requisition or nationalization authorized by any Government Authority;
- (iv) commandeering or authorized by any Government Authority;

- (v) a Change in Law in Sierra Leone which has the direct effect of preventing the Concessionaire from performing its obligations under this Agreement or the imposition of new requirements (or the withdrawal of any Approval) so as to prevent the Concessionaire from being able to charge, receive or retain proceeds in USD as contemplated by this Agreement;
- (vi) failure to obtain or renew any Approval or the failure to obtain connections for utilities required by the Concessionaire to perform its obligations under this Agreement, *provided that* such failure is not due to any fault of the Concessionaire;
- (vii) revocation by any Government Authority of any Approvals already granted;
- (viii) any Government Authority (or any other Person) prevents the Concessionaire's (or any of its contractor's, affiliates, adviser's or the Finance Parties') access to or interferes with the Concessionaire's (or any of its contractor's, affiliates, or adviser's) use of the Concession Area (including the port facilities); and
- (ix) any other event or circumstance which is within the reasonable control of any Government Authority,

provided that, in no circumstances shall a Force Majeure Event include:

- (A) any inability or failure to pay (except where funds are available but payment is prevented as a result of an event or circumstance described in Clause 27.4 (*Force Majeure Events*)) as comprising an Force Majeure Event;
- (B) any Change in Law other than described in paragraph (c)(v) above; or
- (C) any delay in performing or failure to perform by any supplier, sub-contractor or other Person for whom the Concessionaire is responsible (except where such failure or delay is caused by any Force Majeure Event affecting such supplier, sub-contractor or other Person).

27.6 Consequences of Force Majeure Events

(a) Extension of Concession Term

Upon the occurrence of any Force Majeure Event and subject to complying with Clauses 27.2 (*Mitigation*) and 27.3 (*Notification*), the Concession Term shall be extended by a period equivalent in length to the duration of such Force Majeure Event.

(b) Allocation of Costs

- (i) Upon the occurrence of any Force Majeure Event prior to the Commencement Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.
- (ii) Upon the occurrence of any Force Majeure Event after the Commencement Date, the costs incurred and attributable to such event and directly relating to the Project; including but not limited to loss of Port Development Levy Fees and operational charges together with debt repayment obligations (the "**Force Majeure Costs**") shall be allocated and paid as follows:
 - (A) upon occurrence of a Natural Force Majeure Event, the Parties shall bear their respective Force Majeure Costs and no Party shall be required to pay to the other Parties any costs thereof; and
 - (B) upon occurrence of a Government Force Majeure Event or Political Force Majeure Event, the Authority shall bear all Force Majeure Costs,

for the avoidance of doubt, Force Majeure Costs may include interest payments on debt, operation and maintenance expenses, any increase in the cost of the Works on account of inflation, loss of Port Development Levy Fees and Operation Charges or debt repayment obligations and all other costs directly attributable to the Force Majeure Event.

(c) Termination upon Force Majeure Events

If a Force Majeure Event constitutes any of the circumstance pursuant to Clause 29.1 (*Termination upon Force Majeure*), the provisions in Clause 29.1 (*Termination upon Force Majeure*), Clause 29.4 (*Termination Procedures*), Clause 29.7 (*Other Effects on Termination or Expiration*) and Clause 29.6 (*Termination Compensation*) shall apply.

28. CHANGE IN LAW

28.1 Change in Law Event

- (a) The provisions of this Clause 28 shall apply where there is a Change in Law, which:
 - (i) relates to discriminatory taxation (including any change to the rate of taxation or the imposition of any new or additional taxes);
 - (ii) imposes rationing;
 - (iii) increases capital expenditures;
 - (iv) gives rise to additional costs on the operations of the Project;



- (v) imposes restrictions or limits on the operation of the Ports;
- (vi) imposes restrictions on the Concessionaire's use of Offshore Accounts or the right to maintain funds in USD in such Offshore Accounts or the repatriation of USD by any Person out of Sierra Leone;
- (vii) relates to any Port Development Levy Fee;
- (viii) relates to a change in the regulatory framework for any Port Development Levy Fee,

which in each case is beyond the control of the Concessionaire and materially affects the operations of the Concessionaire and/or produces, directly an adverse financial outcome for the Concessionaire's operations as a whole (the "**Change in Law Event**").

- (b) The Concessionaire shall take all reasonable steps to avoid or mitigate any adverse financial outcome resulting from the Change in Law Event.

28.2 **Change in Law Notice**

The Concessionaire shall as soon as reasonably practicable but no later than thirty (30) days after the occurrence of a Change in Law Event or the date when it becomes aware of a Change in Law Event, deliver to the Authority a notice (the "**Change in Law Notice**"), specifying the following:

- (a) the occurrence of such event;
- (b) the Concessionaire's assessment of the effect of such event on the business and financial performance of the Concessionaire; and
- (c) the steps taken by the Concessionaire to avoid or mitigate any adverse financial outcome resulting from such event.

28.3 **Assessment Information**

The Concessionaire shall as soon as reasonably practicable but no later than ninety (90) days after the date of the Change in Law Notice, provide to the Authority the following information:

- (a) evidence of the impact of the Change in Law Event; and
- (b) all information and documents which the Concessionaire reasonably determines to be necessary to enable the Authority to assess the impact of such event on the business and financial performance of the Concessionaire, including any increased costs or reduced revenues suffered by the Concessionaire as a result of such Change in Law Event (the "**Assessment Information**").



28.4 Authority's Response

- (a) As soon as practicable but no later than twenty-one (21) days after the Concessionaire has provided to the Authority the Assessment Information, the Authority shall respond to the Concessionaire by written notice, confirming whether it accepts the any Change in Law Event has occurred and the financial impact of any such event on the Concessionaire's operations. If the Authority accepts the occurrence of the Change in Law Event and the financial impact of any such event on the Concessionaire's operations, Clause 28.5 (*Remedy by the Authority*) shall apply.
- (b) If the Authority disputes the occurrence of the Change in Law Event and the financial impact of any such event on the Concessionaire's operations, the Authority and the Concessionaire shall discuss in good faith to reach an agreement on the above matters. If the Concessionaire and the Authority cannot agree on the occurrence or financial impact of a Change in Law Event within thirty (30) days after the date when the Parties start discussion, either Party may refer such matter for determination by an Expert as provided in Clauses 33.2 (*Expert Determination*).

28.5 Remedy by the Authority

- (a) No later than thirty (30) days after the occurrence of any of the following:
 - (i) the date when the Authority delivers a response to the Concessionaire pursuant to Clause 28.4(a) (*Authority's Response*);
 - (ii) the date when an agreement between the Concessionaire and the Authority on the occurrence and financial impact of a Change in Law Event has been reached; or
 - (iii) the Expert making his determination that a Change in Law Event has occurred,

the Authority shall inform the Concessionaire which measures it is willing to take to compensate the Concessionaire for the financial impact of the Change in Law Event in order to restore the financial position of the Concessionaire to the position that it would have been if such Change in Law Event had not occurred, including without limitation:

- (A) a reduction in the Concession Fee or in other charges levied by any Government Authority and payable by the Concessionaire; or
 - (B) an extension of the Concession Term with no Concession Fees charged.
- (b) The Authority shall implement or give effect to the measures provided in paragraph (a) above or provide all assistance and support to liaise with the relevant Government Authority to implement or give effect to the measures provided in paragraph (a) above.



- (c) The provisions of this Clause 28.5 (*Remedy by the Authority*) shall be in addition to any other legal or contractual remedy which the Concessionaire may have against any Government Authority.

28.6 Termination Rights for Change in Law Event

If:

- (a) the Authority does not propose, implement and give effect to any such measures within the thirty (30) day period described in Clause 28.528.5(a) (*Remedy by the Authority*), or
- (b) the Concessionaire does not accept and agree to the measures proposed by the Authority under Clause 28.5 (*Remedy by the Authority*),

Clause 29.2 (*Termination upon Authority Event of Default*) shall apply.

29. TERMINATION

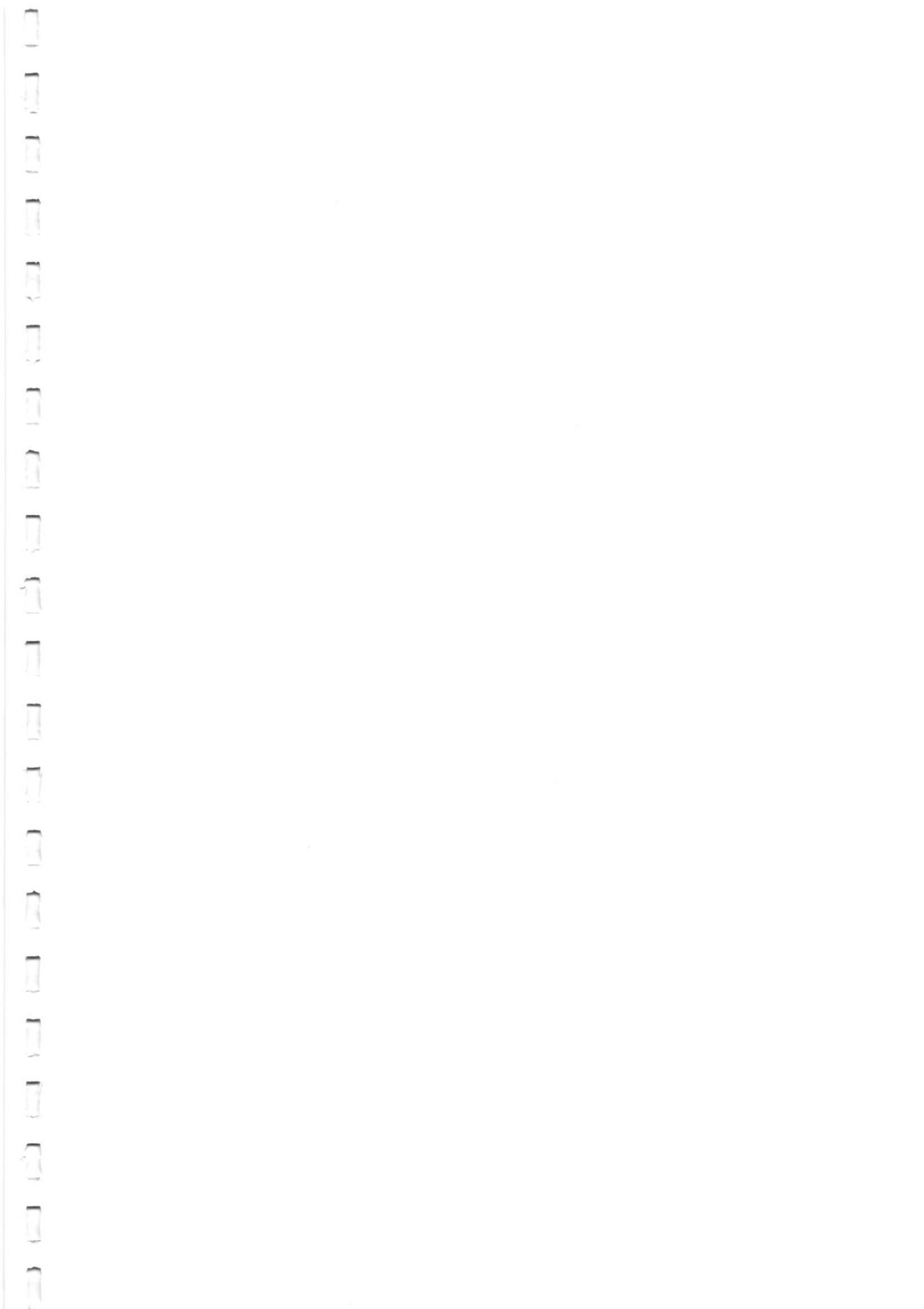
29.1 Termination upon Force Majeure Events

- (a) Subject to complying with Clauses 27.2 (*Mitigation*) and 27.3 (*Notification*), if:
 - (i) physical damage to any Port is directly caused by a Natural Force Majeure Event under Clause 27.5(a) (*Natural Force Majeure Events*); and
 - (ii) a decision is made not to restore such physical damage, or a decision is made to restore such physical damage but the restoration is unable to be completed or not completed within three (3) months after such decision to restore such physical damage is made,

then the Concessionaire may terminate this Agreement in accordance with Clause 29.5 (*Termination Procedure*).

- (b) Subject to complying with Clauses 27.2 (*Mitigation*) and 27.3 (*Notification*), if:
 - (i) a Natural Force Majeure Event occurs; and
 - (ii) as a direct consequence of such Force Majeure Event either Party is materially prevented from performing its obligations under this Agreement for a period of not less than three (3) consecutive months,

then either the Concessionaire or the Authority shall be entitled to terminate this Agreement in accordance with Clause 29.5 (*Termination Procedure*).



