



August 1, 2014

DCN: IAE-UPC-2181

Mr. Giuseppe Quarta
Grupo Unidos por el Canal, S.A.
Building 22B, Brujas Road
Cocoli, Republic of Panama

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of Locks,
Panama Canal

Subject: Variation Agreement No. 108

Dear Mr. Quarta:

Enclosed is Variation Agreement No. 108 to the above referenced contract.

Please sign Item 13 and complete Item 14 (Date Signed) on the Variation form enclosed and also at the space provided at the end of the Variation Agreement.

The duly signed variation agreement shall be returned promptly to Ms. Tere Abadia, or Mr. Elis A. Vargas G., Contract Specialists.

Sincerely yours,

Jorge de la Guardia
Employer's Representative
Locks Project Management Division

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 76
1. REQUEST FOR PROPOSAL No.:	2. CONTRACT No.:	3. DATE:
76161	CMC-221427	August 1, 2014
		4. VARIATION No.: 108

5. ISSUED BY:

PANAMA CANAL AUTHORITY
Employer's Representative
Locks Project Management Division
Building 740, Corozal
Panama, Republic of Panama

6. NAME AND ADDRESS OF CONTRACTOR (INCLUDE PHYSICAL & POSTAL ADDRESS)	7. CONTRACTOR'S TELEPHONE NUMBER:
Grupo Unidos por el Canal, S.A. Building 22B, Brujas Road Cocoli, Republic of Panama	507-316-9900
	8. CONTRACTOR'S FACSIMILE NUMBER:

9. VARIATION:

The contract referred to in item No. 2 is hereby varied as set forth in item 10, entitled "DESCRIPTION OF VARIATION".

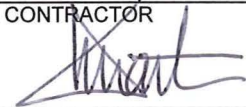
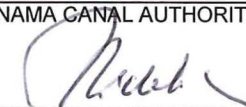
YES. NO. The contractor shall send a copy, duly signed, of this Variation to the Employer's Representative/Contracting Officer.

	9 A. THIS VARIATION IS EXECUTED ON THE BASIS OF: (Specify the legal authority).
	THE VARIATION DESCRIBED IN ITEM 10 IS HEREBY INCORPORATED AND MADE A PART OF THE CONTRACT.
	9 B. THE CONTRACT REFERRED TO IN ITEM NO. 2, IS VARIED TO INCORPORATE ADMINISTRATIVE CHANGES (such as the paying office, account numbers, etc.).
X	9 C. THIS BILATERAL AGREEMENT IS SIGNED AND INCORPORATED INTO THE CONTRACT REFERRED TO IN ITEM NO. 2 OF THIS FORM, ON THE BASIS OF: (Specify the legal authority) Volume III, Conditions of Contract, Sub-Clause 1.16 [Entire Agreement], 4th Paragraph
	9 D. OTHER. (Specify manner and the legal authority).
	9 E. ACCOUNT NUMBER (If required):

10. DESCRIPTION OF THE VARIATION (List in accordance with the order of the Contract. If additional space is required, use blank sheets).

See Variation Agreement Enclosed

Except for the variation(s) herein specified, all other terms and conditions of the Contract remain unchanged.

11. NAME AND TITLE OF THE PERSON AUTHORIZED TO SIGN (Type or print)	12. NAME AND TITLE OF THE EMPLOYER'S REPRESENTATIVE/CONTRACTING OFFICER (Type or print)
Giuseppe Quarta Contractor's Representative	Jorge de la Guardia, Employer's Representative
13. CONTRACTOR	14. DATE:
	15. PANAMA CANAL AUTHORITY
(Authorized signature)	
	16. DATE:
	11/01/2014
	(Employer's Representative/Contracting Officer's signature)

Dated August 1, 2014

- (1) **AUTORIDAD DEL CANAL DE PANAMA** as
Employer
- (2) **GRUPO UNIDOS POR EL CANAL S.A.** as
Contractor

Variation Agreement Number 108
relating to Contract CMC-221427 for the Design
and Construction of the Third Set of Locks, dated
August 11, 2009



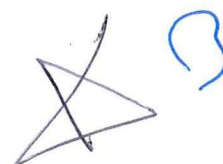
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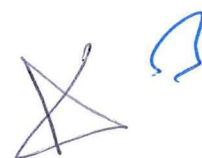
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- O. Form of Rider to Plant and Material Security
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- T. Form of Replacement Performance and Defects LOC
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- W. Form of Replacement Performance and Defects Parent Guarantee
- X. Not used
- Y. Not used
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- AA. Not used
- BB. Form of Other Existing Advances Bond
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- EE. Form of Other Existing Advances LOC – Base
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- PP. Form of opinion of Panamanian counsel to CUSA
- QQ. Form of opinion of English counsel
- RR. Form of opinion of Panamanian counsel to Project Completion Account Trustee

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This Variation Agreement Number 108, is dated as of the 1st day of August 2014 and made

Between:

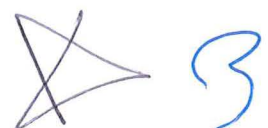
Autoridad del Canal de Panama, Building 740, Corozal, Panama, Republic of Panama (hereinafter called the "**Employer**") on the one part,

and

Grupo Unidos por el Canal S.A., of Building 22B, Brujas Road, Cocoli, Panama, Republic of Panama, a corporation organised under the laws of the Republic of Panama, registered under microjacket number 682266, document number 1683284 of the Mercantile Section of the Public Registry Office of the Republic of Panama (hereinafter called the "**Contractor**" and together with the Employer, the "**Parties**") on the other part.

Whereas:

- a) The Employer and the Contractor are party to Contract CMC-221427 for the Design and Construction of the Third Set of Locks, dated August 11, 2009 (as the same has been or may be varied, amended, supplemented or otherwise modified) (the "**Contract**").
- b) Following extensive negotiations, the Employer and the Contractor have entered into the MOU pursuant to which the Employer and the Contractor have agreed to certain matters with a view to facilitating completion of the Works but without prejudice to each Party's rights and remedies under the Contract or otherwise, and to use their respective good faith best efforts to negotiate and agree to a variation agreement to the Contract and any additional definitive documentation by the Effective Date (as defined in the MOU and as extended from time to time by mutual agreement of the Parties).
- c) The Employer has advised that by Resolution No. ACP-JD-RM 14-672 (dated 13 March 2014), the Board of Directors of the Employer authorized the execution of the MOU by the Employer and approved the transactions to be implemented in this Variation Agreement No. 108, for the purposes of protecting its best interests and to facilitate the completion of the Works.
- d) Therefore, the Parties have agreed to amend the Contract in accordance with the terms of this Variation Agreement No. 108 as hereinafter stated but not further or otherwise in order to give effect to the terms set out in Annex A of the MOU. The terms of this Variation Agreement No.108, all are entirely without prejudice to the Parties' respective positions and merits concerning any claims and disputes between the Parties referred to above and otherwise herein.



THE PARTIES HEREBY AGREE AS FOLLOWS:

The Employer and the Contractor agree as follows:

1. In this Variation Agreement No. 108, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended below or as expressly stated; provided that, notwithstanding the second sub-paragraph of paragraph 9 hereof, any term used in paragraphs 1 through 8 of this Variation Agreement No. 108 and which is defined (or amended) in paragraph 10 of this Variation Agreement No. 108, shall continue to have such meaning as is provided (or amended) in paragraph 10 of this Variation Agreement No. 108.
2. It is agreed that this Variation Agreement No. 108 and the modifications contained herein are approved and dated in writing by the authorized representatives of the Contractor and the Employer and in doing so the Parties acknowledge and identify that this is done in accordance with Sub-Clause 1.16 [*Entire Agreement*] of the Contract.
3. The Parties acknowledge and agree that this Variation Agreement No. 108 shall not be deemed to settle any outstanding issues, claims, demands, actions, disputes or proceedings between the Parties including but not limited to those in relation to any delay to the Works (both as to time and costs) and all such issues, claims, demands, actions, disputes or proceedings remain in contention between the Parties and all respective rights, remedies, claims and defenses of the Parties including but not limited to those concerning and arising out of any delay and/or responsibility for delay and the consequences thereof remain fully reserved. The Parties expressly agree that no Party is waiving, making an admission with respect to, or intending to prejudice any claims, defenses, arguments or remedies that any of them has or may have arising out of events up to and including the Effective Date or in the future concerning their respective performance under and in relation to the Contract. For the avoidance of doubt, all delay-related issues between the Contractor and the Employer, and their respective rights and remedies regarding responsibility for delay and the consequences thereof, remain fully reserved. Nothing in this Variation Agreement No. 108 will have the effect of changing or extending the Time for Completion or any Milestone Dates under the Contract which, as at the date of this Variation Agreement No. 108, remain as originally stated in the Contract, it being acknowledged that the Contractor has raised among its claims, delay claims which could affect the Time for Completion, and which claims the Employer denies and is currently contesting.
4. Save in relation to breaches of, or failure by either Party to comply with, the terms of this Variation Agreement No. 108 and without limitation to any claims relating to delay that either Party may have, the Parties agree that they shall

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August 1, 2014

Design and Construction of the Third Set of Locks

have no claims for additional time or money or any other relief or entitlement of any kind as a direct consequence of this Variation Agreement No. 108.

5. For the avoidance of doubt the Parties acknowledge and agree that payments in relation to the gates, bridgeways and valves shall be made in accordance with the Contract.
6. For the avoidance of doubt, the Parties acknowledge and agree that (i) the drawing or demand on any Contract Advances Security (or all of them) and/or the receipt of any sums following such drawing or demand, (ii) the making of the Surety Deposit and/or the return by the Employer of the Performance Bond (and the subsequent cancellation thereof), or (iii) any demand or application of deduction or demand for or receipt of repayment by the Employer in respect of or for repayment of any or all of the Existing Advances shall not be considered as increasing, decreasing, counting towards or otherwise affecting the liability of the Contractor as stated in Sub-Clause 17.6.2 of the Contract. Furthermore, the Parties acknowledge and agree that the making of the Surety Deposit and/or the return by the Employer of the Performance Bond (and any subsequent cancellation thereof) is without prejudice to the Contractor's claims and defenses and shall not be construed in any manner whatsoever as an admission of liability by the Contractor or any Guarantor towards the Employer under the Contract, any Contractor Security Instrument, any Contract Advances Security, the Joint and Several Guarantee, the Parent Company Guarantee for the Joint and Several Guarantee or the Advance Payment Guarantees or a waiver in whole or in part of the Contractor's claims and defenses all of which remain fully reserved.
7. The Parties shall from time to time (at their own cost) do, perform, sign, execute and deliver all such acts, deeds, documents and things (or procure the doing, performance, signing, execution or delivery of them) as shall from time to time be required to give full effect to this Variation Agreement No. 108 and secure to the Parties the full benefit of the rights, powers and remedies conferred upon them in this Variation Agreement No. 108.
8. This Variation Agreement No. 108 shall be governed by the Laws of the Republic of Panama and is deemed to be incorporated into and form an integral part of the Contract.

A. Effective Date

9. It is a precondition to the coming into effect of the amendments to the Contract set out in paragraphs 10 to 26 of this Variation Agreement No. 108, other than only in relation to the amendment to the Contract in Sub-Clause 14.1A.2 set out in paragraph 21 of this Variation Agreement No. 108 which shall come into effect on the date of signature of this Variation Agreement No. 108, that (i) in the Employer's Representative's sole opinion the documents listed in Appendix



A to this Variation Agreement No. 108 have been executed in full by all the parties thereto and each such document or instrument, as the case may be, has been delivered to the Employer and (ii) the Surety Deposit has been deposited in the Surety Deposit Account. Upon the satisfaction of the condition in the foregoing sub-paragraph (i) above, the Employer shall deliver the Effective Date Confirmation to the Contractor.

Unless such preconditions are satisfied prior to August 31, 2014 (as such date may be extended by the agreement of the Parties), the amendments set out in paragraphs 10 to 26 of this Variation Agreement No. 108 shall be of no effect.

Provided such date of satisfaction occurs prior to August 31, 2014, the date upon which the last of the conditions set out in Appendix A to this Variation Agreement No. 108 has been fulfilled shall be the "**Effective Date**" for the purposes of this Variation Agreement No. 108.

The Parties acknowledge and agree that as of the Effective Date the MOU shall be deemed superseded by this Variation Agreement No. 108 and shall be of no effect.

- 9A. The Contractor warrants and undertakes to the Employer that, as of the Effective Date, each of the Confirmations from Issuers of the Advance Payment Securities is complete on its terms and has not been revoked, modified, cancelled, suspended, superseded, varied or modified in any way.

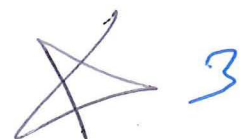
B. Definitions

10. The Parties agree to amend Sub-Clause 1.1 [*Definitions*] of the Contract as follows:
- 10.1 The Parties agree to add the following definitions to Sub-Clause 1.1.6 [*Other Definitions*] of the Contract (which shall be added in proper alphabetical order but without any number):
- (a) "**Advance Payment Guarantees**" means the Advance Payment Joint and Several Guarantee and the Advance Payment Parent Guarantee, each as may be amended, supplemented or otherwise modified from time to time.
 - (b) "**Agreed Performance Milestones**" means the agreed performance milestones set out in the Schedule of Agreed Performance Milestones or, if agreed between the Employer and the Contractor in writing, set out in any later updated version of the Schedule of Agreed Performance Milestones so agreed, and references to any "**Agreed Performance Milestone**" shall be to any one of the agreed performance milestones set out in such Schedule of Agreed Performance Milestones as applicable.

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For the avoidance of doubt, Functional Completion shall not be an Agreed Performance Milestone.

- (c) **"Agreed Project Funding Schedules"** means the schedules showing the monthly anticipated disbursements to fund completion of the Works in the period from the Effective Date to the date of completion of the Works, as updated and agreed with the Employer in accordance with Sub-Clause 14.16 [*Project Completion Account*] in the form set out in Appendix E of Variation Agreement No. 108.
- (d) **"APM Security Amendment - Extension"** means, in relation to the Advance Payment for Mobilisation Security, a further amendment in the form attached at Appendix J to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (e) **"APP Security Amendment - Extension"** means, in relation to the Advance Payment for Plant Security, a further amendment to each such security in the forms attached at Appendix K and Appendix L to Variation Agreement No. 108 with any modifications to such forms proposed by the Contractor which are acceptable to the Employer.
- (f) **"Completion Release Instruction"** shall have the meaning provided in the Project Completion Account Trust Agreement.
- (g) **"Confirmation of Repayment of Existing Advances"** shall have the meaning provided in the Project Completion Account Trust Agreement.
- (h) **"Confirmations from Issuers of the Advance Payment Securities"** means the confirmations in the forms attached at Appendix Z to Variation Agreement No. 108 from each of the Bank of Nova Scotia and Banistmo as issuers in respect of the extension of each of the APM Security Amendment – Base and APP Security Amendment – Base with any modifications to such forms proposed by the Contractor which are acceptable to the Employer.
- (i) **"Contract Advances Security"** means the Advance Payment for Mobilisation Security, the Advance Payment for Plant Security, the Plant and Material Security (prior to its expiry and to the extent it secures the Advance Payment for Lock Gates), and the Other Existing Advances Security, each as may be amended, modified or supplemented from time to time.
- (j) **"Contractor Debenture"** means the debenture to be executed by the Contractor, as chargor, providing security and granting an assignment in relation to the Dispute Proceeds payable pursuant to sub-paragraph (b) of

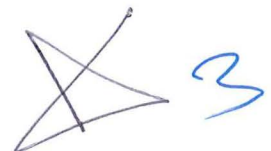


Sub-Clause 20.9 [*Payment of Dispute Proceeds*] in favor of a security trustee for certain lenders to the Contractor.

- (k) "**Contractor Debenture Notices**" means (i) any letter to the Employer from the Contractor notifying the Employer of the assignment of the Dispute Proceeds pursuant to the Contractor Debenture, and (ii) any acknowledgment of receipt thereof executed by the Employer.
- (l) "**Convenience Termination Release Instruction**" shall have the meaning provided in the Project Completion Account Trust Agreement.
- (m) "**Deferral End Date**" means the later to occur of:
 - (a) the Effective Date; and
 - (b) the date of the deposit into the Project Completion Account of the Surety Deposit by the Surety or an affiliate thereof as anticipated by the MOU,

and all references in Variation Agreement No. 098 to the VO No. 098 Deferral End Date and in Variation Agreement No. 105 to the VO No. 105 Deferral End Date shall be construed as references to the Deferral End Date.

- (n) "**Dispute Completion Proceeds**" has the meaning provided in Sub-Clause 20.9 [*Payment of Dispute Proceeds*].
- (o) "**Dispute Completion Proceeds Account**" shall have the meaning provided in the Project Completion Account Trust Agreement.
- (p) "**Dispute Determination**" means, following the delivery of a Termination Release Instruction under the Project Completion Account Trust Agreement, the determination or resolution of dispute proceedings brought by either the Employer or the Contractor relating to (i) the disbursement of funds remaining in the Project Completion Account, or (ii) the subject matter giving rise to the right of the Employer to issue such Termination Release Instruction.
- (q) "**Dispute Determination Release Instruction**" shall have the meaning provided in the Project Completion Account Trust Agreement.
- (r) "**Dispute Proceeds**" means sums which are awarded in favour of the Contractor as a result of any of the following:
 - (i) a determination or agreement by the Employer's Representative pursuant to Sub-Clause 3.5 [*Determinations*]; and/or

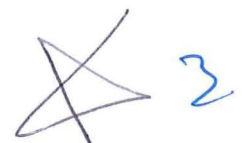


- (ii) a decision by the DAB pursuant to Sub-Clause 20.4 [*Obtaining a Dispute Adjudication Board's Decision*]; and/or
- (iii) a settlement by the Parties pursuant to Sub-Clause 20.5 [*Amicable Settlement*]; and/or
- (iv) an award rendered by the ICC in respect of arbitration proceedings pursuant to Sub-Clause 20.6 [*Arbitration*].
- (s) **"Effective Date"** has the meaning provided in paragraph 9 of Variation Agreement No. 108.
- (t) **"Effective Date Confirmation"** means the Effective Date Confirmation in the form set out at Appendix F to Variation Agreement No. 108.
- (u) **"Eligible Costs"** means payments to be made by the Contractor to or of any Subcontractors or suppliers, manpower and services (but not to external consultants and Shareholders, unless for payments due to a Shareholder in its capacity as a Subcontractor) to be incorporated into the Works.
- (v) **"Excusable Delay"** has the meaning provided in Sub-Clause 8.13.5 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*].
- (w) **"Existing Advances"** means the Original Contract Advances and the Other Existing Advances, the aggregate amount of which as at the Effective Date is set out in the Schedule of Existing Advances.
- (x) **"Existing Advances Balance Notice"** has the meaning provided in Sub-Clause 14.16.11 [*Notices of Balances, Confirmation of Repayment*].
- (y) **"Existing Advances Extended Repayment Date"** means:
 - (i) in respect of the Advance Payment for Mobilisation and Advance Payment for Plant, December 31, 2016 and December 31, 2018 (as the case may be); and
 - (ii) in respect of the Other Existing Advances, December 31, 2018,as such December 31, 2018 dates may be accelerated pursuant to the terms of Sub-Clause 8.13.7 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*].
- (z) **"Existing Advances Repayment Release Instruction"** shall have the meaning provided in the Project Completion Account Trust Agreement.

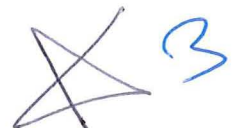


- (aa) **"Expert"** means the individual specified as such in accordance with Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*] or, as the case may be, an independent person appointed in accordance with such Sub-Clause and who shall be a lawyer: (i) of a minimum of 10 years qualification; and (ii) with a minimum of 10 years experience (as a lawyer) in construction claims and experienced in considering delay claims.
- (bb) **"Fast Track Dispute"** shall have the meaning provided in Sub-Clause 20.2B.1 [*Fast Track Expert Determination for Excusable Delay Claims*].
- (cc) **"Functional Completion"** has the meaning provided in Sub-Clause 10A.2 [*Functional Completion*].
- (dd) **"Functional Completion Date"** means December 31, 2015 (as such date may be extended pursuant to Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*]).
- (ee) **"Functional Completion Tests"** means the tests which are described at Sub-Clause 10A.5 [*Functional Completion*] of the Contract as supplemented by agreement by both Parties.
- (ff) **"Further Contract Payment Amount"** means an amount equivalent to the amount of the Existing Advances, which may be payable to the Contractor in accordance with the terms of Sub-Clause 14.1A [*Further Contract Payment Amount*].
- (gg) **"Gates Delivery Conditions"** means:
 - (i) the permanent departure from Trieste, Italy en route to the Site of the second shipment of at least four (4) gates by no later than September 30, 2014;
 - (ii) the permanent departure from Trieste, Italy en route to the Site of the third shipment of gates by no later than December 31, 2014; and
 - (iii) the delivery of the remainder of the twelve (12) gates to the Site by no later than February 28, 2015,

in accordance with the provisions of the Contract, including but not limited to Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] and references to any **"Gates Delivery Condition"** shall be to any one of (i), (ii) or (iii) as applicable.