(c) Subject to complying with Clauses 27.2 (*Mitigation*) and 27.3 (*Notification*), if:

- (i) a Political Force Majeure Event occurs (whether or not there is any physical damage to any Port); and
- (ii) as a direct consequence of such Force Majeure Event either Party is materially prevented from performing its obligations under this Agreement for a period of not less than three (3) consecutive months,

then either the Concessionaire or the Authority may terminate this Agreement in accordance with Clause 29.5 (*Termination Procedure*).

(d) Subject to complying with Clauses 27.2 (*Mitigation*) and 27.3 (*Notification*), if:

- (i) a Government Force Majeure Event occurs; and
- (ii) as a direct consequence of such Force Majeure Event either party is materially prevented from performing its obligations under this Agreement for a period of not less than two (2) consecutive months,

then the Concessionaire may terminate this Agreement in the matter described in Clause 29.5 (*Termination Procedure*), *provided that* the Concessionaire may terminate this Agreement with immediate effect upon the notice to the Authority if such Government Force Majeure Event is of a nature that would permanently prevent the Concessionaire from performing its obligations under this Agreement.

29.2 Termination upon Authority Event of Default

The Concessionaire shall be entitled to terminate this Agreement (in the manner described in Clause 29.5 (*Termination Procedure*)) in the event of the following circumstances (each circumstance, the "**Authority Event of Default**"):

- (a) a material breach of this Agreement by the Authority which prevents the Concessionaire to perform its obligations under this Agreement for a period of not less than ninety (90) days;
- (b) any Change in Law Event occurs and either (i) the Authority does not propose, implement and give effect to measures to overcome the impact of such Change in Law Event within the 30 day period described in Clause 28.5 (*Remedy by the Authority*) or (ii) the Concessionaire does not accept and agree to the measures proposed by the Authority under Clause 28.5 (*Remedy by the Authority*); and
- (c) a breach of any material obligation under any other Project Document by the Government Authorities which entitles the Concessionaire to terminate such Project Document.



29.3 Termination upon Concessionaire Event of Default

The Authority shall be entitled to terminate this Agreement (in the manner described in Clause 29.5 (*Termination Procedure*)) in the event of the following circumstances (each circumstance, the “**Concessionaire Event of Default**”):

- (a) any act of insolvency relating to the Concessionaire;
- (b) appointment of a New Port Operator by the Concessionaire without prior consent from the Authority;
- (c) other material breach of this Agreement which is not cured within ninety (90) days after notice from the Authority to the Concessionaire requiring it to remedy such material breach;
- (d) subject to the Concessionaire’s applicable cure rights under the relevant agreement, in the event of any of the other Project Documents:
 - (i) ceasing to be in full force and effect or no longer constituting a valid, binding or enforceable obligation of the parties to any such agreement (except in accordance with its provisions); or
 - (ii) being materially varied or departed from other than where permitted by the Authority;

provided that:

- (A) no right of termination under this provision shall be exercised by the Authority if any of the events described in this sub-clause (d) was caused by an act or omission of any Government Authority without any fault on the part of the Concessionaire; and
- (B) there shall only be a Concessionaire Event of Default if the occurrence of an event described in this sub-clause (d) shall materially adversely affect the ability of the Concessionaire to perform its obligations under this Agreement or materially adversely affect any right of the Authority under this Agreement or its ability to enforce any such right or to perform its obligations under this Agreement or to perform any statutory duty.

29.4 Termination upon Expiry

Subject to any extension (i) due to any Force Majeure Event, Change in Law Event or Extension of Construction Period Event, or (ii) pursuant to Clause 19.1(e) (Maintenance Responsibility), this Agreement shall be automatically terminated upon the expiry of:

- (a) the Initial Term, if the Concession Term is not extended in accordance with Clause 3.3 (*Concession Term*); or
- (b) the Full Term.



29.5 Termination Procedure

- (a) Any Party (the "**Innocent Party**") may deliver a notice (the "**Notice of Intention to Terminate**") to the other Party or Parties (the "**Parties in Default**") immediately upon becoming aware of the occurrence of any events or circumstances provided in Clauses 29.1 (*Termination upon Force Majeure Event*), Clause 29.2 (*Termination upon Authority Event of Default*) and 29.3 (*Termination upon Concessionaire Event of Default*) which is, or would, with the passing of time or by the giving of notice, constitute or give rise to a right of termination under this Agreement. The Notice of Intention to Terminate shall:
- (i) summarize the nature of the event giving rise, or which may give rise, to a right to terminate this Agreement;
 - (ii) give all reasonably available information concerning how it was caused;
 - (iii) give an assessment of its likely effect, and the measures which the Innocent Party plans to take to avoid its occurrence or mitigate its effect; and
 - (iv) require each Party in Default at the election of such Party to either:
 - (A) remedy the breach within sixty (60) days, or such longer period as may be determined in writing by the Innocent Party at its discretion; or
 - (B) within sixty (60) days propose in writing a reasonable program (a "**Remedial Program**") for remedying the breach; that program shall (i) specify in reasonable detail the manner and time in which the breach is to be remedied and (ii) be subject to the approved process described in paragraph (b).
- (b) Where the Party in Default puts forward a Remedial Program, the Innocent Party shall have sixty (60) days within which to notify the Party in Default that it does not accept the program as being reasonable, failing which the Innocent Party shall be deemed to have accepted the Remedial Program. Where the Innocent Party notifies the Party in Default that it does not accept the Remedial Program as being reasonable, the Parties shall endeavor within the following thirty (30) days to agree any necessary changes to the Remedial Program put forward. In the absence of agreement within thirty (30) days, the question of whether the Remedial Program (as may have been amended by agreement) is reasonable may be referred by either Party to the Expert.
- (c) The Innocent Party may issue a Termination Notice (the "**Termination Notice**") if the Party in Default either:
- (i) elects to remedy the breach but fails to remedy the breach within the period specified in the Notice of Intention to Terminate given pursuant to Clause 29.5(a)(iv) (*Termination Procedure*); or

- (ii) elects to put forward a Remedial Program:
 - (A) but fails to propose a Remedial Program by the time required by Clause 29.5(a)(iv)(B); or
 - (B) puts forward a Remedial Program which has been accepted by the Innocent Party or determined by the Expert as being reasonable and the Party in Default then fails to comply with the Remedial Program in a material respect; or
 - (C) puts forward a Remedial Program which has been (1) disputed by the Innocent Party and (2) determined by the Expert as being unreasonable.
- (d) Subject to the provisions of this Agreement, the rights of the Innocent Party under this paragraph are in addition and without prejudice to any other right which the Innocent Party may have to claim the amount of any loss or damage suffered by the Innocent Party concerning the acts or failures to act of the Party in Default.
- (e) The Authority shall provide a copy of its Notice of Intention to Terminate to the Finance Parties and permit the Finance Parties to exercise their rights under any Direct Agreement.

29.6 Termination Compensation

(a) Concessionaire Event of Default

On termination of this Agreement due to any Concessionaire Event of Default pursuant to Clause 29.3 (*Termination upon Concessionaire Event of Default*), the Authority shall have the obligation to purchase the Termination Assets and pay the following compensation to the Concessionaire by way of compensation for the transfer of Termination Assets, a Termination Amount in an amount equal to the Debt Due as at the date such Termination Amount is paid.

(b) Authority Event of Default, Government Force Majeure Event and Political Force Majeure Event

On termination of this Agreement due to any Authority Event of Default pursuant to Clause 29.2 (*Termination upon Authority Event of Default*) or due to any event referred to paragraphs (c) or (d) of Clause 29.1 (*Termination upon Force Majeure Events*), the Authority shall have the obligation to purchase the Termination Assets and pay to the Concessionaire by way of compensation for the transfer of Termination Assets, a Termination Amount in an amount equal to the higher of:

- (i) the Debt Due as at the date such Termination Amount is paid plus 120% of the Equity;

and



- (ii) Ninety percent (90%) of the net projected revenue of the Concessionaire from the date of such event to and until the payment date of the Termination Amount as determined by the Expert.
- (c) Termination Compensation for Natural Force Majeure

On termination of this Agreement due to any event referred to paragraph (a) or (b) of Clause 29.1 (*Termination upon Force Majeure Events*), the Authority shall have the obligation to purchase the Termination Assets and pay to the Concessionaire by way of compensation for the transfer of Termination Assets, a Termination Amount in any amount equal to the higher of:

 - (i) the Debt Due as at the date such Termination Amount is paid;
 - and
 - (ii) Sixty percent (60%) of the net projected revenue of the Concessionaire from the date of such event to and until the payment date of the Termination Amount as determined by the Expert.
- (d) The Termination Amount payable pursuant to paragraphs (a) to (c) above shall be reduced by any insurance proceeds (for physical loss or damage but not third party liability) actually recovered by or on behalf of the Concessionaire under insurances taken by the Concessionaire in accordance with requirements under the Insurance Cover, save to the extent not applied towards the reduction of the amounts outstanding under the Finance Documents.
- (e) The Termination Amount shall be paid directly to the Concessionaire at the Concessionaire London Account (or as otherwise is directed by the Finance Parties) in USD no later than thirty (30) days following the date of each Termination Notice.
- (f) If for any reason, the Authority fails to pay the Termination Amount that it is required to pay in accordance with this Clause 29, the Authority shall be liable to pay an interest at a rate of LIBOR plus 3% calculated on the unpaid amount for the period from the due date of payment of the Termination Amount to the date of payment.

29.7 Other Effects on Termination

- (a) Upon the Termination Date, all future rights and obligations of the Authority and the Concessionaire under this Agreement shall cease, without prejudice to accrued rights and liabilities or to the provisions of Clause 29.6 (*Termination Compensation*).
- (b) Upon the Termination for reasons pursuant to Clause 29.1 (*Termination upon Force Majeure Events*) to Clause 29.3 (*Termination upon Concessionaire Event of Default*),
 - (i) all Termination Assets; and



- (ii) all records, including those necessary for the proper operation of the New Port (other than the corporate records of the Concessionaire itself),

shall be transferred to the Authority free from all third party rights; for the avoidance of doubt, title to the New Port shall not pass to the Authority, notwithstanding such transfer until the TerminationDate *provided that* the Concessionaire shall make all such arrangements by way of assignment, lease or otherwise that maybe necessary to enable the Authority to carry on the operation of the New Port for a period of one hundred and eighty (180) days, provided further that all costs and expenses incurred during this period with regard to such interim arrangements would be at the cost of the Authority.

- (c) If any equipment is leased by the Concessionaire then at the Authority's request, the Concessionaire shall arrange for the lease agreements relating to such equipment to include an option permitting (but not obliging) the Authority to take over use and possession of the equipment on expiry of the lease and/or its termination for a period of up to two (2) years and on terms substantially no less favorable to the Authority than those available.
- (d) On the Termination of this Agreement, all manufacturers and repairers warranties and guarantees as are then in force and available (and the Concessionaire shall use all reasonable efforts to ensure they are available) shall be assigned to the Authority.

29.8 Transfer upon Expiry

At the end of the Concession Term, the New Port shall be transferred to the Authority (or to such other Person as may be designated by the Authority). The arrangements in connection with such transfer shall be agreed by the Authority and the Concessionaire separately.

30. INDEMNIFICATIONS AND LIABILITIES

30.1 No Consequential Liability

- (a) Subject to paragraph (c) below and for any claims against the Authority for additional payment as a consequence of a Force Majeure Event or a Change in Law Event, neither the Authority nor the Concessionaire shall be liable on any basis whatever to the other for any loss, cost, liability or expense arising from this Agreement other than for actual loss directly resulting from a breach of this Agreement and which at the time of occurrence as reasonably foreseeable as likely to occur in the ordinary course of events from the breach in respect of:
 - (i) physical damage to the other's property;
 - (ii) the liability in law of any Party to any other Person for loss in respect of physical damage to the property of such Person.
- (b) Save for any claim against the Authority for additional payment as a consequence of a Force Majeure Event or a Change in Law Event, neither the



Authority nor the Concessionaire shall in any circumstances be liable in respect of any breach of this Agreement to the other for:

- (i) any loss of profit, loss of revenue, loss of contract, loss of goodwill or increased cost of working;
 - (ii) any indirect or consequential loss; or
 - (iii) except as provided in Clause 30.1(a)(ii), loss resulting from the liability of the other to any other Person.
- (c) Nothing in paragraphs (a) and (b) above shall affect the Concessionaire's liability to pay:
- (i) the Concession Fee or License Fee pursuant to this Agreement; or
 - (ii) any other sums due and payable to the Authority expressly provided for in other provisions of this Agreement.
- (d) Nothing in this paragraphs (a) and (b) shall affect the Authority's liability to pay sums expressly provided for in other provisions of this Agreement.