- (hh) **"Guarantor Arbitration Agreement"** means a guarantor arbitration agreement among the Employer, each Shareholder and Sofidra S.A., a company incorporated in Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg in the form set out at Appendix HH to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (ii) **"Jan De Nul Group (Sofidra S.A.)"** means Sofidra S.A., a company incorporated in Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg, and operating under the commercial name "Jan De Nul Group".
- (jj) **"Jan De Nul N.V."** means Ondernemingen Jan De Nul N.V., a company incorporated in Belgium, having its registered office at Tragel 60, 9308 Hofstade (Aalst), Belgium.
- (kk) **"Material Change"** means in relation to the Monthly Eligible Costs List an increase or reduction to the aggregate amount of payments to be made for Eligible Costs in any calendar month which is above or below the range provided for such month's Monthly Eligible Costs List, such range not to exceed \$10,000,000 above or \$10,000,000 below such aggregate amount for any calendar month.
- (ll) **"Monthly Eligible Costs List"** means a list of anticipated payments for Eligible Costs for the subsequent calendar month which is (i) consistent with the Agreed Project Funding Schedules, (ii) submitted to the Employer and as may be revised in accordance with Sub-Clause 14.16 [*Project Completion Account*], and (iii) to be withdrawn from the Project Completion Account in accordance with Sub-Clause 14.16 [*Project Completion Account*] and the Project Completion Account Trust Agreement in the form set out at Appendix C to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (mm) **"Monthly Release Instruction"** shall have the meaning provided in the Project Completion Account Trust Agreement.
- (nn) **"Non-Excusable Delay"** has the meaning provided in Sub-Clause 8.13.6 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Payment Dates*].
- (oo) **"Non-Excusable Delay Buffer Period"** has the meaning provided in Sub-Clause 8.13.6 [*Gates Delivery Conditions, Agreed Performance*



Milestones, Functional Completion and Existing Advances Payment Dates].

- (pp) "**Optional Termination Release Instruction**" shall have the meaning provided in the Project Completion Account Trust Agreement.
- (qq) "**Original Contract Advances**" means the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, and the Advance Payment for Plant, including the Deferred Repayments for Plant, the amount of which as at the Effective Date is set out in the Schedule of Existing Advances.
- (rr) "**Other Existing Advances**" means the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates, the amount of which as at the Effective Date is set out in the Schedule of Existing Advances.
- (ss) "**Other Existing Advances Attained Milestone Amount**" has the meaning provided in Sub-Clause 14.2J [*Repayment of Other Existing Advances*].
- (tt) "**Other Existing Advances Bond**" means a bond in an amount up to the Other Existing Advances Outstanding Amount in the form set out at Appendix BB to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer, and issued by an Acceptable Bond Issuer.
- (uu) "**Other Existing Advances Guarantees**" means the Other Existing Advances Joint and Several Guarantee and the Other Existing Advances Parent Guarantee.
- (vv) "**Other Existing Advances Joint and Several Guarantee**" means a joint and several guarantee in an amount up to the Other Existing Advances Outstanding Amount duly executed by the parties thereto (which for the avoidance of doubt shall be the four Shareholders of the Contractor), and subject to English law and the jurisdiction of English courts in the form set out in Appendix CC to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (ww) "**Other Existing Advances LOC**" means the Other Existing Advances LOC - Base or the Other Existing Advances LOC – Extension, as the context requires.



- (xx) **"Other Existing Advances LOC - Base"** means a letter of credit in an amount up to the Other Existing Advances Outstanding Amount in the form set out at Appendix EE to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer, and issued by an Acceptable Financial Institution.
- (yy) **"Other Existing Advances LOC – Extension"** means an extension to the Other Existing Advances LOC – Base in the form set out at Appendix FF to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer, and issued by an Acceptable Financial Institution.
- (zz) **"Other Existing Advances Milestone Deduction"** has the meaning provided in Sub-Clause 14.2J [*Repayment of Other Existing Advances*].
- (aaa) **"Other Existing Advances Milestone Deduction Payment Date"** has the meaning provided in Sub-Clause 14.2J [*Repayment of Other Existing Advances*].
- (bbb) **"Other Existing Advances Outstanding Amount"** means the total amount of Other Existing Advances outstanding as at any date of calculation.
- (ccc) **"Other Existing Advances Parent Guarantee"** means a parent guarantee duly executed by the parties thereto and subject to English law and the jurisdiction of English courts in the form set out in Appendix DD to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (ddd) **"Other Existing Advances Reduction Certificate"** has the meaning set out in Sub-Clause 20.9A [*Other Existing Advances Reduction Certificate*].
- (eee) **"Other Existing Advances Security"** means the security required pursuant to Sub-Clause 14.2J [*Repayment of Other Existing Advances*] and Sub-Clause 14.1A.5 [*Further Contract Payment Amount*] to include, at the sole discretion of the Contractor, any of, or any combination of, the following; provided that, any such combination shall, when taken together, provide security in the amount of the Other Existing Advances Outstanding Amount:
- (i) the Other Existing Advances LOC; or
 - (ii) the Other Existing Advances Bond; or
 - (iii) all of the following:



1. the Other Existing Advances Joint and Several Guarantee along with: (A) a legal opinion as to the validity, binding nature and enforceability under English law of the Other Existing Advances Joint and Several Guarantee on each of the four Shareholders of the Contractor substantially in the form set out in Appendix QQ to Variation Agreement No. 108 from English counsel to be approved by the Employer; (B) a legal opinion as to due authorization and other corporate opinions required by the Employer under the law of the jurisdiction of formation of each of the four aforementioned Shareholders substantially in the forms set out in Appendices LL, MM, NN and PP to Variation Agreement No. 108 from such Shareholders' local counsels; and (C) a duly certified appointment of each Shareholder's agent for service of process as required pursuant to such guarantee; and
2. the Other Existing Advances Parent Guarantee along with: (A) a legal opinion as to the validity, binding nature and enforceability under English law of the Other Existing Advances Parent Guarantee on the guarantor substantially in the form set out in Appendix QQ to Variation Agreement No. 108 from English counsel to be approved by the Employer; (B) a legal opinion as to due authorization and other corporate opinions required by the Employer under the law of the jurisdiction of formation of such guarantor substantially in the form set out in Appendix OO to Variation Agreement No. 108 from such guarantor's local counsel; and (C) a duly certified appointment of such guarantor's agent for service of process as required pursuant to such guarantee.

(fff) "**Performance Bond Confirmation**" means the Performance Bond confirmation in the form set out at Appendix JJ to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.

(ggg) "**Project Completion Account**" has the meaning provided to it in the Project Completion Account Trust Agreement.

(hhh) "**Project Completion Account Trust Agreement**" means a trust agreement amongst the Employer, the Contractor and the Project Completion Account Trustee to be entered into by such parties as a condition to the Effective Date.

(iii) "**Project Completion Account Trustee**" shall mean the Trustee (as defined in the Project Completion Account Trust Agreement).



- (jjj) **"Replacement Performance and Defects Bond"** means a bond in the amount of USD 50,000,000 in the form set out at Appendix U to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer, and issued by an Acceptable Bond Issuer.
- (kkk) **"Replacement Performance and Defects Joint and Several Guarantee"** means a joint and several guarantee in the amount of USD 150,000,000 duly executed by the parties thereto (which for the avoidance of doubt shall be the four Shareholders of the Contractor), and subject to English law and the jurisdiction of English courts in the form set out in Appendix V to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (lll) **"Replacement Performance and Defects LOC"** means a letter of credit in the amount of USD 200,000,000 in the form set out at Appendix T to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer, and issued by an Acceptable Financial Institution.
- (mmm) **"Replacement Performance and Defects Parent Guarantee"** means a parent guarantee duly executed by the parties thereto and subject to English law and the jurisdiction of English courts in the form set out in Appendix W to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.
- (nnn) **"Replacement Performance and Defects Security"** means the security required pursuant to Sub-Clause 4.2F [*Replacement Performance and Defects Security*] to include, at the sole discretion of the Contractor, either:
- (i) the Replacement Performance and Defects LOC; or
 - (ii) all of the following:
 1. the Replacement Performance and Defects Bond;
 2. the Replacement Performance and Defects Joint and Several Guarantee along with: (A) a legal opinion as to the validity, binding nature and enforceability under English law of the Replacement Performance and Defects Joint and Several Guarantee on each of the four Shareholders of the Contractor, substantially in the form set out in Appendix QQ to Variation



Agreement No. 108 from English counsel to be approved by the Employer; (B) a legal opinion as to due authorization and other corporate opinions required by the Employer under the law of the jurisdiction of formation of each of the four aforementioned Shareholders substantially in the forms set out in Appendices LL, MM, NN and PP to Variation Agreement No. 108 from such Shareholders' local counsels; and (C) a duly certified appointment of each Shareholder's agent for service of process as required pursuant to such guarantee; and

3. the Replacement Performance and Defects Parent Guarantee along with: (A) a legal opinion as to the validity, binding nature and enforceability under English law of the Replacement Performance and Defects Parent Guarantee on the guarantor substantially in the form set out in Appendix QQ to Variation Agreement No. 108 from English counsel to be approved by the Employer; (B) a legal opinion as to due authorization and other corporate opinions required by the Employer under the law of the jurisdiction of formation of such guarantor substantially in the form set out in Appendix OO to Variation Agreement No. 108 from such guarantor's local counsel; and (C) a duly certified appointment of such guarantor's agent for service of process as required pursuant to such guarantee.

(ooo) "**Replacement Performance Security**" means the Replacement Performance and Defects Security as in force prior to the issuance of the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate under Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all the Works shall have been taken over by the Employer, as the case may be.

(ppp) "**Report of Actual Expenditures of Eligible Costs**" means a report of actual expenditures of Eligible Costs in the form set out at Appendix H to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.

(qqq) "**Schedule of Agreed Performance Milestones**" means the schedule of Agreed Performance Milestones set out at Appendix D of Variation Agreement No. 108.

(rrr) "**Schedule of Existing Advances**" means the schedule of Existing Advances set out at Appendix B to Variation Agreement No. 108.

(sss) "**Schedule of Outstanding Payables**" means a schedule of amounts owed to Subcontractors and suppliers in the form set out at Appendix I to



Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer.

(ttt) **"Schedule of Milestone Circumstances"** means the schedule of circumstances referred to in Sub-Clause 8.13.3 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*].

(uuu) **"Surety"** means Zurich American Insurance Company.

(vvv) **"Surety Deposit"** shall mean the Zurich Deposit (as defined in the Project Completion Account Trust Agreement).

(www) **"Surety Deposit Account"** shall have the meaning provided in the Project Completion Account Trust Agreement.

(xxx) **"Termination Release Instruction"** shall have the meaning provided in the Project Completion Account Trust Agreement.

(yyy) **"Transportation Delay Events"** means events and circumstances relating solely to the transportation of any of the gates from the Cimolai factory in Italy to the Site which are beyond the Contractor's reasonable control with respect to the normal operations of transport vessels and barges, resulting from:

- (i) mechanical breakdown of the transport vessels and barges used for the transportation of the gates;
- (ii) dock strikes that may affect loading an ocean transport vessel;
- (iii) wind that affects safe loading operations or safe navigation;
- (iv) sea conditions that affect safe loading operations or safe navigation;
- (v) pirates;
- (vi) port certification issues; and
- (vii) any other such physical transportation-related events;

provided that "Transportation Delay Events" shall not include events or circumstances arising from any disputes arising out of or in connection with any subcontract related to Geodis Wilson Italia S.p.A. or any other transporter of the gates, whenever so arising. References to any **"Transportation Delay Event"** shall be to any one of (i), (ii), (iii), (iv), (v), (vi) and (vii) as applicable.



(zzz) "**Variation Agreement No. 108**" means Variation Agreement Number 108, dated August 1, 2014 between the Employer and the Contractor.

(aaaa) "**VO No. 108 Bond Issuer Confirmation**" means a written confirmation (or rider, amendment or modification, as applicable) in the form set out in Appendix GG to Variation Agreement No. 108 with any modifications to such form proposed by the Contractor which are acceptable to the Employer from each of (i) the issuer of the Performance Bond (ii) the issuer of the Payment Bond and (iii) the issuer of the Plant and Material Security.

10.2 The Parties agree to amend and restate the following definitions in Sub-Clause 1.1 [*Definitions*] of the Contract to read in their entirety as follows:

(a) "**Contractor Security Instrument**" means each of the Performance Bond, the Payment Bond, Replacement Performance Security, Defects Notification Period Security, Other Existing Advances Security, each Contractor Security LOC, any Advanced Reinforcement Adjustment Amount Security and any Plant and Material Security.

(b) "**Contractor Security LOC**" means each of the Replacement Performance and Defects LOC (if any), Other Existing Advances LOC (if any), the Advance Payment for Mobilisation Security, the Advance Payment for Plant Security, the Fixed Retention Security (if any), and the Escalating Retention Security (if any).

(c) "**Defects Notification Period**" means a period for notifying defects in the Works or a part of the Works under Sub-Clause 11.1 [*Completion of Outstanding Work and Remedying Defects*], as stated in the Appendix to Tender (with any extensions under Sub-Clause 11.3 [*Extension of Defects Notification Period*]), calculated from either:

- (i) in respect of the Works taken over under Sub-Clause 10.1 [*Taking Over of the Works*] (excluding for the avoidance of doubt any part or parts of the Works taken over previously as referred to in subparagraph (ii) below), the date on which the Works are completed as certified in accordance with Sub-Clause 10.1 [*Taking Over of the Works*]; or
- (ii) in respect of a part of the Works taken over under Sub-Clause 10.2 [*Taking Over of Parts of the Works*], the date on which such part was taken over in accordance with Sub-Clause 10.2 [*Taking Over of Parts of the Works*],

and during which period(s) the Contractor shall remedy defects in the

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Works or the relevant part of the Works (as applicable), complete the works set out in any Schedule of Outstanding Minor Work and Defects and carry out any other obligations as required by the Contract.

- (d) **"Defects Notification Period Security"** means the Replacement Performance and Defects Security as in force from and after the issuance of the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate under Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be.
- (e) **"Maintenance Services"** means those services as set out in Section 01 93 00 [Maintenance Services] of the Employer's Requirements, which the Contractor shall be required to perform after either:
 - (i) in respect of the Works taken over under Sub-Clause 10.1 [*Taking Over of the Works*], the issue of the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*]; or
 - (ii) in respect of a part of the Works taken over under Sub-Clause 10.2 [*Taking Over of Parts of the Works*], the date on which such part was taken over in accordance with Sub-Clause 10.2 [*Taking Over of Parts of the Works*],

in the event that Provisional Sum No.5 and/or Provisional Sum No.6 (as set out in the Contractor's Price Proposal) are instructed by the Employer's Representative in accordance with Sub-Clause 13.5 [Provisional Sums].

10.3 The Parties agree to amend the following definitions in Sub-Clause 1.1 [Definitions] of the Contract as follows:

- (a) Amend the definition of CPA at Sub-Clause 1.1 [Definitions] as follows:
 - (i) in the fourth line after "in relation to" delete "the" and insert "such"; and
 - (ii) in the fifth line after "matters" delete "set out in Variation Agreement No. 058 Variation Agreement No. 070 and Variation Agreement No. 090" and insert "in this Contract specifying involvement of a 'CPA'".
- (b) Amend the definition of Schedule of Outstanding Minor Work and Defects at Sub-Clause 1.1 [Definitions] as follows:
 - (i) in the first line delete "the" and replace with "a"; and



- (ii) in the second and third lines delete "and appended to the Taking-Over Certificate." and inserting "and Sub-Clause 10.2 [*Taking Over of Parts of the Works*] and appended to the relevant Taking-Over Certificate."
- (c) Delete the definition of VO No. 098 Deferral End Date at Sub-Clause 1.1.6 [*Other Definitions*] of the Contract in its entirety.
- (d) Delete the definition of VO No. 105 Deferral End Date at Sub-Clause 1.1.6 [*Other Definitions*] of the Contract in its entirety.

C. Project Completion Account

11. The Parties hereby agree to add the following Sub-Clause 14.16 [*Project Completion Account*] to Clause 14 [*Contract Price and Payment*] as follows:

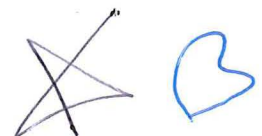
"14.16 Project Completion Account

Establishment and Funding of Project Completion Account

- 14.16.1 On or prior to the Effective Date, the Employer and the Contractor shall execute the Project Completion Account Trust Agreement and cause the Project Completion Account Trustee to establish the Project Completion Account pursuant to the terms thereof.
- 14.16.2 As a condition to and no later than the Effective Date, the Surety Deposit shall be deposited into the Project Completion Account in accordance with the terms and conditions of the Project Completion Account Trust Agreement.
- 14.16.3 The Employer shall deposit or cause to be deposited any Dispute Completion Proceeds into the Project Completion Account in accordance with the terms and conditions of the Project Completion Account Trust Agreement. The Contractor acknowledges and agrees that, notwithstanding anything to the contrary contained herein, the Dispute Completion Proceeds, when so deposited, shall be deemed to have been fully paid by the Employer to the Contractor in accordance with the Contract.

Agreed Project Funding Schedules and Monthly Eligible Costs List

- 14.16.4 The Contractor shall submit any proposed revisions to the Agreed Project Funding Schedules at least once every 3 months (or more frequently if deemed necessary by the Contractor) for agreement by



the Employer. The Agreed Project Funding Schedules shall only be amended with the Employer's prior written consent.

14.16.5 No later than the date that is 14 days prior to the first day of every month occurring after the Effective Date, the Contractor shall provide to the Employer the proposed Monthly Eligible Costs List.

14.16.5.1 If, after submission of a Monthly Eligible Costs List to the Employer, the Contractor believes it is necessary, or intends, to make a Material Change for any month, it shall immediately notify the Employer of any such Material Change, and provide reasonable supporting explanation and information to the Employer.

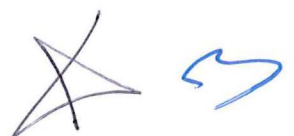
14.16.5.2 The Employer may review and, within 7 Business Days of the date of submission of a Monthly Eligible Costs List, comment on such Monthly Eligible Costs List (and on any such Material Change) and, in each such case, the Contractor shall consult in good faith with the Employer on the incorporation of any such comments and any such Material Change; provided that, the Contractor agrees that it shall be required to make any revisions necessary to ensure that any Monthly Eligible Costs List is consistent with the Agreed Project Funding Schedules as then in effect.

14.16.6 No later than 7 Business Days following the end of each calendar month, the Contractor shall provide to the Employer (i) a report of actual expenditures for the previous month compared to the Monthly Eligible Costs List for such month, in the form of a Report of Actual Expenditures of Eligible Costs for such month, and (ii) a revised statement of the outstanding balance owed by the Contractor to Subcontractors and suppliers of the respective Monthly Eligible Costs List, as of such date, in the form of a Schedule of Outstanding Payables.

Disbursements from the Project Completion Account

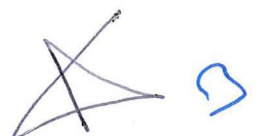
14.16.7 Subject to the terms and conditions of the Project Completion Account Trust Agreement, the Parties expressly agree that the funds in the Project Completion Account will be disbursed, paid out or distributed by the Project Completion Account Trustee, as follows, in each case in accordance with the terms and conditions of the Project Completion Account Trust Agreement:

(a) The Contractor shall submit one or more Monthly Release



Instruction(s) commencing in August 2014 to disburse amounts from the Project Completion Account for payment (on behalf of the Contractor) of any Eligible Costs so long as (i) such Eligible Costs are included within, and consistent with, the Monthly Eligible Costs List for the corresponding month (and are not duplicative of Eligible Costs for which a prior Monthly Release Instruction was submitted and paid) and (ii) the Monthly Eligible Costs List for the corresponding month is consistent with the Agreed Project Funding Schedules;