30.2 Indemnification to the Authority

- (a) The Authority shall hold the Concessionaire responsible for all direct losses of, or damage caused to the Concession Area by the gross negligence or willful misconduct of the Concessionaire, its employees, subcontractors or authorised agents or equipment located in the Concession Area for the performance of the operations hereunder under the Concessionaire's control.
- (b) In the event of loss or damage to the Concession Area due to the Concessionaire's or its employees', agents' or subcontractors' gross negligence or willful misconduct during the performance of the operations hereunder, the Concessionaire shall remedy the loss or the damage at its own cost. Repairs shall be carried out to the reasonable satisfaction of the Authority and within reasonable time period.
- (c) The Concessionaire shall notify the Authority of any losses or damages to the Concession Area as soon as it becomes aware it during the Concession Term.
- (d) The Concessionaire shall indemnify and hold the Authority harmless from all actions claims, demands, proceedings, costs, expenses or fines of any nature by third parties against the Authority at any time that are directly caused by the gross negligence or willful misconduct of the Concessionaire in performance of the operations under this Agreement. Nevertheless, it is agreed that the Concessionaire shall have no liability to the Authority if such claims, demands, proceedings, costs, expenses or fines result from the contributory negligence or willful misconduct of an officer or employee of the Authority when acting within the scope of his or her duties.
- (e) Notwithstanding any other provisions in this Agreement, if the Concessionaire uses electrical power, water or any combination of these utilities or any other



utility supplied through the Authority's equipment, systems and subsystems, the Concessionaire acknowledges and agrees that the Authority shall not be liable for any loss or damage that may occur due to any interruption or cessation in the provision of such utilities. The Concessionaire shall pay for the utilities it used in the Exclusive Area in accordance with the then current utility supply tariff.

31. CONFIDENTIALITY

31.1 Confidentiality Obligation

During the Concession Term and for a period of two (2) years from the date of expiry of the Concession Term or earlier termination of this Agreement, the Parties shall, subject to the following sub-clauses, treat all information of a confidential nature disclosed by the other Parties (whether in writing, orally or by any other means and whether directly or indirectly) as confidential, except: (a) as may be reasonably necessary for a Party to carry out its obligations or enforce its rights under this Agreement, (b) or with the prior written consent of the other Party where disclosure is made to any employee, consultant, sub-contractor, professional advisors or agent with an undertaking to comply with such obligations, or (c) as may be required to be disclosed by law, any Government Authority or for tax or accounting purposes.

31.2 Confidential Information

The obligation of confidentiality in accordance with this Clause 31.1 (*Confidentiality Obligation*) will not apply to any confidential information which:

- (a) is, or becomes (other than as a result of an unlawful disclosure by the Party receiving such information) in the public domain;
- (b) the Party receiving such information can demonstrate was already lawfully in its possession at the time of disclosure; or
- (c) is disclosed to the Party receiving such information by a third party without breaching its confidentiality obligations.

31.3 Exceptions

Nothing in this Agreement shall prevent the disclosure of information:

- (a) as required by law to any government or any authority or any other government or regulatory agency having jurisdiction;
- (b) as required by lawful process;
- (c) to the extent required by the applicable rules or regulations of any recognized stock exchange or securities regulatory body;
- (d) where reasonably necessary to effect the purposes of this Agreement;
- (e) to a party's professional advisors, prospective or actual Lenders and prospective or actual purchasers of the Project or its assets in connection with



any sale thereof by the Lenders pursuant to the exercise by the Lenders of their rights and remedies under the Financing Documents.

32. GENERAL

32.1 Notices

- (a) Without affecting service by any other method permitted by law, all notices or other communications in connection with this Agreement shall be given in English and in writing. A notice shall be sent to the address below, marked for the attention of the relevant Person given or to such other address or reference as may be notified from time to time for the purpose of receiving notices under this Agreement.

- (i) To the Authority:

Sierra Leone Ports Authority
Queen Elizabeth II Quay, Cline Town, Freetown, Sierra Leone
Telephone: +232 79 060830
Fax:
Email: abangura2128@gmail.com
Attention: The General Manager

- (ii) To the Government:

Ministry of Transport and Civil Aviation
7th Floor, Youyi Building, Freetown, Sierra Leone
Telephone: +232 76 665740
Fax:
Email: loguskoroma@yahoo.com
Attention: The Minister

- (iii) To the NCP:

National Commission for Privatization
Lotto House, OAU Drive, Tower Hill, Freetown, Sierra Leone
Telephone:
Fax:
Email:
Attention: The Chairman

- (iv) To the Sponsor:

Sky Rock Management Limited
No. 1 Sophia Road, #05-23 Peace Centre, Singapore 228149
Telephone: +232 88 711111
Fax:
Email: sahr.ngegba@gmail.com
Attention: The Executive Director

- (v) To the Concessionaire:



National Port Development (SL) Limited
18 Charlotte Street, Freetown, Sierra Leone
Telephone: +232 88 711111 / 79 438573 / 76 601132
Fax:
Email: davidp@afc.biz
Attention: The Chairman

- (b) Except as otherwise expressly provided in this Agreement, all notices shall be deemed to be delivered:
- (i) if in writing and delivered in Person or by courier, on the date it is delivered by hand;
 - (ii) if sent by fax, on the date when the sender receives written confirmation of such receipt by the recipient; or
 - (iii) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date when the mail is delivered at the recipient's address above.
- (c) Any Party may by notice change its address, telephone or fax number, email or attention to which such notices and communications are to be delivered.

32.2 Costs and Expense

Each Party shall bear its own costs and expenses incurred by it in connection with the negotiation, preparation, printing, execution and delivery of this Agreement.

32.3 Set-off

Any Party may set off any matured obligation due from any other Party under this Agreement (to the extent beneficially owned by such Party) against any matured obligation owed by such Party to such other Party, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, such Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

32.4 No Partnership

Nothing in this Agreement (or any of the arrangements contemplated by it) is or shall be deemed to create any security interest in the Concession Area or constitute a partnership or joint venture or employment relations among the Parties or constitute any Party the agent of any other Party for any purpose.

32.5 Entire Agreement

- (a) Each of the Parties acknowledges that:
- (i) it does not enter into this Agreement on the basis of and does not rely and has not relied upon any statement or representation (whether negligent or innocent) or warranty or other assurance or provision (in any case whether oral, written, express or implied) made or agreed to

by any Person (whether a party to this Agreement or not) except those expressly repeated or referred to in this Agreement and subject to and without prejudice to any Party's rights concerning the Representations and Warranties given by the others, the only remedy or remedies available in respect of any misrepresentation or untrue statement made to a Party shall be a claim for breach of this Agreement under this Agreement; and

- (ii) paragraph (a) above shall not apply to any statement, representation or warranty made fraudulently, or to any provision of this Agreement which was induced by fraud, for which the remedies available shall be all those available under the law governing this Agreement.
- (b) Each Party irrevocably and unconditionally waives any right it may have to claim damages hereunder and to rescind this Agreement because of breach of any representation or warranty not contained in this Agreement.
- (c) This Agreement supersedes any previous written or oral agreement among the Parties in relation to the matters contemplated by this Agreement and constitutes the entire agreement among the Parties relating to the transaction contemplated by this Agreement.

32.6 Variations

No variation of this Agreement shall be valid unless it is in writing and signed by a duly authorized representative for and on behalf of each of the Parties and if required by the laws of Sierra Leone approved by the relevant Government Authorities.

32.7 Severability

If any provision of this Agreement, not being of a fundamental nature, is held to be illegal or unenforceable it shall not affect the validity or enforceability of the remainder of this Agreement.

32.8 Third Party Rights

A Person who is not a Party has no right to enforce or to enjoy the benefit of any term of this Agreement.

32.9 Assignment

- (a) Subject to paragraph (c) below and Clause 7.3 (*Assignment to the Finance Parties*), none of the Parties shall assign, transfer nor otherwise dispose of their respective rights or obligations in this Agreement during the Concession Term without the written approval of any other Party.
- (b) Any or all of the rights and obligations of the Authority may be assigned or otherwise assumed by any one or more statutory corporations or any other public or private organizations which succeed the Authority in performing any of its functions relevant to this Agreement.



32.10 Counterparts

This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement and any Party may enter into this Agreement by executing any counterpart.

33. GOVERNING LAW AND DISPUTE RESOLUTION

33.1 Governing Law

The validity, interpretation and implementation of this Agreement or any matter arising out of it shall be governed by the laws of Sierra Leone.

33.2 Expert Determination

- (a) Any dispute, difference, controversy or claim of any kind which arises or occurs between the parties as to anything or matter arising under, out of or in connection with this Agreement or otherwise in connection with the implementation of the Project shall be determined by an expert (the "**Expert**") if:
 - (i) this Agreement expressly so provides; or
 - (ii) the Parties so agree in writing.
- (b) Either Party may initiate the reference of a dispute described in paragraph (a) above to an Expert by proposing to the other Parties the appointment of an Expert.
- (c) The Expert shall be a port engineer, a container/inter-modal operations manager, a transport economist (specializing in container terminal operations for operating issues) or other Person experienced in the construction or operation of container terminal facilities (as appropriate), except for disputes principally concerning the manner in which an amount, sum or quantity is to be calculated, where the Expert shall be a chartered accountant or financial advisor. In any case, the Expert shall be an individual who holds an internationally recognized qualification in the relevant field.
- (d) The Expert shall be appointed by agreement between the Parties or, if the Parties have not agreed within fourteen (14) days of the date of the request, on the application of any Party, the President of the Institute of Engineers of the Republic of Sierra Leone in the case of technical or non-financial matters or the President of the Institute of Chartered Accountants in the Republic of Sierra Leone in respect of financial matters as appropriate shall appoint an Expert.
- (e) The Expert shall act as an expert and not as an arbitrator. The decision of the Expert shall be final and binding on the Parties and may include orders that one or all of the Parties are to pay his or her reasonable costs, stating the proportion and that one Party is to pay the costs (or a proportion of the costs) of the other Parties and/or compensation for increased costs incurred by a



Party as a result of the reference to the Expert. If any Party does not pay its proportion of the Expert's costs, any other Party may make such payment and such Party shall be entitled to an immediate reimbursement of such amount from the Party in default plus interest.

- (f) The Expert shall have the power to order (and each party agrees to adhere to such an order) each Party to pay from time to time and in equal amounts, sums to settle his reasonable costs to date. This power shall also extend to the reasonable costs of any advisor or other Person referred to in paragraph (j) below. The Expert shall take account of any such sums paid by the Parties when, on making his final decision, the Expert considers what order as to costs he should make pursuant to paragraph (g) below which may result in one Party being ordered to reimburse any other Party amounts so paid by such other Party together with default interest.
- (g) The Parties shall each have the right to make written representations to the Expert with notice and a copy to the other Parties. There shall be no formal hearing. The Expert shall regulate procedure as he sees fit (except that he must give each party a reasonable opportunity to make representations), including, if the Expert chooses, requiring written submissions and/or hearing witnesses in Person. The Expert's powers shall include the power to open up, review and revise any notice and determine all matters in dispute. He shall be instructed to make his determination as soon as possible.
- (h) The Expert may take such advice and assistance from independent professional advisors or other Persons as he considers appropriate to enable him to reach a determination of the dispute.
- (i) Each of the Parties shall upon and in accordance with a request by the Expert supply to the Expert free of charge such information and documents as he shall require for the purposes of the reference to him. That information and those documents shall be kept confidential by him and by the Parties.
- (j) If any dispute referred to an Expert raises issues which, in the reasonable opinion of any Party, are substantially the same as or are connected with issues raised in a related dispute between any of the following Persons (or their successors in title and permitted assignees):
 - (i) the New Port EPC Contractor;
 - (ii) the New Port Operator; or
 - (iii) other sub-contractors of the Concessionaire;

the Parties agree that the related dispute shall be referred to the Expert appointed to determine the dispute under this Agreement and the Concessionaire shall procure that it has the power in its contracts with the Persons described above to procure the related dispute is dealt with in that manner.



33.3 Jurisdiction of English Courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to its existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement, a "**Dispute**").
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

33.4 Service of Process

- (a) Without prejudice to any other mode of service allowed under any relevant law, each Party:
 - (i) irrevocably appoints [name to be provided] as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement; and
 - (ii) agrees that failure by a process agent to notify the relevant Party of the process will not invalidate the proceedings concerned.
- (b) If any Person appointed as an agent for service of process is unable for any reason to act as agent of any Party for service of process, such Party must immediately (and in any event within thirty (30) days of such event taking place) appoint another agent. Failing this, the other Parties may jointly appoint another agent for this purpose.

34. WAIVER OF IMMUNITY

To the extent that any Government Party has or hereafter may acquire any immunity (sovereign or otherwise) in respect of their respective obligations under this Agreement from jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property,

- (a) each Government Party hereby agrees that, should any proceedings be brought or any expert determination be sought against it or its assets other than assets protected by the diplomatic and consular privileges in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity from such proceedings shall be claimed by or on behalf of itself or with respect to its assets;
- (b) each Government Party hereby irrevocably waives any requirement under the State Proceedings Act, 2000 of Sierra Leone for a claimant under this Agreement to give prior notice before bringing a claim against it;
- (c) each Government Party consents generally in respect of the enforcement of any expert determination or arbitral award (whether by judgment or otherwise) against it in any such proceedings in any jurisdiction and to the

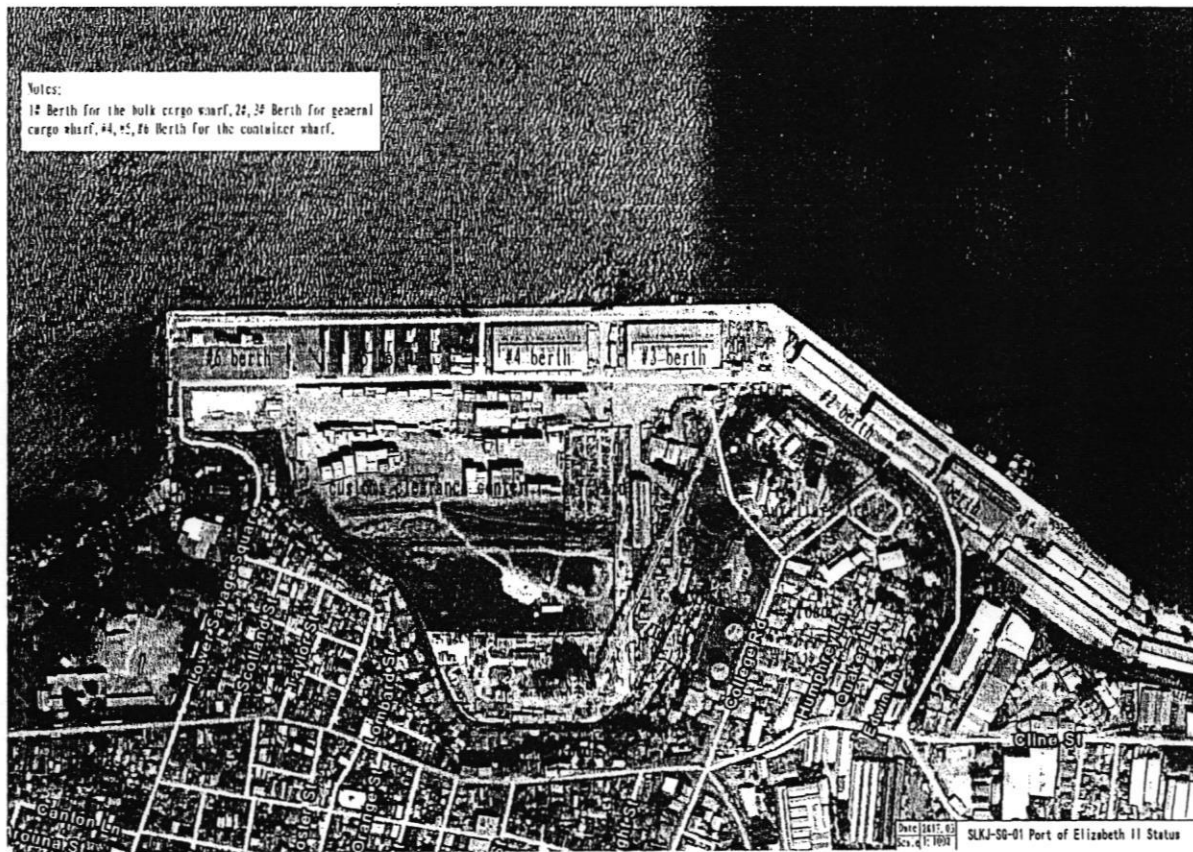


giving of any relief or the issue of any process in connection with such determination or proceedings (including the making, enforcement or execution against or in respect of any property whatsoever irrespective of its use or intended use;

- (d) each Government Party consents generally to the jurisdiction, with respect to itself and any and all of its assets and property that it now has or may hereafter acquire, of any court of competent jurisdiction for any action filed by any other Party to enforce any decision made;
- (e) each Government Party irrevocably waives any objection that it may now or hereafter have to the venue of any action or proceeding brought as consented to in this Agreement and specifically waives any objection that any such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same;
- (f) each Government Party agrees that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court, or in the manner permitted under this Agreement; and
- (g) each Government Party waives any and all rights it may have to enforce any expert determination, judgment or claim in the courts of any jurisdiction.



APPENDIX I. PLAN OF THE EXISTING PORT



GENERAL LAYOUT

Scale: 1:100

Notes:

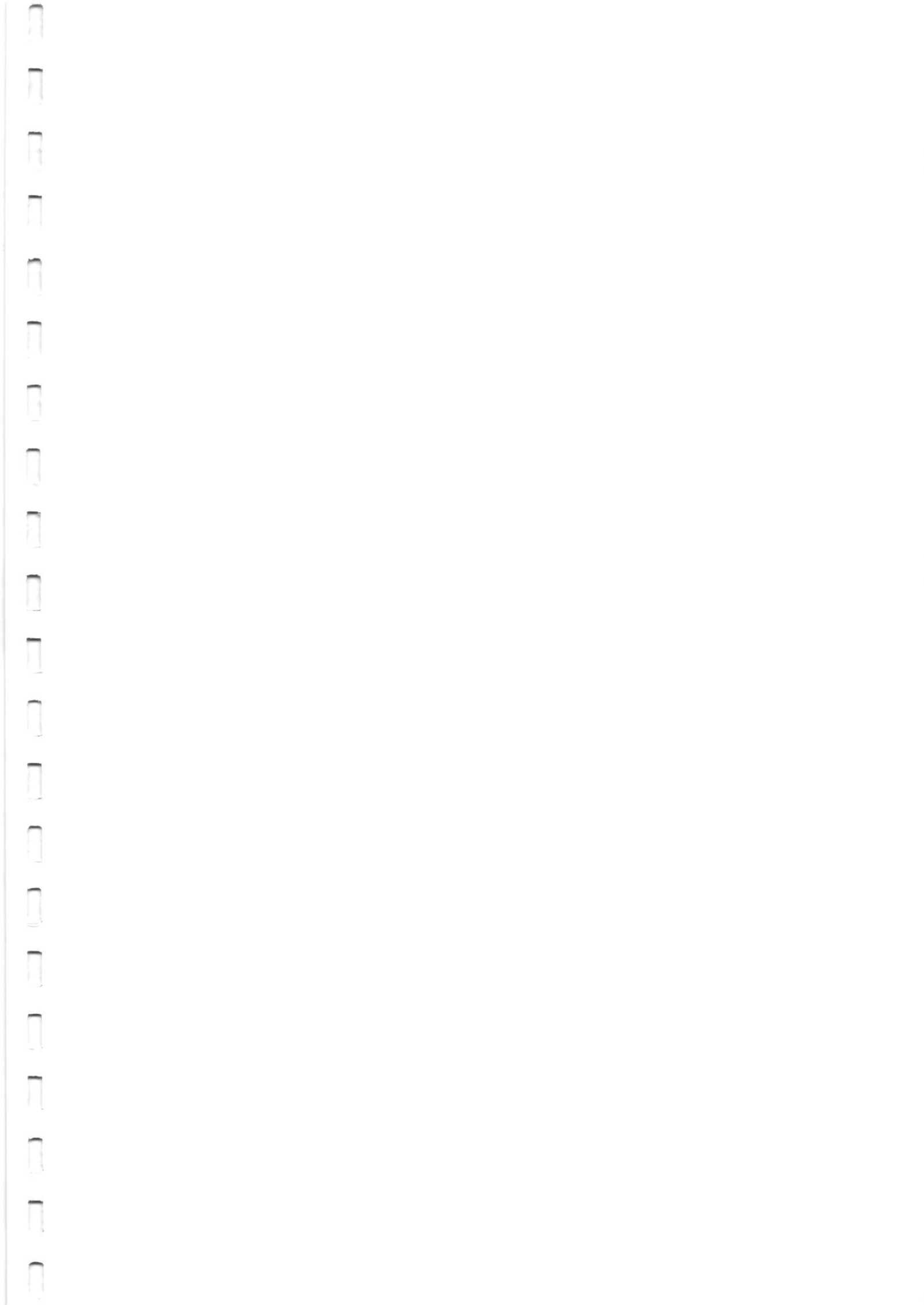
1. The overall length is 100.00 m.
2. The overall width is 10.00 m.
3. The overall height is 10.00 m.
4. The overall weight is 100000 kg.
5. The overall volume is 100000 m³.
6. The overall area is 10000 m².
7. The overall perimeter is 1000 m.
8. The overall surface area is 10000 m².
9. The overall volume is 100000 m³.
10. The overall weight is 100000 kg.

APPENDIX III. CONDITIONS PRECEDENT

In this Appendix, a certified copy means a document certified by either a director or the company secretary of each Developer Party as being a true and complete copy of the document which is and shall remain in full force and effect up to and including the Effective Date.

Conditions Precedent to be fulfilled by the Developer Parties:

- A. Delivery by the Concessionaire, in form and substance satisfactory to the Authority (acting reasonably), of the following documents:
1. a duly certified copy of the Concessionaire's certificate of incorporation;
 2. a duly certified copy of the Memorandum and Articles of Association of the Concessionaire;
 3. a duly certified copy of the share certificates of the Concessionaire;
 4. a resolution of the board of directors of the Concessionaire approving the execution, delivery and performance by the Concessionaire of the Concession Agreement and authorizing a specified Person or Persons to sign Concession Agreement on behalf of the Concessionaire and authorizing a specified Person or Persons to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to the Concessionaire under the Concession Agreement;
 5. a specimen of the signature of each Person authorized by the Concessionaire to sign the Concession Agreement and to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to the Concessionaire under the Concession Agreement;
 6. evidence that the Concessionaire London Account has been opened;
 7. a duly certified copy of the Sponsor's certificate of incorporation;
 8. a duly certified copy of the Memorandum and Articles of Association of the Sponsor;
 9. a resolution of the board of directors of the Sponsor approving the execution, delivery and performance by the Sponsor of the Concession Agreement and authorizing a specified Person or Persons to sign Concession Agreement on behalf of the Sponsor and authorizing a specified Person or Persons to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to the Sponsor under the Concession Agreement; and
 10. a specimen of the signature of each Person authorized by the Sponsor to sign the Concession Agreement and to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to the Sponsor under the Concession Agreement.



- B. Delivery by each Developer Party to the Authority, in form and substance satisfactory to the Authority (acting reasonably), a certificate dated on the Effective Date and signed by a duly authorised officer of such Developer Party, confirming the following:
1. the representations and warranties of the Concessionaire are true and correct in all material respects; and
 2. such Developer Party has duly performed and complied with in all material respects all covenants contained in the Concession Agreement as required to be performed or complied by it on or before the Effective Date.

Conditions Precedent to be fulfilled by the Government Parties:

- C. Delivery by the Government Parties to the Concessionaire in form and substance satisfactory to the Concessionaire (acting reasonably), of the following documents:
1. A written approval from the parliament of Sierra Leone in connection with the Concession Agreement and the transactions contemplated by the Concession Agreement;
 2. A resolution of the competent body of each of the Government Parties approving the execution, delivery and performance by such Government Party of the Concession Agreement and authorizing a specified Person to sign Concession Agreement on behalf of such Government Party and authorizing a specified Person or Persons to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to such Government Party under the Concession Agreement;
 3. A specimen of the signature of each Person authorized by each Government Party to sign the Concession Agreement and to sign and dispatch or to receive all notices and other communications required or permitted to be given by or to such Government Party under the Concession Agreement; and
 4. Promulgation of the Existing Port Development Levy Fee Act and the New Port Development Levy Fee Act.
- D. A legal opinion from the Attorney General and Minister of Justice for the Government] in a form and substance reasonably satisfactory to the Concessionaire with respect to (insofar as concerns the Authority) the due authority, valid existence, execution, delivery and performance of the Concession Agreement and confirming that all necessary Governmental approvals to enable each Government Party to enter into such agreements have been secured.
- E. Delivery by each Government Party to the Concessionaire, in form and substance satisfactory to the Concessionaire (acting reasonably), a certificate dated on the Effective Date and signed by a duly authorised officer of the Authority, confirming the following:
1. the representations and warranties of each Government Party are true and correct in all material respects; and
 2. each Government Party has duly performed and complied with in all material respects all covenants contained in the Concession Agreement as required to be performed or complied by it on or before the Effective Date.