- (b) Following issuance of the first Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or Sub-Clause 10.2 [*Taking Over of Parts of the Works*] as the case may be, the Contractor may, from time to time thereafter, elect to either: (i) submit one or more Monthly Release Instruction(s) pursuant to sub-paragraph (a) of Sub-Clause 14.16.7; or (ii) direct the application of funds in the Project Completion Account in accordance with the following procedure (A) apply the funds in the Project Completion Account for the repayment by the Contractor of the Existing Advances in accordance with Sub-Clauses 14.2A [*Advance Payment for Mobilisation*], 14.2B [*Advance Payment for Plant*], 14.2C [*Advance Payment for Key Suppliers*], 14.2F [*Advance Payment for Specified Suppliers*], 14.2H [*Advance Payment for Lock Gates*] and 14.2J [*Repayment of Other Existing Advances*], (B) the Contractor shall, subject to the proviso below, submit one or more Existing Advances Repayment Release Instructions to the Project Completion Account Trustee directing the Project Completion Account Trustee to pay funds on deposit in the Project Completion Account to the Employer until the outstanding balance of the Existing Advances is repaid in full, (C) the Contractor shall be entitled to be paid any remaining balance in the Project Completion Account (after repayment in full of the Existing Advances to the Employer), (D) after such repayment in full of the Existing Advances, the Contractor shall submit a Completion Release Instruction together with a copy of (x) the Taking-Over Certificate pursuant to Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate pursuant to Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be and (y) a Confirmation of Repayment of Existing Advances, and (E) the Project Completion Account Trust Agreement shall be terminated in accordance with Section 11.1.3 of the Project Completion Account Trust Agreement; provided that, in the event that, following the issuance of the Taking-Over

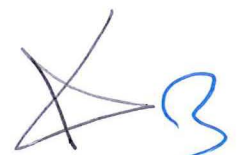
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Certificate pursuant to Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate pursuant to Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be, the remaining funds in the Project Completion Account are insufficient to repay the outstanding balance of the Existing Advances, (x) the Project Completion Account shall remain open, (y) all Dispute Completion Proceeds shall continue to be deposited in the Project Completion Account and (z) the Contractor shall continue to submit Existing Advances Repayment Release Instructions to the Project Completion Account Trustee until the Existing Advances are repaid in full;

- (c) If the Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by Employer*], the Employer may, in addition to any other rights and remedies under the Project Completion Account Trust Agreement and the Contract, issue a Blocking Notice under Section 10.1 of the Project Completion Account Trust Agreement. Upon issuance of such notice by the Employer following such termination of the Contract, (i) the Contractor shall submit a Termination Release Instruction pursuant to Sub-Clause 14.16.8 below; (ii) in accordance with Section 11.1.4 of the Project Completion Account Trust Agreement, (A) any and all funds remaining in the Surety Deposit Account shall remain in such account, unless otherwise disbursed in accordance with Sub-Clause 14.6.8, until the date on which the Trustee receives a Dispute Determination Release Instruction and/or an Optional Termination Release Instruction, in accordance with Section 5.4.4 and Section 5.4.6 of the Project Completion Account Trust Agreement and (B) any and all funds remaining on deposit in the Dispute Completion Proceeds Account shall be paid to the Contractor without any deduction whatsoever.

In the event that after issuance of any Termination Release Instruction there are no funds remaining in the Project Completion Account, the Project Completion Account Trust Agreement shall be terminated in accordance with Section 11.1.4 of the Project Completion Account Trust Agreement.

The Employer's rights with regard to Dispute Proceeds pursuant to sub-paragraph (a) of Sub-Clause 20.9 [*Payment of Dispute Proceeds*] shall not survive termination of the Contract and any such rights of the Employer to such Dispute Proceeds shall be extinguished upon termination of the Contract.



- (d) Following a Dispute Determination, the Contractor shall submit a Dispute Determination Release Instruction in accordance with such Dispute Determination; and
- (e) As to any amounts that are disbursed from the Project Completion Account to be used for Eligible Costs (including, without limitation, any amounts disbursed pursuant to a Monthly Release Instruction or pursuant to paragraph 2(a) of a Termination Release Instruction), in no event shall the Contractor use any such amounts that are disbursed from the Project Completion Account for any purpose other than to make payment for such Eligible Costs. Without prejudice to the generality of the foregoing, such amounts shall not be used for the Contractor's own corporate or cash flow purposes or to make payment to any supplier, subcontractor or person, (including any third party who has had assigned to it the right to receive payment in respect of such Eligible Costs) for any part of the Works, Plant and/or Materials other than for Eligible Costs.

14.16.7A Any funds in the Project Completion Account or application of such funds to the repayment of the Existing Advances pursuant to subparagraph (a) of Sub-Clause 14.16.7 shall not affect the Contractor's obligation to ensure that the Advance Payment for Mobilisation Security, the Advance Payment for Plant Security, the Advance Payment Guarantees, the Plant and Material Security (until its expiry date) and the Other Existing Advances Security remain valid and enforceable and in full force and effect until the Advance Payment for Mobilisation, the Advance Payment for Plant, the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates, as applicable, have been repaid in full in accordance with the Contract.

14.16.8 If the Employer has terminated the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by Employer*], and thereafter issued a Blocking Notice as referred to in Sub-Clause 14.16.7(c), above:

- (a) the Contractor shall, promptly, but in any event within twenty (20) Business Days following the Contractor's receipt of such Blocking Notice issue a Termination Release Instruction pursuant to Section 5.4.3 of the Project Completion Account Trust Agreement identifying all outstanding amounts owed to payees specified in the last Schedule of Outstanding Payables delivered prior to the date of such Blocking Notice under clause (ii) of Sub-Clause 14.16.6 for Eligible Costs incorporated into the Works after March

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13, 2014. Any such amounts referred to in this clause (a) shall be included by the Contractor in paragraph 2(a) of such Termination Release Instruction to be paid from the Surety Deposit Account; and

- (b) any and all funds remaining on deposit in the Dispute Completion Proceeds Account shall be paid to the Contractor without any deduction whatsoever in accordance with paragraph 2(b) of such Termination Release Instruction;
- (c) any remaining funds in the Project Completion Account after the issuance of the Termination Release Instruction shall be paid in accordance with paragraph 2(c) of such Termination Release Instruction.

Notwithstanding the foregoing, the Employer and the Contractor may after issuance of the Termination Release Instruction referred to in (a) above, issue a subsequent and separate joint Optional Termination Release Instruction pursuant to Section 5.4.6 of the Project Completion Account Trust Agreement to pay outstanding amounts owed by the Contractor to payees other than to the payees identified pursuant to paragraph (a) above, as agreed by the Contractor and the Employer.

14.16.9 If the Employer terminates the Contractor's right to complete the Contract under Sub-Clause 15.5 [*Employer's Entitlement to Termination*]:

- (a) the Contractor shall, promptly, but in any event within twenty (20) Business Days issue a Convenience Termination Release Instruction pursuant to Section 5.4.7 of the Project Completion Account Trust Agreement identifying all outstanding amounts owed to payees specified in the last Schedule of Outstanding Payables delivered prior to the date of such Convenience Termination Release Instruction under clause (ii) of Sub-Clause 14.6.6 for Eligible Costs incorporated into the Works after March 13, 2014. Any such amounts referred to in this clause (a) shall be included by the Contractor in paragraph 2(a) of such Convenience Termination Release Instruction to be paid from the Surety Deposit Account; and
- (b) any remaining funds in the Project Completion Account after the issuance of the Convenience Termination Release Instruction shall be paid in accordance with paragraph 2(b) of such Convenience Termination Release Instruction.

Right to Audit



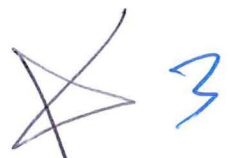
- 14.16.10 Without prejudice to the foregoing and notwithstanding any other provision of this Contract, the Employer's Representative shall be entitled to obtain from the Project Completion Account Trustee all information necessary to permit the Employer to conduct a review, investigation and/or audit and make copies and take extracts of the Project Completion Account (including any electronic data and records) relating to any disbursements from the Project Completion Account in order to verify that such disbursements have been made in accordance with this Contract and the Project Completion Account Trust Agreement. For the avoidance of doubt, in the event that any of the disbursements made from the Project Completion Account are not for payment of an Eligible Cost as defined herein or otherwise are not in accordance with the provisions of this Sub-Clause 14.16 or the Project Completion Account Trust Agreement, the Employer's Representative may, in addition to its rights and remedies under the Project Completion Account Trust Agreement, at the sole and absolute discretion of the Employer's Representative, deduct the value of any or all such disbursements from any subsequent Interim Payment Certificate and/or any other amount otherwise owed by the Employer pursuant to the terms and conditions of the Contract. Further, the Employer's Representative may request that a CPA undertakes a review of any information, certifications and documentation that may be provided pursuant to this Sub-Clause 14.16.10 or the Project Completion Account Trust Agreement.

Notices of Balances, Confirmation of Repayment

- 14.16.11 Promptly following a written request from the Contractor, the Employer shall provide a notice of balances in the form set out in Appendix N to Variation Agreement No. 108 to the Contractor which shall show the outstanding balances of the Existing Advances as of the date of such notice of balances (an "**Existing Advances Balance Notice**").
- 14.16.12 Following the repayment in full of the Existing Advances, the Employer shall, within two Business Days of receipt of a written request from the Contractor and in any event within 30 days of the date of repayment in full of the Existing Advances, provide a Confirmation of Repayment of Existing Advances to the Contractor and the Project Completion Account Trustee.

D. Advance Payment General Provisions

12. The Parties hereby agree to amend Sub-Clause 14.2 [*General Provisions*] as follows:



- 12.1 In the fourth line of sub-paragraph (a) delete "and Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*]" and insert ", Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] and Sub-Clause 14.2J [*Repayment of Other Existing Advances*]".
- 12.2 In the seventh line of sub-paragraph (b) delete "and Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*]" and insert ", Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] and Sub-Clause 14.2J [*Repayment of Other Existing Advances*]".
- 12.3 In the second line of sub-paragraph (c), delete "and Sub-Clause 14.2C [*Advance Payment for Key Suppliers*]" and insert ", Sub-Clause 14.2C [*Advance Payment for Key Suppliers*], Sub-Clause 14.2F [*Advance Payment for Specified Suppliers*], Sub-Clause 14.2H [*Advance Payment for Lock Gates*] and Sub-Clause 14.2J [*Repayment of Other Existing Advances*]".
- 12.4 In sub-paragraph (c)(i) insert "or for the purposes of the Other Existing Advances only, any Agreed Performance Milestone or Gates Delivery Condition" after "Production Target".
- 12.5 In the sixth line of sub-paragraph (d) delete "and Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] (save for sub-paragraph (i) of Sub-Clause 14.2I)" and insert ", Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] (save for sub-paragraph (i) of Sub-Clause 14.2I) and Sub-Clause 14.2J [*Repayment of Other Existing Advances*]".
- 12.6 In the last line of the second paragraph of sub-paragraph (d) beginning "For the avoidance of any doubt" delete "and/or Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*]" and insert ", Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] and/or Sub-Clause 14.2J [*Repayment of Other Existing Advances*]".