APPENDIX IV. LIST OF ORIGINAL EXISTING PORT OPERATORS

1. Bollore
2. Nectar
3. Global Tracking & Maritime Solutions Holdings
4. Africa Link
5. Holland Ship Yard

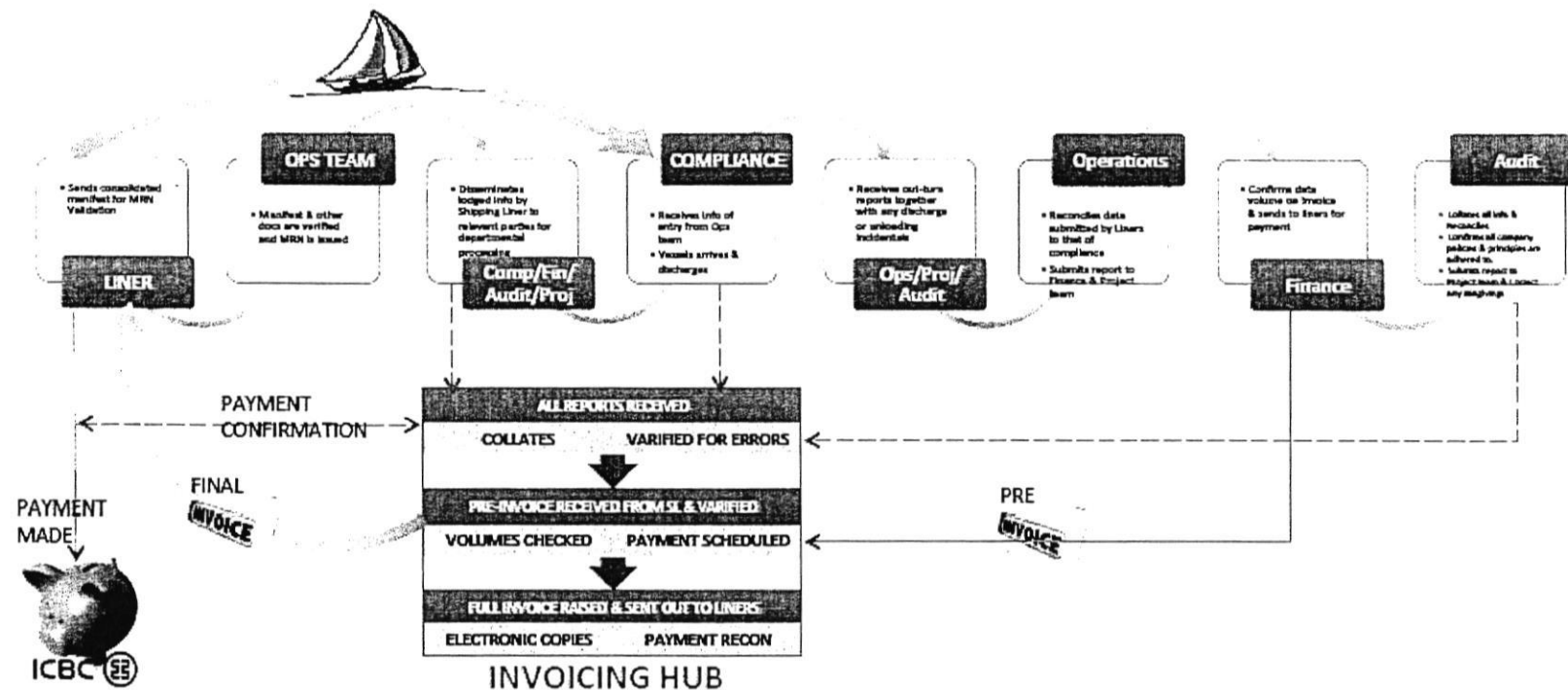
APPENDIX V. LIST OF IDENTIFIED APPROVALS

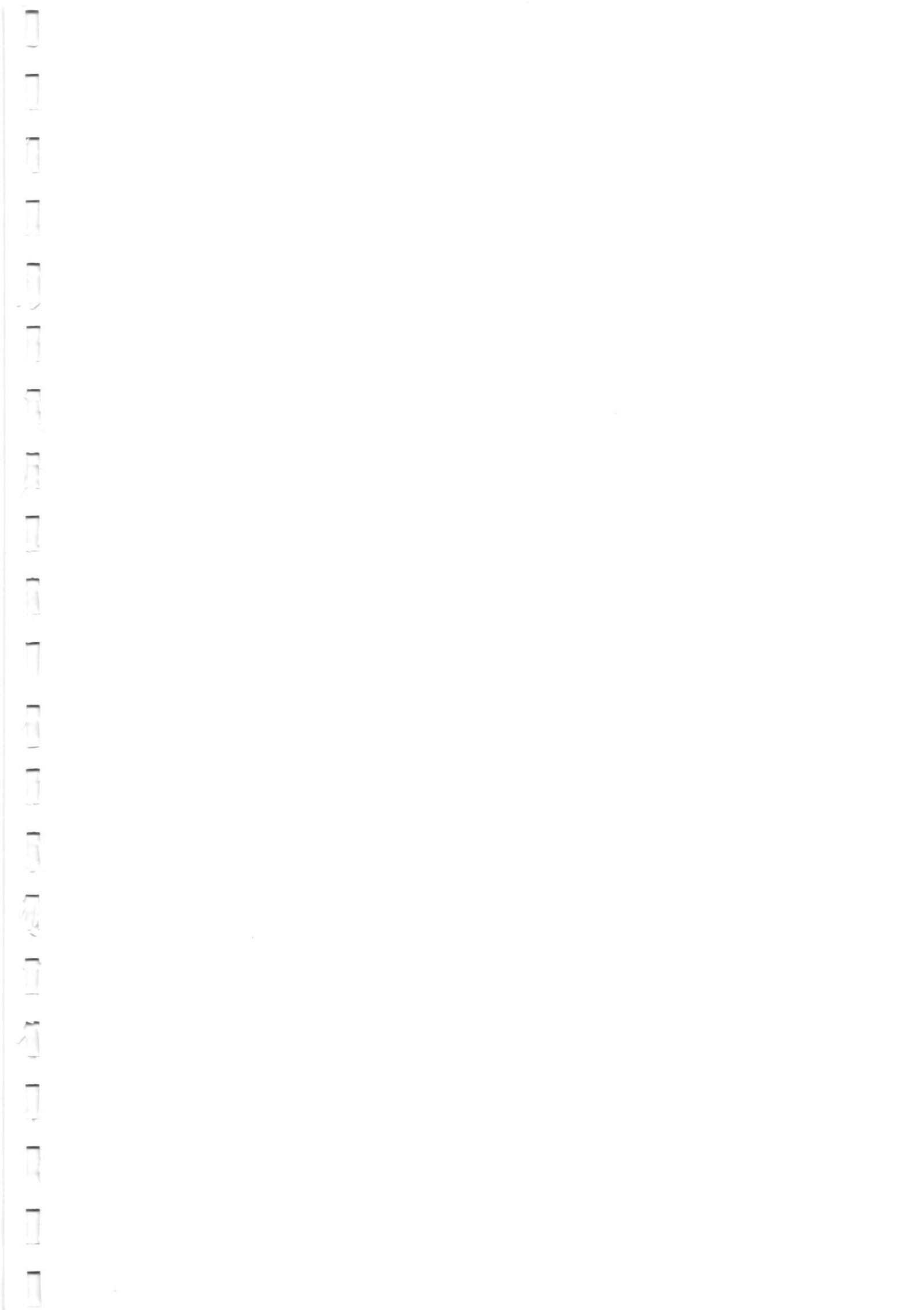
- **Development Application**
 - Statement of Environmental Impact Assessment
 - Engineer's Certificates
 - Site plans, elevations
 - Construction details
 - Relevant studies
 - Land Owner's Consent
 - Site inspection certification
- **Ministry of Works, Transport and Lands Approvals**
 - Application assessed against Ports and other relevant legislation.
 - Referral to other government agencies if required.
- **Approvals for:**
 - Designated Development
 - Integrated Development
 - Government Significant
- **Recommendation by Department of Planning and/or Planning Assessment Commission.**
- **Complying Development Certificate**
- **Predetermined conditions as per SLPA Ports**
- **Construction commence certificate**
- **Critical Stage inspections certificate**
- **Complying Development Certificate, Development Consent and other relevant documentation (Works-as-Executed drawings, Environmental Management Plan) provided to SLPA Port.**
- **All Duty and Tax exemption certification for the construction stage**
- **Common-use area certification**

APPENDIX VI. FUNCTIONAL REQUIREMENTS

NATIONAL PORT DEVELOPMENT LIMITED PORT DEVELOPMENT LEVY FEE (PLF)

Invoicing Process flow for PLF





APPENDIX VII. EXISTING PORT DEVELOPMENT LEVY FEE RATES

Table 1: Import

Item	Existing Port Development Levy Fee (USD)
Containers	\$230.00 per TEU
Roro< 5	\$110.00 per Unit
Roro> 5	\$220.00 per Unit
Bulk Pack (Ton)	\$1.50 → min \$400.00

Table 2: Export

Item	Existing Port Development Levy Fee (USD)
Containers	\$200.00 per TEU
Roro< 5	\$100.00 per Unit
Roro> 5	\$200.00 per Unit
Bulk Pack (Ton)	\$1.00 → min \$250.00
Bulk Rutile (Ton)	\$1.50 → min \$250.00

Roro=Roll-on Roll-off Vessels

APPENDIX VIII. LICENSE FEE

Operating Year	License Fee (US\$)
1	0
2	0
3	0
4	0
5	500,000
6	550,000
7	605,000
8	665,500
9	732,050
10	805,255
11	885,781
12	974,359
13	1,071,794
14	1,178,974
15	1,296,871
16	1,426,558
17	1,569,214
18	1,726,136
19	1,898,749
Thereafter	0



APPENDIX IX. COMMISSIONING TESTS

GENERAL COMMISSIONING REQUIREMENTS

Construction of berths as per Queen Elizabeth II Port Extension Project

PART 1 - GENERAL

1.1 DESCRIPTION

A. Commissioning is the systematic process of ensuring all site and building components, equipment, systems, and interfaces among systems perform in accordance with the design intent and the contract documents. The commissioning process encompasses and supplements the traditionally separate functions of system, equipment, and component installation, checkout, startup, calibration, operational testing, adjustment and balancing, functional performance testing, development of O&M manuals, development of system manuals, development of as-constructed drawings, operation and maintenance training, final acceptance testing, and deferred functional performance and seasonal testing.

B. Objectives of Commissioning:

1. Ensure applicable equipment, systems, and components are properly installed and adequately checked out according to the manufacturer's recommendations, industry accepted standards, and the contract documents, prior to startup.

2. Ensure applicable equipment, systems, and components are started up, calibrated, operationally tested (statically and dynamically), adjusted and balanced, and functionally tested per the contract documents, prior to initiating operation and maintenance training and final acceptance testing.

3. Ensure operation and maintenance manuals, system manuals, as-constructed drawings, and other required documentation are developed, updated, and submitted in accordance with the design intent and the contract documents.

4. Ensure Port operation and maintenance personnel are adequately trained prior to substantial completion of the work to provide routine operation and maintenance.

C. Responsibility for Commissioning: The Contractor is responsible for the commissioning process and shall plan, execute, and document the commissioning work specified herein.