E. Advance Payment for Mobilisation

13. The Parties hereby agree to add the following sub-paragraphs (ii) to (rr) to the end of Sub-Clause 14.2A [*Advance Payment for Mobilisation*] as follows:

"Further temporary deferrals from the Effective Date onwards

- (ii) The Contractor shall provide at its sole cost to the Employer the APM Security Amendment-Base by no later than September 20, 2014, as a condition to the Employer continuing to grant a further deferral of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, pursuant to sub-paragraph (kk) below after September 20, 2014. The Contractor confirms that, pursuant to Sub-Clause 14.2A(oo)(iii), the Employer shall be entitled to make a claim for



the entire outstanding balance of the Advance Payment for Mobilisation Security on September 20, 2014 if the Contractor fails to deliver the APM Security Amendment-Base no later than September 20, 2014.

- (jj) The Parties have further agreed that repayments of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances), shall not resume by way of deductions as set out in sub-paragraphs (b) to (hh) above and/or shall not become due and payable in accordance with the last paragraph of Sub-Clause 14.2A (starting "The whole of the balance"), but shall instead be governed by the terms of sub-paragraphs (ii) to (rr) of this Sub-Clause 14.2A.
- (kk) Subject to sub-paragraphs (oo) and (pp) below, the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, until the earlier of Functional Completion or December 31, 2015.

Where this sub-paragraph (kk) applies, the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall become due and payable by the Contractor to the Employer on the earlier of the date on which Functional Completion occurs or December 31, 2015.

- (ll) Subject to sub-paragraphs (oo) and (pp) below, if the Contractor:
 - (i) provides to the Employer at its sole cost the Replacement Performance Security pursuant to Sub-Clause 4.2F [*Replacement Performance and Defects Security*]; and
 - (ii) no later than 45 days prior to December 31, 2015 the Contractor at its sole cost has provided to the Employer the APM Security Amendment - Extension providing a December 31, 2016 maturity date,

then the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall not become due and payable in accordance with sub-paragraph (kk) above and the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Mobilisation including the Deferred Repayments and the Late Repayment, until the December 31, 2016 Existing Advances Extended Repayment Date.

Where this sub-paragraph (ll) applies, the Advance Payment for Mobilisation, including the Deferred Repayments and the Late

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Repayment, shall become due and payable by the Contractor to the Employer on the December 31, 2016 Existing Advances Extended Repayment Date.

- (mm) Subject to sub-paragraph (oo) and (pp) below, if no later than 45 days prior to the December 31, 2016 Existing Advances Extended Repayment Date the Contractor at its sole cost has provided to the Employer the APM Security Amendment – Extension providing a December 31, 2018 maturity date, subject to the last sentence of sub-paragraph (pp) below, then the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall not become due and payable in accordance with sub-paragraph (ll) above and the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, until the December 31, 2018 Existing Advances Extended Repayment Date.

Where this sub-paragraph (mm) applies, the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall become due and payable by the Contractor to the Employer on the December 31, 2018 Existing Advances Extended Repayment Date.

- (nn) Subject to sub-paragraph (oo) of this Sub-Clause 14.2A, the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall become due and payable by the Contractor to the Employer, and the Contractor shall repay the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, in full to the Employer by way of one lump sum payment, on the due date set out in sub-paragraph (kk), (ll) or (mm) above as applicable. Payment from the Contractor to the Employer pursuant to this sub-paragraph (nn) shall be made by electronic transfer of funds to the bank account nominated by the Employer. For the avoidance of any doubt, Sub-Clause 2.5 [*Employer's Claims*] and Sub-Clause 3.5 [*Determinations*] shall not apply to any payment from the Contractor to the Employer pursuant to this sub-paragraph (nn) of Sub-Clause 14.2A.

Immediate repayment of the Advance Payment for Mobilisation

- (oo) The Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, shall immediately become due and payable by the Contractor to the Employer and the Employer shall be able to make a claim for the entire outstanding balance under the Advance Payment for Mobilisation Security, if:

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- (i) the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, has not been repaid in full on:
 - (1) the earlier of the date on which Functional Completion occurs or December 31, 2015 (pursuant to sub-paragraph (kk)); or
 - (2) the applicable Existing Advances Extended Repayment Date (pursuant to sub-paragraph (ll) or (mm)); and/or
- (ii) the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, has not been repaid in full prior to a termination under Clause 15 [*Termination by Employer*], Clause 16 [*Suspension and Termination by Contractor*] or Clause 19 [*Force Majeure*] (as the case may be); and/or
- (iii) the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, has not been repaid 45 days prior to the specified expiry date of the Advance Payment for Mobilisation Security and the Contractor fails to extend the validity of the Advance Payment for Mobilisation Security in accordance with this Sub-Clause 14.2A; and/or
- (iv) the Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by Employer*], irrespective of whether notice of termination has been given; and/or
- (v) the Contractor fails to deliver to the Employer the APM Security Amendment – Base, by September 20, 2014.

To the extent that the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, has been repaid pursuant to a drawing under Sub-Clause 14.2A(oo)(v), an amount of the Contract Price equivalent to such amount so repaid shall be reinstated and shall be available for payment to the Contractor in relation to applications for Interim Payment Certificates submitted by the Contractor pursuant to Sub-Clause 14.3 [*Application for Interim Payment Certificates*], subject to the terms of the Contract.

Maintenance in Effect of Advance Payment for Mobilisation Security

- (pp) At all times until the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, is repaid in full to the Employer in accordance with this Sub-Clause 14.2A the Contractor shall ensure that the specified expiry date of the Advance Payment for



Mobilisation Security is extended in accordance with the Contractor's obligations in the third paragraph of this Sub-Clause 14.2A to accommodate any further temporary deferral of the repayment of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, in accordance with sub-paragraphs (kk), (ll) and/or (mm) above. To the extent that the December 31, 2018 Existing Advances Extended Repayment Date is accelerated by operation of Sub-Clause 8.13.7, the Contractor shall be obligated only to ensure that the maturity date of the APM Security Amendment – Extension is to and including the date which is ten (10) Business Days following the December 31, 2018 Existing Advances Extended Repayment Date as so accelerated.

Financing Costs

- (qq) From the Effective Date the Parties have agreed that the Employer shall not be paid any financing costs pursuant to sub-paragraph (ff) in relation to the Employer's agreement to grant the Contractor any further temporary deferral of the repayment of the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, in accordance with sub-paragraphs (kk), (ll) and/or (mm) above from the Effective Date until the date the Advance Payment for Mobilisation, including the Deferred Repayments and the Late Repayment, is repaid in full, save that nothing in this sub-paragraph (qq) shall prejudice the Contractor's obligation to pay to the Employer any and all financing costs in accordance with sub-paragraph (ff) of this Sub-Clause 14.2A prior to the Effective Date (including, for the avoidance of doubt, the Contractor's obligation to repay the financing costs deferred pursuant to Variation Agreement No. 098), irrespective of whether such financing costs have been calculated and/or deducted by the Employer in a Payment Certificate prior to such date.

DAB Decisions

- (rr) The Parties have further agreed that sub-paragraphs (gg) and (hh) of Sub-Clause 14.2A shall not apply from the Effective Date."

F. Advance Payment for Plant

14. The Parties hereby agree to add the following sub-paragraphs (cc) to (ll) to the end of Sub-Clause 14.2B [*Advance Payment for Plant*] as follows:

"Further temporary deferrals from the Effective Date onwards

- (cc) The Contractor shall provide at its sole cost the APP Security Amendment-Base by no later than September 20, 2014, as a condition to



the Employer continuing to grant a further deferral of the Advance Payment for Plant, including the Deferred Repayments for Plant, pursuant to sub-paragraph (ee) below (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances) after September 20, 2014. The Contractor confirms that, pursuant to Sub-Clause 14.2B(ii)(iii), the Employer shall be entitled to make a claim for the entire outstanding balance of the Advance Payment for Plant Security on September 20, 2014 if the Contractor fails to deliver the APP Security Amendment-Base no later than September 20, 2014.

- (dd) The Parties have further agreed that repayments of the Advance Payment for Plant, including the Deferred Repayments for Plant (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances), shall not resume by way of deductions as set out in the second sub-paragraphs (a) to (bb) above and/or shall not become due and payable in accordance with the last paragraph of Sub-Clause 14.2B (starting "The whole of the balance"), but shall instead be governed by the terms of sub-paragraphs (cc) to (ll) of this Sub-Clause 14.2B.
- (ee) Subject to sub-paragraphs (ii) and (jj) below, the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Plant, including the Deferred Repayments for Plant, until the earlier of Functional Completion or December 31, 2015.

Where this sub-paragraph (ee) applies, the Advance Payment for Plant, including the Deferred Repayments for Plant, shall become due and payable by the Contractor to the Employer on the earlier of the date on which Functional Completion occurs or December 31, 2015.

- (ff) Subject to sub-paragraphs (ii) and (jj) below, if the Contractor:
 - (i) provides to the Employer at its sole cost the Replacement Performance Security pursuant to Sub-Clause 4.2F [*Replacement Performance and Defects Security*]; and
 - (ii) no later than 45 days prior to December 31, 2015 the Contractor at its sole cost has provided to the Employer the APP Security Amendment – Extension providing a December 31, 2016 maturity date,

then the Advance Payment for Plant, including the Deferred Repayments for Plant, shall not become due and payable in accordance with sub-paragraph (ee) above and the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Plant, including the Deferred Repayments for Plant, until the December 31, 2016 Existing Advances Extended Repayment Date.

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Where this sub-paragraph (ff) applies, the Advance Payment for Plant, including the Deferred Repayments for Plant, shall become due and payable by the Contractor to the Employer on the December 31, 2016 Existing Advances Extended Repayment Date.

- (gg) Subject to sub-paragraph (ii) and (jj) below, if no later than 45 days prior to the December 31, 2016 Existing Advances Extended Repayment Date the Contractor at its sole cost has provided to the Employer the APP Security Amendment – Extension providing a December 31, 2018 maturity date, subject to the last sentence of sub-paragraph (jj) below, then the Advance Payment for Plant, including the Deferred Repayments for Plant, shall not become due and payable in accordance with sub-paragraph (ff) above and the Employer shall grant the Contractor a further temporary deferral of the repayment of the Advance Payment for Plant, including the Deferred Repayments for Plant, until the December 31, 2018 Existing Advances Extended Repayment Date.

Where this sub-paragraph (gg) applies, the Advance Payment for Plant, including the Deferred Repayments for Plant, shall become due and payable by the Contractor to the Employer on the December 31, 2018 Existing Advances Extended Repayment Date.

- (hh) Subject to sub-paragraph (ii) of this Sub-Clause 14.2B, the Advance Payment for Plant, including the Deferred Repayments for Plant, shall become due and payable by the Contractor to the Employer, and the Contractor shall repay the Advance Payment for Plant, including the Deferred Repayments for Plant, in full to the Employer by way of one lump sum payment, on the due date set out in sub-paragraph (ee), (ff) or (gg) above as applicable. Payment from the Contractor to the Employer pursuant to this sub-paragraph (hh) shall be made by electronic transfer of funds to the bank account nominated by the Employer. For the avoidance of any doubt, Sub-Clause 2.5 [*Employer's Claims*] and Sub-Clause 3.5 [*Determinations*] shall not apply to any payment from the Contractor to the Employer pursuant to this sub-paragraph (hh) of Sub-Clause 14.2B.

Immediate repayment of the Advance Payment for Plant

- (ii) The Advance Payment for Plant, including the Deferred Repayments for Plant, shall immediately become due and payable by the Contractor to the Employer and the Employer shall be able to make a claim for the entire outstanding balance under Advance Payment for Plant Security, if:
- (i) the Advance Payment for Plant, including the Deferred Repayments for Plant, has not been repaid in full on:



- (1) the earlier of the date on which Functional Completion occurs or December 31, 2015 (pursuant to sub-paragraph (ee)); or
- (2) the applicable Existing Advances Extended Repayment Date (pursuant to sub-paragraph (ff) or (gg)), and/or
- (ii) the Advance Payment for Plant, including the Deferred Repayments for Plant, has not been repaid in full prior to a termination under Clause 15 [*Termination by Employer*], Clause 16 [*Suspension and Termination by Contractor*] or Clause 19 [*Force Majeure*] (as the case may be); and/or
- (iii) the Advance Payment for Plant, including the Deferred Repayments for Plant, has not been repaid 45 days prior to the specified expiry date of the Advance Payment for Plant Security and the Contractor fails to extend the validity of the Advance Payment for Plant Security in accordance with this Sub-Clause 14.2B; and/or
- (iv) the Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by Employer*], irrespective of whether notice of termination has been given; and/or
- (v) the Contractor fails to provide the APP Security Amendment – Base by September 20, 2014.

To the extent that the Advance Payment for Plant, including the Deferred Repayments for Plant, has been repaid pursuant to a drawing under Sub-Clause 14.2B(ii)(v), an amount of the Contract Price equivalent to such amount so repaid shall be reinstated and shall be available for payment to the Contractor in relation to applications for Interim Payment Certificates submitted by the Contractor pursuant to Sub-Clause 14.3 [*Application for Interim Payment Certificates*], subject to the terms of the Contract.

Maintenance in Effect of Advance Payment for Plant Security

- (jj) At all times until the Advance Payment for Plant, including the Deferred Repayments for Plant, is repaid in full to the Employer in accordance with this Sub-Clause 14.2B, the Contractor shall ensure that the specified expiry date of the Advance Payment for Plant Security is extended in accordance with the Contractor's obligations in the fourth paragraph of this Sub-Clause 14.2B to accommodate any further temporary deferral of the repayment of the Advance Payment for Plant, including the Deferred Repayments for Plant, in accordance with sub-paragraphs (ee), (ff) and/or (gg) above. To the extent that the December 31, 2018 Existing Advances Extended Repayment Date is accelerated by operation of Sub-Clause

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8.13.7, the Contractor shall be obligated only to ensure that the maturity date of the APP Security Amendment – Extension is to and including the date which is ten (10) Business Days following the December 31, 2018 Existing Advances Extended Repayment Date as so accelerated.

Financing Costs

- (kk) From the Effective Date the Parties have agreed that the Employer shall not be paid any financing costs pursuant to sub-paragraph (z) in relation to the Employer's agreement to grant the Contractor any further temporary deferral of the repayment of the Advance Payment for Plant, including the Deferred Repayments for Plant, in accordance with sub-paragraphs (ee), (ff) and/or (gg) above from the Effective Date until the date the Advance Payment for Plant, including the Deferred Repayments for Plant, is repaid in full, save that nothing in this sub-paragraph (kk) shall prejudice the Contractor's obligation to pay to the Employer any and all financing costs in accordance with sub-paragraph (z) of this Sub-Clause 14.2B prior to the Effective Date (including, for the avoidance of doubt, the Contractor's obligation to repay the financing costs deferred pursuant to Variation Agreement No. 098), irrespective of whether such financing costs have been calculated and/or deducted by the Employer in a Payment Certificate prior to such date.

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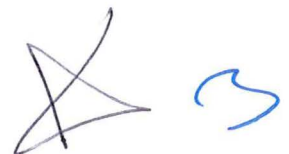
- (ll) The Parties have further agreed that sub-paragraphs (aa) and (bb) of Sub-Clause 14.2B shall not apply from the Effective Date."

G. Advance Payment for Key Suppliers

15. The Parties hereby agree to add the following sub-paragraphs (u) to (v) to the end of Sub-Clause 14.2C [*Advance Payment for Key Suppliers*] as follows:

"Repayments from the Effective Date onwards

- (u) The Parties have further agreed that repayments of the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers, (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances) shall not resume by way of deductions as set out in the eighth paragraph and the second sub-paragraphs (a) to (t) above and/or shall not become due and payable in accordance with the last paragraph of Sub-Clause 14.2C (starting "The whole of the balance"), but shall instead be governed by the terms of Sub-Clause 14.2J [*Repayment of Other Existing Advances*].

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- (v) From the Effective Date the Parties have agreed that the Employer shall not be paid any financing costs pursuant to sub-paragraph (t) in relation to the Employer's agreement to grant the Contractor any further temporary deferral of the repayment of the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers, in accordance with sub-paragraphs (b) and/or (j) of Sub-Clause 14.2J [*Repayment of Other Existing Advances*] from the Effective Date until the date the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers, is repaid in full, save that nothing in this sub-paragraph (v) shall prejudice the Contractor's obligation to pay to the Employer any and all financing costs in accordance with sub-paragraph (t) of this Sub-Clause 14.2C prior to the Effective Date (including, for the avoidance of doubt, the Contractor's obligation to repay the financing costs deferred pursuant to Variation Agreement No. 098), irrespective of whether such financing costs have been calculated and/or deducted by the Employer in a Payment Certificate prior to such date."

H. Advance Payment for Specified Suppliers

16. The Parties hereby agree to add the following sub-paragraph (a) to the end of Sub-Clause 14.2F [*Advance Payment for Specified Suppliers*] as follows:

"Repayment from the Effective Date onwards

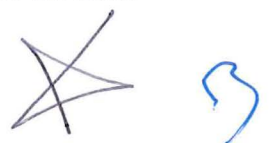
- (a) The Parties have further agreed that repayments of the Advance Payment for Specified Suppliers (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances) shall not resume by way of deductions as set out in the second to last paragraph above (which starts "The entire outstanding balance of the Advance Payment for Specified Suppliers shall be repaid") and/or shall not become due and payable in accordance with the last paragraph of Sub-Clause 14.2F (starting "The whole of the balance"), but shall instead be governed by the terms of Sub-Clause 14.2J [*Repayment of Other Existing Advances*]."

I. Advance Payment for Lock Gates

17. The Parties hereby agree to add the following sub-paragraph (n) to the end of Sub-Clause 14.2H [*Advance Payment for Lock Gates*] as follows:

"Repayment from the Effective Date onwards

- (n) The Parties have agreed that repayments of the Advance Payment for Lock Gates (the amount of which as at the Effective Date is set out in the Schedule of Existing Advances) shall not resume by way of deductions as set out in sub-paragraph (l) above and/or shall not become due and payable in accordance with sub-paragraph (m) above, but shall instead

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be governed by the terms of Sub-Clause 14.2J [*Repayment of Other Existing Advances*]."

J. Advance Payment for Specified Expenditures

18. The Parties hereby agree to amend Sub-Clause 14.2I [*Advance Payment for Specified Expenditures*] as follows:

- (a) in sub-paragraph (i) of Sub-Clause 14.2I, in the fourth to eighth lines delete the words "; provided, however, that if there is no Effective Date (as defined in the Memorandum of Understanding) on or before April 25, 2014 or as further extended by mutual agreement under the Memorandum of Understanding, then the Advance Payment for Specified Expenditures shall be repaid in full by the Contractor by way of one lump sum deduction in the Payment Certificate of April 2015 issued in May 2015"; and
- (b) in sub-paragraph (j) of Sub-Clause 14.2I, in the third and fourth line delete the words "the Amendment to Advance Payment Joint and Several Guarantee and/or the Amendment to Advance Payment Parent Company Guarantee" and replace with "the Advance Payment Joint and Several Guarantee, as amended and/or the Advance Payment Parent Guarantee, as amended".
- (c) in sub-paragraph (j)(i) of Sub-Clause 14.2I:
 - (i) in sub-sub-paragraph (1) delete the words "; or"; and
 - (ii) delete sub-sub-paragraph (2) in its entirety.

K. Repayment of Other Existing Advances

19. The Parties hereby agree to add the following new Sub-Clause 14.2J [*Repayment of Other Existing Advances*] to the end of Sub-Clause 14.2 [*General Provisions*] as follows:

"14.2J Repayment of Other Existing Advances

Further temporary deferrals from the Effective Date to December 31, 2015

- (a) The Parties have agreed from the Effective Date that, as each is a component of the Other Existing Advances, all of the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates shall have a single basis of extension and repayment,

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subject to and as provided in this Sub-Clause 14.2J. Unless otherwise stated in this Sub-Clause 14.2J, any deduction and/or repayments made in accordance with this Sub-Clause 14.2J shall be applied proportionally against the outstanding balances of each such component of the Other Existing Advances.

- (b) From the Effective Date, subject to the Contractor attaining each of the Gates Delivery Conditions and the Agreed Performance Milestones in accordance with Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*], the Employer shall grant the Contractor a further temporary deferral of the repayment of the Other Existing Advances until December 31, 2015. Where this sub-paragraph (b) applies, and subject to sub-paragraphs (c) and/or (f) below, the Other Existing Advances will become due and payable by the Contractor to the Employer on December 31, 2015.