D. Systems to be Commissioned: In general, systems, equipment and components, and interfaces among systems specified in the following divisions shall be commissioned:

1. Division 8 – Openings
2. Division 11 – Equipment
3. Division 12 – Furnishings

4. Division 13 – Special Construction
5. Division 14 – Conveying Equipment
6. Division 21 – Fire Suppression
7. Division 22 – Plumbing
8. Division 23 – Heating, Ventilating, and Air-Conditioning (HVAC)
9. Division 26 – Electrical
10. Division 27 – Communications
11. Division 28 – Electronic Safety and Security
12. Division 32 – Exterior Improvements
13. Division 33 – Utilities

E. Responsibilities for Commissioning of Port-Furnished Equipment:

1. The Contractor shall manage, coordinate, and oversee all commissioning activities related to the startup and testing of all Port-furnished, Contractor-installed equipment including the following:

1.2 RELATED WORK SPECIFIED ELSEWHERE

A. Coordinate commissioning work with requirements called out in all of the sections of the contract documents.

1.3 COMMISSIONING MANAGEMENT

A. To ensure commissioning objectives are met, the Contractor shall employ the services of one or more commissioning managers, as appropriate, to oversee and guide commissioning activities.

1. Should the Contractor choose to subcontract commissioning activities to a commissioning specialist, the following businesses are pre-approved as commissioning management firms:

- a. Institute of Engineering
- b. Or pre-bid approved equal.

B. Commissioning managers shall have current and demonstrated knowledge of the following systems, equipment, and components:

1. Site Construction:



- a. Water systems.
- b. Storm and sanitary sewer systems.
- c. Automated gates.
- 2. Doors and Windows:
 - a. Coiling doors and grilles.
 - b. Automated entrance door and revolving vestibules.
- 3. Equipment:
 - a. Sterilizers.
 - b. Fueling system and related equipment.
 - c. Cathodic protection system.
 - d. Static ground system.
 - e. Loading dock equipment.
 - f. Sewage lift station.
- 4. Furnishings:
 - a. Motorized blinds and shades.
- 5. Conveying Systems:
 - a. Hydraulic and electric elevators.
 - b. Escalators.
 - c. Moving walks.
 - d. Baggage conveyor systems.
- 6. Mechanical:
 - a. Piping systems (high pressure steam, low pressure steam, heating hot water, pumped condensate, chilled water, condenser water, domestic hot and cold water, non-potable water, pumped sewage, grease waste, fire protection, natural gas, and refrigeration).
 - b. Piping specialties.
 - c. Valves.
 - d. Expansion compensation.
 - e. Gauges.



- f. Pumps.
- g. Seismic restraints.
- h. Noise, vibration, and seismic control.
- i. Fire protection.
- j. Plumbing equipment.
- k. Water treatment.
- l. Hot water boilers and steam generators.
- m. Steam and condensate specialties.
- n. Heat transfer and heat exchangers.
- o. Water chillers.
- p. Packaged air conditioners and computer room air conditioners.
- q. Air handling units.
- r. Fans.
- s. Air cleaning equipment.
- t. Ductwork and accessories.
- u. Air terminal units.
- v. Air outlets and inlets.
- w. Variable speed controllers.
- x. Energy management and control systems.
- 7. Electrical:
 - a. Power and emergency power wirings and cables.
 - b. Emergency generators.
 - c. Unit substations.
 - d. Switchgear and circuit breakers.
 - e. Medium voltage interrupter switches.
 - f. Secondary distribution system.
 - g. Grounding, ground fault, and service grounding.

- h. Transformers.
- i. Bus ducts.
- j. Panelboards and switchboards.
- k. Motor controls, motor control centers, and motor starters.
- l. Berth and dock yard lighting and signing.
- m. Building lighting.
- n. Lighting control system.
- o. Uninterruptible power supply system.
- p. Fire alarm system.
- q. Security access system.
- r. Telephone and data communication systems.
- s. Public paging and address systems.
- t. Audio/video surveillance systems.
- u. Microprocessor power monitoring and metering equipment.
- C. Commissioning managers' qualifications shall include:
 - 1. At least 7 years total experience in system, equipment, and component commissioning.
 - 2. Acted as a principal commissioning agent on at least three projects of similar complexity and size as this project.
 - 3. A bachelor's degree in mechanical or electrical engineering, as appropriate, and registration as a professional engineer in their country of origin.
 - 4. Experience in preparation of commissioning plans, schedules, checklists, test procedures, training plans, operation and maintenance manuals, system manuals, and record drawings.
 - 5. Experience in system, equipment, and component checkout, startup, calibration, operational (static and dynamic) testing, adjustment and balancing, and final acceptance testing.
 - 6. Demonstrated working knowledge of complex fire alarm, electric power control, and facility management systems; ability to understand control system manufacturer's operating system and control code; ability to troubleshoot control code and recommend necessary modifications.
 - 7. Excellent communication and writing skills; highly organized work habits.

1.4 SUBMITTALS

A. Commissioning Managers:

1. Submit resumes and qualifications briefs, including:
 - a. Name, address, phone, and facsimile numbers.
 - b. Current title and job description.
 - c. History of employment with present and past firms for the past 7 years.
 - d. Relevant work experience. Provide position name and description of responsibilities, including name and current telephone number of immediate supervisor or reporting entity.
 - e. Description of candidate's experience as a principal commissioning agent on at least three projects of similar complexity and size within the past 7 years.
 - f. Current and demonstrated knowledge of systems, equipment, and components. List systems, equipment, and components, and related skills and capabilities.
 - g. Education and technical training. List relevant degrees, certifications, and professional affiliations.
 - h. Reference names and phone numbers of former clients.

B. Commissioning Plan:

1. Submit a commissioning plan for approval within 60 days following Notice to Proceed.
2. The commissioning plan shall include, but not be limited to:
 - a. Details of the commissioning scope.
 - b. Commissioning team contact information.
 - c. Commissioning team task matrix, identifying roles and responsibilities of each team member.
 - d. Communication and reporting protocols.
 - e. Commissioning process overview.
 - f. Template showing the format of the issues log.
 - g. Templates showing the format for each type of test report (i.e., pre-operational, operational, functional, and final acceptance).
 - h. Listing of each system or subsystem to be commissioned as described in the project commissioning progress and turnover report section. The detailed individual test reports for the pre-operational tests, startup and operational tests, functional tests, and final acceptance tests shall be submitted when specified in those sections.

i. Listing of systems for which operation and maintenance training will be provided.

C. Commissioning Schedule:

1. Submit a detailed commissioning schedule within 60 days following Notice to Proceed.

2. Submit weekly, rolling three-week look-ahead schedules once installation is complete and pre-operation checkout and startup begins.

3. Include commissioning in the overall construction schedule.

4. For each item to be commissioned, include the following information:

a. Tag number, name, and subcontractor or vendor.

b. Task duration and schedule completion dates for the following activities:

1) Installation of systems, equipment, and components.

2) Pre-operational checkout.

3) Startup and operational (static and dynamic) testing.

4) Testing, adjustment, and balancing (TAB).

5) Functional performance testing.

6) Operation and maintenance training.

7) Final acceptance testing.

8) Deferred functional performance testing.

D. Issues Log:

1. An issues log shall be maintained to keep an ongoing record of the issues identified during the commissioning process that require or did require correction. For each entry, the log shall include:

a. Identification information including a unique ID number, date, identifying party, and description of the system equipment or component affected.

b. Description of the issue, including cause.

c. Implications of the issue, recommendations for correction and assignment of responsibility for correction.

d. An issue closure date.

e. The name of the party verifying the correction.

2. Submit weekly updates once commissioning begins.



E. Project Commissioning Progress and Turnover Status Report:

1. Generate and submit a weekly project commissioning progress report once pre-operational checkout and startup begins. Provide updated reports at scheduled construction progress review meetings.
2. Project commissioning progress reports shall be a spreadsheet type report that contains the following information:
 - a. Item-by-item inventory of systems, equipment, and components to be commissioned, organized by specification section and paragraph number.
 - b. For each system or equipment item include equipment tag number, building/location, maintenance representative, and subcontractor or vendor responsible for commissioning of item.
 - c. For each system or equipment being commissioned, include fields for recording status and completion date of the following:
 - 1) Installation complete.
 - 2) Pre-operational checkout plan and checklists complete.
 - 3) Pre-operational checkout complete.
 - 4) Startup and operational (static and dynamic) test plan procedures and checklists complete.
 - 5) Startup and operational (static and dynamic) tests complete.
 - 6) Testing, adjustment, and balancing plan complete.
 - 7) Testing, adjustment, and balancing complete.
 - 8) Functional test plan and procedures complete.
 - 9) Functional tests complete.
 - 10) Interim TAB report, interim operation and maintenance manuals, interim system manual, and training plan complete.
 - 11) Operation and maintenance training complete.
 - 12) Final acceptance test plan and procedures complete.
 - 13) Final acceptance tests complete.
 - 14) As-constructed drawings, as-constructed data file, operation and maintenance manuals, system manual, and TAB report complete.
 - 15) Space for recording remarks or exceptions, attendees, and minimum 3-week look-ahead schedule.



F. Test Plans, Procedures, and Checklists:

1. Submit pre-operational, startup, operational, functional, and final acceptance test plans, procedures, and checklists no less than 30 days prior to initiating commissioning of systems, equipment, and components.

2. Pre-Operational Test Plans, Procedures, and Checklists:

a. Pre-operational checklists shall include details for pre-operational checkout of each system, piece of equipment, assembly, or component.

b. Checklists shall include static inspections and procedures required to prepare systems, equipment, and components for startup. They shall combine or otherwise augment manufacturer's recommended installation and field checkout instructions.

3. Startup and Operational (Static and Dynamic) Test Plans, Procedures, and Checklists:

a. Startup and operational testing shall include details for startup and operational (static and dynamic) testing of each system, piece of equipment, assembly, or component.

b. Startup and operational (static and dynamic) test plans shall include detailed startup and checkout procedures and checklists. They shall combine or otherwise augment manufacturers' recommended startup, checkout, and field testing instructions.

4. Functional Performance Test Plans, Procedures, and Checklists:

a. Functional performance test plans shall include details for verifying that specific components, assemblies, systems, and interfaces among systems function and perform in accordance with the design intent and the contract documents.

b. Functional performance test plans shall include detailed procedures and checklists for testing the function of systems, equipment and components, and interactions between equipment and systems. Plans shall also include identification of participants involved and their responsibility, duration of each test, special conditions of tests, phasing considerations, major prerequisites, and planned testing dates.

c. Functional performance test plans shall include detailed checklists of functional test requirements specifying what modes and functions shall be tested.

d. Functional performance test procedures shall include written, repeatable, step-by-step processes which must be executed to fulfill test requirements, including test prerequisites, test processes, expected outcomes, and acceptance criteria.

e. Submit completed, signed, and dated pre-operational, startup, operational and functional performance checklists and test reports, and obtain approval to proceed prior to initiating final acceptance testing of system, equipment, assemblies, and components.

5. Final Acceptance Test Plans, Procedures, and Checklists:

a. Final acceptance test plans shall include details for demonstrating that specific components, assemblies, systems, and interfaces among systems and equipment function and perform in accordance with the design intent and the contract documents.

- b. Final acceptance test plans shall be the final versions of the detailed procedures and checklists specified for the functional performance tests above.
- c. Submit completed, signed, and dated final acceptance test reports and checklists prior to substantial completion.

PART 2 - PRODUCTS

2.1 TEST EQUIPMENT

- A. All testing and data logging equipment required to perform installation, checkout, startup, operational (static and dynamic) testing, functional performance testing, and final acceptance testing shall be provided by the Contractor.
- B. Special test equipment, tools, and instruments specific to a piece of equipment but only available from the vendor, shall be provided by the Contractor.
- C. Data logging equipment and software required to test systems, equipment and components, and interfaces among systems shall be provided by the Contractor.
- D. Test equipment and instrumentation shall be calibrated in accordance with the following frequency:
 - 1. Field Instruments: Analog, 6 months maximum; Digital, 12 months maximum.
 - 2. Laboratory Instruments: 12 months.
 - 3. Leased Specialty Equipment: 12 months where accuracy is guaranteed by lessor.
- E. All testing equipment shall be of sufficient quality and accuracy to test and/or measure system equipment and component performance within the tolerances specified in the technical specifications and on the drawings. If not otherwise given, the following minimum requirements shall apply:
 - 1. Temperature sensors and digital thermometers shall have a certified calibration within the past year to an accuracy of 0.5°F and a resolution of $\pm 0.1^\circ\text{F}$.
 - 2. Pressure sensors shall have an accuracy of ± 2.0 percent of the value range being measured (not full range of meter) and have been calibrated within the last year.
 - 3. All equipment shall be calibrated according to the manufacturer's recommended intervals and recalibrated when dropped or damaged.
 - 4. Calibration tags shall be affixed and dated or certificates made readily available.

PART 3 - EXECUTION

3.1 MEETINGS

- A. Scoping Meeting: Within 30 days of Notice to Proceed, the Contractor shall schedule, plan, and conduct a commissioning scoping meeting with the Port. During this meeting, the overall scope and process of the commissioning effort shall be reviewed, issues

and suggestions from all parties given, management and reporting protocols finalized, and the project schedule discussed. From information gathered in this meeting, the Contractor, with the guidance of the commissioning manager(s), shall prepare and submit the commissioning plan and schedules. The Contractor shall distribute meeting minutes to all parties.

B. Commissioning Kick-Off Meeting: Within 60 days prior to initiation of pre-operational checkout and startup of systems, equipment, and components, the Contractor shall schedule, plan, and conduct a commissioning kick-off meeting with the entire commissioning team in attendance, including the mechanical, electrical, test, adjusting and balancing, and other appropriate subcontractors and the Port in attendance. One week prior to this meeting the Contractor shall distribute the Port-approved overall commissioning plan and schedule to all members for their review. The overall commissioning plan, process, and general responsibilities of each team member, reporting and communication protocols, and next steps shall be discussed. The Contractor shall distribute meeting minutes to all parties.

C. Commissioning Meetings: Once commissioning begins, weekly job site commissioning meetings shall be planned and conducted by the Contractor. These meeting may become part of the weekly construction meetings. These meetings shall cover coordination issue resolution and planning issues, and shall include appropriate commissioning managers and the Port. The Contractor shall distribute meeting minutes to all parties.

3.2 INITIAL CHECKOUT, STARTUP, AND CONSTRUCTION CHECKLISTS

A. Static Elements: For static systems or assemblies with no startup or testing requirements, the Contractor may utilize simplified construction checklists to confirm installation meets design intent and contract requirements.

B. Dynamic Elements: For dynamic systems, equipment, and components, the Contractor shall develop detailed installation, checkout, and startup plans, and shall ensure that there is written documentation that each of the manufacturer-recommended procedures have been completed and the systems, equipment, and components are ready for operational and functional testing.

1. The initial checkout and startup plan shall include, but not be limited to:
 - a. The manufacturer's installation instructions.
 - b. The manufacturer's or vendor's field checkout and startup sheets (if available).
 - c. The construction checklists, as specified below.
 - d. Other field quality control requirements listed in the specifications.
 - e. Phasing and sequencing of startup for applicable components, equipment, and systems.
2. Installation instructions may consist of the manufacturer's detailed installation instructions copied from installation operation and maintenance manuals shipped with the equipment.



3. Pre-operational checkout and startup sheets may consist of the manufacturer's field checkout and startup sheets normally used by the manufacturer for startup.

4. Construction Checklists:

a. The construction checklists shall contain requirements for calibration and point-to-point checkout of building automation and process instrumentation and controls.

b. The Contractor shall determine which trade is responsible for executing and documenting each of the line item tasks in the construction checklists and note required trade on the checklist form.

c. Calibrations: The Contractor shall calibrate all field-installed analog sensors and gauges, and all actuators (dampers and valves) on all equipment. One-point calibrations are sufficient within the normal expected range of operation of the sensor using a calibrated test instrument, unless explicitly listed otherwise in the specifications. Sensors installed in the unit at the factory with calibration certification provided need not be field calibrated.

d. Point-to-Point Checkout: The Contractor shall conduct point-to-point checkout of each control or monitoring point tied to a central control or monitoring system. Each point shall be verified to be commanding, reporting, and controlling according to its intended purpose. Points within and controlled by packaged equipment controllers do not require a point-to-point checkout except for actuator positions or other points listed in the specifications or manufacturer's startup and checkout procedures.

5. For complex systems or assemblies, the Contractor shall develop a custom narrative description of the proposed startup or concealment process taking into account interactions and impacts on other systems, construction coordination and scheduling, indoor air quality, system cleanliness, equipment warranty, etc.

C. Execution of Construction Checklists and Startup:

1. Each piece of equipment or assembly being commissioned shall receive full construction checkout by the Contractor following the approved plan and forms.

2. For dynamic mechanical or electrical equipment, the Contractor shall complete the checkout procedures in the plan prior to starting equipment.

3. The Contractor shall notify the Port at least 5 days in advance of any equipment startup.

4. The Contractor shall have a commissioning manager observe installation checkout and startup of selected systems and assemblies.

5. The Contractor and the manufacturer's representatives shall execute startup, and shall maintain a signed and dated copy of the completed construction checklists and installation and startup documentation. The Contractor shall clearly note any items that have not been completed and the plan for their completion.

6. The construction checklist and other procedures from the checkout and startup plan for a given system or assembly shall be successfully completed prior to operational and functional testing of the systems and equipment.



7. The Contractor shall correct all areas that are deficient or incomplete prior to initiating operational and functional performance testing.

3.3 OPERATIONAL AND FUNCTIONAL TESTING

A. The Contractor shall have a commissioning manager oversee, witness, and ensure testing is completed in accordance with the design intent and the contract documents. The Contractor shall execute all tests and shall document the results.

B. Testing Requirements: The specific operational and functional testing requirements for all systems are found in the technical sections.

C. Objectives and Scope:

1. The objective of operational testing is to verify each component, assembly, equipment item, subsystem, and system is complete and ready for use and performing in accordance with the design intent and the contract documents, prior to initiating functional testing.

2. For dynamic systems, operational testing shall facilitate bringing the systems from a state of initial startup to full dynamic operation. For static elements, operational testing shall verify the performance of the assembly in its installed state under conditions specified in the testing requirements. During the testing process, areas of deficient performance shall be identified and corrected.

3. The objective of functional performance testing is to verify systems, equipment, and components function and perform interactively in accordance with the design intent and the written sequences and modes specified in the contract documents, prior to initiating operation and maintenance training and final acceptance testing.

4. In general, functional testing shall include testing each sequence of operations specified in the contract documents, and other significant modes, sequences, and control strategies not mentioned in the written sequences, including, but not limited to startup, shutdown, unoccupied and manual modes, modulation up and down the unit's range of capacity, power failure, alarms, component staging and backup upon failure, interlocks with other equipment, and sensor and actuator calibrations. All interlocks and interactions between systems and equipment shall be tested. All larger equipment shall be individually tested. Like units or assemblies that are numerous (many smaller rooftop packaged units, air terminal units, exhaust fans, etc.) may have an appropriate sampling strategy applied.

D. Operation and Functional Performance Test Methods:

1. Operation and functional testing and verification for most dynamic systems, equipment, components, hardware, and software shall be achieved by an appropriate combination of manual testing (persons manipulate the equipment and observe its function visually or via test instrument readings) or by monitoring the performance and analyzing the results using the control system's trend log capabilities or by stand-alone data loggers.

2. Simulated Conditions: Simulating conditions by overwriting a value shall be allowed, though timing the testing so equipment experiences actual conditions is encouraged wherever practical.



3. Simulated Signals: Using a signal generator which creates a simulated signal to test and calibrate transducers and DDC constants is generally recommended over using the sensor to act as the signal generator via simulated conditions or overwritten values.

4. Altering Set points: Rather than overwriting sensor values, and when simulating conditions is difficult, altering set points to test a sequence is acceptable.

5. Indirect Indicators: Relying on indirect indicators (building control system readouts or trends) for responses or performance shall be allowed only after visually and directly verifying and documenting, over the range of the tested parameters, that the indirect readings represent actual conditions and responses.

6. Setup: Each function and test shall be performed under conditions that simulate actual conditions as close as is practically possible. The Contractor shall provide all necessary materials, system modifications, etc., to produce the necessary flows, pressures, temperatures, etc., necessary to execute the test according to the specified conditions. At completion of the test, the Contractor shall return all building equipment and systems affected by these temporary modifications to their pre-test condition.

7. Sampling: Multiple identical pieces of non-life-safety or otherwise non-critical equipment may be functionally tested using a sampling strategy. Significant differences in application and sequence of operation in otherwise identical equipment invalidates their common identity. A small size or capacity difference, alone, does not constitute a difference. No sampling by the Contractor is allowed in construction checklist execution.

8. Testing Order: In general, functional testing shall be conducted only after construction check-listing, startup, and operational testing have been satisfactorily completed. The control system shall be sufficiently tested and confirmed to be operating as intended before it is used for testing, adjusting, and balancing or to verify performance of other components or systems. Air balancing and water balancing shall be completed before functional testing of air-related or water-related equipment or systems. Testing generally shall proceed from components to subsystems to systems. When the proper performance of all interacting individual systems has been achieved, the interface or coordinated responses between systems shall be verified.

9. Trend Logs and Monitoring: Data loggers and trend logs required to support commissioning shall be set up and executed by the Contractor.

10. Testing and Project Schedule: Every effort shall be made to expedite the testing process and minimize unnecessary delays, without compromising the integrity of the procedures.

3.4 NON-CONFORMANCE ISSUES AND FINAL APPROVAL OF FUNCTIONAL PERFORMANCE TESTS

A. Non-Conformance:

1. The Contractor shall record the results of the operational and functional tests on the appropriate procedure or test form. All deficiencies or non-conformance issues shall be recorded on a master issues log and reported directly to the Port within 3 days of occurrence or sooner when scheduling and coordination require it. The Port and the Contractor, in

consultation with the commissioning manager, shall determine the responsible party and a suitable plan for resolution.

2. The issues log shall be updated when the issue has been resolved.

3. Any required retesting by the Contractor shall not be considered a justified reason for a claim of delay or for a time extension by the Contractor.

B. Final Approval of Functional Tests: Final approval of an entire test shall not be given until there are no outstanding issues for the system, equipment, or assembly in the issues log, and all related operation and maintenance training and final acceptance testing is complete.

3.5 OPERATION AND MAINTENANCE TRAINING

A. The Contractor shall train and instruct Port maintenance personnel in the operation, adjustment, and preventative maintenance procedures of all systems and equipment.

B. The Contractor shall work with the commissioning manager to develop appropriate training plans and orientation agendas for equipment and assemblies, and shall provide skilled trainers and training materials, including operation and maintenance manuals, system manuals, and as-constructed drawings, for the sessions.

C. The Contractor shall obtain Port authorization to proceed with training prior to initiating training unless approved otherwise.

D. Authorization to proceed with training will not be granted until the following criteria are met:

1. Functional performance testing of applicable systems, equipment, and components is complete.

2. All punch list items discovered during functional testing have been remedied.

3. Operation and maintenance manuals, system manuals, and as-constructed drawings for applicable systems, equipment, and components are at least 95 percent complete, have been submitted to the Port for review, and the Port has approved preparation of final operation and maintenance manuals, system manuals, and as-constructed drawings.

E. The Contractor shall allow the Port to video tape the training sessions.

F. The Contractor shall divide maintenance training between classroom (where applicable) and on-the-job "hands on" training.

G. Training sessions shall include identification of parts, description, servicing, and troubleshooting in the training sessions. Special emphasis shall be given to first response repair of system components.

H. The Contractor shall conduct training sessions with factory-trained field engineers or technicians.

3.6 DEFERRED TESTING

A. Unforeseen Deferred Tests: If any check or test cannot be completed due to the building structure, required occupancy condition, or other deficiency, execution of checklists and functional testing may be delayed upon approval of the Port.

B. Seasonal Testing: During the warranty period, seasonal testing (tests delayed until weather conditions are closer to the system's design) specified in the testing requirements shall be completed as part of this contract. The Contractor, with the guidance of the commissioning manager, shall coordinate this activity. Tests will be executed, documented, and deficiencies corrected by the Contractor. The Contractor shall make needed final adjustments to the operation and maintenance manuals, systems manual, and as-constructed drawings due to the testing results.

C. Testing Systems in Transitory Areas: Systems located in or serving areas that are later significantly remodeled prior to their final state and final turnover to the Port shall be fully tested, including documentation, prior to initial occupancy. Such systems may require retesting.

1. Life-safety systems shall undergo complete retesting to ensure all systems are fully functional at final turnover to the Port.

2. Non-altered portions of non-life-safety systems shall not require complete retesting, except at the discretion of the Port. Portions of the systems that have been altered or interfaced within the alterations shall be fully tested and documented.

3. The Port will determine what is "significantly remodeled" and give final direction of what systems require retesting after review of the Contractor's phasing and test plans.

D. Testing Incomplete Systems: Systems or equipment that are partially complete or partially set up and put into operation to serve an occupancy and then later altered or completed prior to final turnover to the Port require testing.

1. Life-safety systems, even if only partially set up, shall undergo complete testing and documentation prior to initial occupancy. All altered portions of the system and portions of the original system that may have been adjusted shall be tested prior to final turnover to the Port. At the Port's discretion, the Contractor shall test and document performance of the entire system prior to final turnover.

2. The Contractor may use either of the following two methods for testing non-life-safety systems and equipment:

- a. Systems and equipment shall be sufficiently tested by the Contractor to ensure delivery of the required service. Detailed documentation will not be required of this initial testing. During the period the system is partially complete; the Contractor shall be responsible for troubleshooting the system operation for the Port. Upon final completion of the system, the entire system shall be fully tested and documented, prior to turnover to the Port.

- b. Incomplete systems and equipment shall be fully tested and documented to be functioning properly prior to occupancy. During the period the system is partially complete, the Port will be responsible for troubleshooting until a construction deficiency is identified. Upon final completion of the system, the portions of the system that were not initially tested



and any areas of interface with those portions shall be fully tested and documented by the Contractor.

3.7 FINAL ACCEPTANCE TESTING

A. The objective of final acceptance tests is to demonstrate to the Port and other authorities having jurisdiction that systems and equipment are substantially complete and ready for use.

B. The Contractor, with the guidance of the commissioning manager, shall execute final acceptance tests in accordance with the approved final acceptance test plans, procedures, and checklists.

END OF SECTION



APPENDIX X. HEALTH AND SAFETY REQUIREMENTS

1. Personnel Protective Equipment

All field personnel are issued with individual PPE kits, which they are responsible for keeping in good condition. Field personnel are instructed to wear the appropriate protective equipment during operations and maintenance activities.

1.1. Head Protection:

Work situations which require head protection to be worn include, but are not limited to:

- i. Working near, or operating, ship's crane or derrick during discharge, whether on board the vessel or on the quayside.
- ii. Head protect should be discharge in the event that the shell is cracked or suspension system is damaged.

1.2. Eye Protection:

1.2.1. Eye protection should be worn whenever there is the potential for eyes to be struck by flying particles, dust etc. Depending on the nature of the task, safety glasses or safety goggles should be used.

1.2.2. Welding or cutting requires use of specific filter shades to protect eyes from injurious light radiation.

1.3. Hearing Protection:

1.3.1. Hearing protection should be worn when working in high noise engine/generator type locations for prolonged periods of time.

1.4. Hand Protection:

1.4.1. Suitable gloves should be worn to protect the hand, depending on the nature of the task carried out.

1.5. Foot Protection:

1.5.1. All technicians are required to wear proper safety shoes/boots during the operations.

1.6. Dust Protection:



1.6.1. All technicians should wear suitable dust protection (dust masks) where there is a risk of inhalation.

2. Accident Reporting and Investigation

2.1. All accident are to be reported immediately to the Project Team in London.

2.2. The field personnel are issued with 24 hour contact numbers of the Project Team personnel.

2.3. Initial reporting should be followed by a written accident report form within the next 12 hours. Pictures should also be taken and forwarded to the head office where possible.

2.4. Each accident is to be investigated by the Project Team and safety committee.

2.5. In cases where there is injury to the personnel and/or damage to the equipment a surveyor (in consultation with the head office) should be appointed to assess the damage and determine the reasons for the accident. The same procedure applies where an accident happened due to faulty use of cranes, derricks or equipment.

2.6. In cases where there is personal injury, the initial reporting should be followed up with an initial and final doctor's report where hospital treatment is involved.

2.7. Measures which need to be implemented across the field will be communicated without delay in the form of Safety Memorandums.

3. Emergency Procedures

3.1. Before commencing each operation every team is required to establish emergency procedures as follows:

3.1.1. Establishing link of communication with local personnel (agents, contractors, and the ship) in case of an emergency.

3.1.2. Locate the nearest hospital and/ or medical Centre; establish how to get there, contact numbers.

3.1.3. Establish how to contact other emergency services at the location if required.

4. First Aid

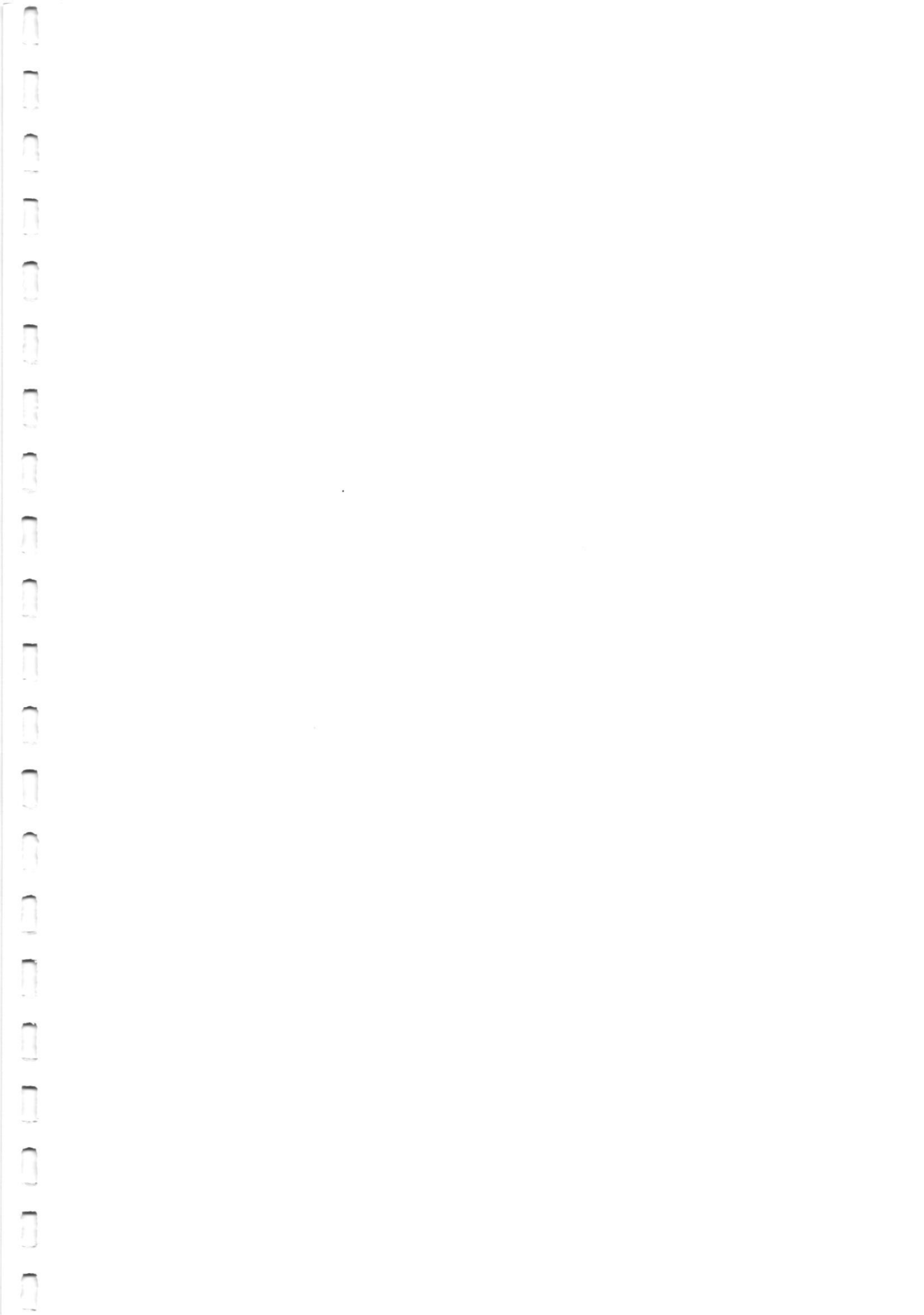
4.1. All NGL equipment will contain the following

4.1.1. First Aid Kit

4.1.2. Eyewash Station

5. Environmental Control

5.1. design/construction and material:



5.1.1. Our units are manufactured in such a way that there are not ant parts or substances, which will deteriorate and cause environmental impact during the lifetime of machines. Our units are 98 % recyclable

5.1.2. Disposable items such as oil, filters and consumables such as paint, brushes etc. should always be disposed of in an environmentally accepted way

5.1.3. Field technicians are responsible for ensuring that this practice is followed.

5.2. B- Dust and noise control

5.2.1. We endeavor to encourage all personnel to wear protective clothing and/or apparatus provided for the operation to minimized the effects of dust or noise as far as the local practices permit.

5.2.2. Maintenance of item such as grabs is monitored closely to minimize potential dust problem

5.2.3. Teams are expected to ensure that any product spillages with potential for environmental impact are dealt with swiftly, and measures are taken to prevent such spillages from happening

5.2.4. The units are to be maintained in accordance with manufacturer's guidelines to minimize any potential noise pollution.

5.3. C-Control and Spillages

5.3.1. Any potential spillages of diesel or any other substances which are harmful to the environment to be cleaned immediately using the appropriate means for the task

5.3.2. Good house-keeping is a priority for every operation. The emphasis should be placed on the prevention of the potential spillage happening

5.3.3. Is the need arises, the disposal of environmentally sensitive spares/parts or used items should be done by using a suitable disposal site/service.

6. Monitoring of safe working practices

6.1. Field personnel are required to conduct regular risk assessment exercises to highlight any shortfalls or problems related to this policy. A generic Risk Assessment (RA) from for NSPW Bagging and Vac Operations in attached to this policy and will be issued for each operation. Additional local hazards should be assessed, entered on the RA, and controls implemented to minimize the risk of injury, equipment damage and environmental impact. Risk assessment are also in place for task specific operations such as vessel trimming, crane maintenance etc.

6.2. Risk Assessment forms will be processed and monitored by the members of the safety committee and relevant action with regard to any specific risk will be communicated back to the field personnel. The Prime responsibility on this issue lies with the projects team.



6.3. The progress of the safety and environmental policy will be monitored by the safety committee.

6.3.1. The members of the committee are:

.....
.....
.....
.....

6.4. The committee will normally meet every six(6) months. The committee may meet more often if it deemed necessary.

7. Comments

7.1. Should personnel have constructive comments or observations, which may be suitable for inclusion into this document, you are invited to provide information back to head office for review through the safety committee. These documents will be reviewed and respective issues resolved accordingly. The projects teams and the safety committee will continually monitor operational safety, and update the relevant procedures as required.



SIGNATURE PAGES

IN WITNESS WHEREOF the duly authorised representatives of the Parties have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED for and on behalf of the within named SIERRA LEONE PORTS AUTHORITY

BY ITS GENERAL MANAGER --- MR. ABU .B. BANGURA

SIGNATURE:

ABD.

DATE:

21 Sept 2017



In the Presence of:

NAME:

Eustace Carrol-Garrick

ADDRESS:

C/o SLPA

OCCUPATION:

operations & monitoring manager

SIGNATURE:

[Signature]
21/9/17



SIGNED SEALED AND DELIVERED for and on behalf of the within named MINISTRY OF TRANSPORT AND AVIATION representing THE GOVERNMENT OF THE REPUBLIC OF SIERRA LEONE

BY ITS MINISTER - HONOURABLE LEONARD BALOGUN KOROMA

LEONARD BALOGUN KOROMA

SIGNATURE:

DATE:

21/09/11



In the Presence of:

NAME: SAMUEL TURNER

ADDRESS: Ministry of Transport & Aviation

OCCUPATION: Rail Officer

SIGNATURE: Samuel Turner

SIGNED SEALED AND DELIVERED for and on behalf of the within named NATIONAL COMMISSION FOR PRIVATISATION, SIERRA LEONE

BY ITS CHAIRMAN – LAWYER SULAIMAN KABBA KOROMA CoR

SIGNATURE: 

DATE: 21/09/2017

In the Presence of: Mohamed Sefay

NAME:

NCP

ADDRESS:

OCCUPATION:

AG Executive Secretary

SIGNATURE:



SIGNED SEALED AND DELIVERED for and on behalf of the within named SKY ROCK
MANAGEMENT LIMITED

BY ITS DIRECTOR – MR. SAHR H. WILLIAM NGEGBA

SIGNATURE:

DATE:


19/9/17

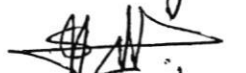
In the Presence of:

NAME: Hassan Samora

ADDRESS: 2 Grace Court Adabraka

OCCUPATION: Manager

SIGNATURE:


19/9/17

SIGNED SEALED AND DELIVERED for and on behalf of the within named NATIONAL
PORT DEVELOPMENT (SL) LTD

BY ITS DIRECTOR – MR. DAVID BEN LULU

SIGNATURE: 

DATE:

19/9/17

In the Presence of:

NAME: Christian Orlando Williams

ADDRESS: 10 Nicol Terrace - KISSY

OCCUPATION: Secretary

SIGNATURE: 

19/9/17