Other Existing Advances Milestone Deductions

- (c) In the event the Contractor fails to attain any:

- (i) Gates Delivery Condition; and/or
- (ii) Agreed Performance Milestone,

in accordance with Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] and the Contractor fails to attain Functional Completion by the Functional Completion Date, then the Parties agree and acknowledge that for each such Gates Delivery Condition or Agreed Performance Milestone the Contractor has failed to attain, the Contractor shall repay to the Employer the corresponding amount of the Other Existing Advances specified in Appendix G of Variation Agreement No. 108 (the "**Other Existing Advances Milestone Deduction**") in accordance with this sub-paragraph (c) either:

- (A) on December 31, 2015; or
- (B) on the Functional Completion Date if the Contractor has provided to the Employer the Other Existing Advances LOC – Extension pursuant to sub-paragraph (f)(i) below, save that if at the Functional Completion Date there is one or more outstanding Fast Track Dispute(s) pursuant to Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*], then the repayment date will be on the later of (i) the date the last outstanding Fast Track Dispute is decided pursuant to Sub-Clause 20.2B [*Fast Track*



Expert Determination for Excusable Delay Claims] or (ii) the revised Functional Completion Date as extended by the last such decision;
or

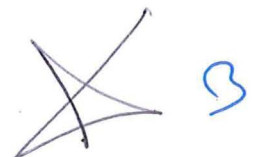
- (C) if earlier than the repayment date that would otherwise be applicable under (B) above, on December 31, 2018,

(such repayment date, as applicable, being the "**Other Existing Advances Milestone Deduction Payment Date**").

The Employer shall calculate the aggregate amount of the Other Existing Advances Milestone Deductions payable by the Contractor to the Employer pursuant to this sub-paragraph (c) (based on a month of 30 days) and, subject to any prior repayment of the Other Existing Advances pursuant to sub-paragraph (b) and/or sub-paragraph (h) of this Sub-Clause 14.2J, the aggregate amount of the Other Existing Advances Milestone Deductions payable by the Contractor pursuant to this sub-paragraph (c) will become due and payable by the Contractor to the Employer by way of one lump sum payment on the Other Existing Advances Milestone Deduction Payment Date.

Payment from the Contractor to the Employer of the aggregate amount of the Other Existing Advances Milestone Deductions shall be made by electronic transfer of funds to the bank account nominated by the Employer. For the avoidance of any doubt, Sub-Clause 2.5 [*Employer's Claims*] and Sub-Clause 3.5 [*Determinations*] shall not apply to any payment from the Contractor to the Employer pursuant to this sub-paragraph (c) of Sub-Clause 14.2J.

- (d) The aggregate amount of the Other Existing Advances Milestone Deductions paid by the Contractor to the Employer pursuant to sub-paragraph (c) shall be applied to the repayment of the Other Existing Advances against the outstanding balances of each such component of the Other Existing Advances as follows:
- (i) to repay the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers until the same is repaid in full; and thereafter
 - (ii) to repay the Advance Payment for Specified Suppliers until the same is repaid in full; and thereafter
 - (iii) to repay the Advance Payment for Lock Gates until the same is repaid in full.



Immediate repayment of the Other Existing Advances Milestone Deductions

- (e) The Other Existing Advances Milestone Deductions shall immediately become due and payable by the Contractor to the Employer and the Employer shall be able to make a claim for the entire outstanding balance thereof as follows:
 - (i) if, on the Other Existing Advances Milestone Deduction Payment Date, any, or any combination of, the Other Existing Advances Security is then outstanding, then the Employer shall be entitled to make demand for the full amount of the Other Existing Advances Milestone Deductions in this order: first, under the Other Existing Advances LOC, second, under the Other Existing Advances Bond, third, under the Other Existing Advances Guarantees and fourth, under the Advance Payment Guarantees; or
 - (ii) if, on the Other Existing Advances Milestone Deduction Payment Date, there is no Other Existing Advances Security then outstanding, then the Employer shall be entitled to make demand for the full amount of the Other Existing Advances Milestone Deductions under the Advance Payment Guarantees.

Further temporary deferrals from January 2016 onwards

- (f) Subject to sub-paragraph (h) below, if:
 - (i) no later than 45 days prior to January 1, 2016 the Contractor at its sole cost provides to the Employer the Other Existing Advances LOC – Extension providing a December 31, 2018 maturity date in the form set out in Appendix FF to Variation Agreement No. 108 subject to the last sentence of the first paragraph of sub-paragraph (i) below; and
 - (ii) the Contractor attains one or more of the Gates Delivery Conditions pursuant to the terms of Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] or attains one or more of the Agreed Performance Milestones pursuant to the terms of Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] or Sub-Clause 8.13.10 applies [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*],

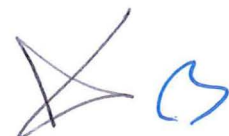


then the Employer will grant the Contractor a further temporary deferral of the repayment of the Other Existing Advances, less the aggregate amount of the Other Existing Advances Milestone Deductions paid or payable by the Contractor to the Employer pursuant to sub-paragraph (c) above, if any, (such balance being the "**Other Existing Advances Attained Milestone Amount**") until the December 31, 2018 Existing Advances Extended Repayment Date, save only to the extent that the Other Existing Advances Attained Milestone Amount is secured by the Other Existing Advances LOC referred to in sub-paragraph (f)(i) above. For the avoidance of any doubt, nothing in this sub-paragraph (f) shall entitle the Contractor to a temporary deferral of the payment of the aggregate amount of the Other Existing Advances Milestone Deductions, if any, payable by the Contractor to the Employer pursuant to sub-paragraph (c) above.

Where this sub-paragraph (f) applies, only that portion of the Other Existing Advances Attained Milestone Amount that is secured by the Other Existing Advances LOC referred to in sub-paragraph (f)(i) above will become due and payable by the Contractor to the Employer on the December 31, 2018 Existing Advances Extended Repayment Date.

For the avoidance of any doubt, where the Contractor satisfies the conditions of this sub-paragraph (f) but provides the Other Existing Advances LOC for less than the Other Existing Advances Attained Milestone Amount, the amount of the Other Existing Advances LOC shall be applied proportionally as security for each of the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates and the Other Existing Advances Attained Milestone Amount not secured by the Other Existing Advances LOC shall be repaid by the Contractor on the Functional Completion Date in accordance with the terms of sub-paragraph (g).

- (g) Subject to sub-paragraphs (h) and (j) of this Sub-Clause 14.2J, the Other Existing Advances shall become due and payable by the Contractor to the Employer, and the Contractor shall repay the Other Existing Advances in full to the Employer by way of one lump sum payment, on the due date set out in sub-paragraph (b) or sub-paragraph (f) above as applicable. Payment from the Contractor to the Employer pursuant to this sub-paragraph (g) shall be made by electronic transfer of funds to the bank account nominated by the Employer. For the avoidance of any doubt, Sub-Clause 2.5 [*Employer's Claims*] and Sub-Clause 3.5 [*Determinations*] shall not apply to any payment from the Contractor to the Employer pursuant to this sub-paragraph (g) of Sub-Clause 14.2J.

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Immediate repayment of the Other Existing Advances

- (h) The Other Existing Advances shall immediately become due and payable by the Contractor to the Employer and the Employer shall be able to make a claim for the Other Existing Advances Outstanding Amount under the applicable Other Existing Advances Security (if any is then outstanding), and the Plant and Material Security (until the expiry date thereof) and the Advance Payment Guarantees (until the expiry date thereof) (and for the avoidance of doubt, a claim under the applicable Other Existing Advances Security (if any is then outstanding), and the Plant and Material Security (as applicable) and the Advance Payment Guarantees (as applicable) shall be made as follows:
- (A) in respect of a claim for the Advance Payment for Key Suppliers, and solely with respect to repayment due on December 31, 2015 (or earlier as otherwise may occur pursuant to this Contract), if the Contractor has provided the Other Existing Advances Bond and the Other Existing Advances Guarantees, then in the first instance under the Other Existing Advances Bond and in the second instance under the Other Existing Advances Joint and Several Guarantee and/or the Other Existing Advances Parent Guarantee;
- (B) in respect of a claim for the Advance Payment for Specified Suppliers, if the Contractor has provided (1) the Other Existing Advances LOC, then in the first instance under the Other Existing Advances LOC and in the second instance under the Advance Payment Guarantees or (2) solely with respect to repayment due on December 31, 2015 (or earlier as otherwise may occur pursuant to this Contract), the Other Existing Advances Bond and the Other Existing Advances Guarantees, then in the first instance under the Other Existing Advances Bond and in the second instance under the Other Existing Advances Joint and Several Guarantee and/or the Other Existing Advances Parent Guarantee if in effect at such time, and if not, under the Advance Payment Guarantees; or
- (C) in respect of a claim for the Advance Payment for Lock Gates, if the Contractor has provided (1) the Other Existing Advances LOC, then in the first instance under the Other Existing Advances LOC and in the second instance under the Plant and Material Security (until the expiry date thereof), or (2) solely with respect to repayment due on December 31, 2015 (or earlier as otherwise may occur pursuant to this Contract), the Other Existing Advances Bond and the Other Existing Advances Guarantees, then in the first instance under the Other Existing Advances Bond and in the second instance under the Plant and Material Security (until the expiry date thereof) and in the

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third instance under the Other Existing Advances Joint and Several Guarantee and/or the Other Existing Advances Parent Guarantee if in effect at such time, and if not, under the Advance Payment Guarantees,

if, in any and all such events:

(i) the:

(1) Other Existing Advances have not been repaid in full on December 31, 2015 (pursuant to sub-paragraph (b)); or

(2) Other Existing Advances Attained Milestone Amount, if any, has not been repaid in full on the Existing Advances Extended Repayment Date (pursuant to sub-paragraph (f)); and/or

(ii) the Other Existing Advances Milestone Deductions, if any, have not been paid in full on the Other Existing Advances Milestone Deduction Payment Date; and/or

(iii) the Other Existing Advances have not been repaid in full prior to a termination under Clause 15 [*Termination by Employer*], Clause 16 [*Suspension and Termination by Contractor*] or Clause 19 [*Force Majeure*] (as the case may be); and/or

(iv) the Other Existing Advances have not been repaid 45 days prior to the specified expiry date of the Other Existing Advances Bond or the Other Existing Advances LOC, as applicable, or the Plant and Material Security, as applicable and the Contractor fails to extend the validity of such Other Existing Advances Security and/or the Plant and Material Security, as applicable in accordance with sub-paragraph (i) of this Sub-Clause 14.2J; and/or

(v) the Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by Employer*], irrespective of whether notice of termination has been given; and/or

(vi) the Contractor fails to deliver the Replacement Performance Security by the date required by Sub-Clause 4.2F [*Replacement Performance and Defects Security*].

Maintenance in effect of the Other Existing Advances Security

- (i) If the Contractor provides either or both of the Other Existing Advances Bond or the Other Existing Advances LOC, then if the Other Existing

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Advances have not been repaid in full by the date 45 days prior to the specified expiry date of each of the Other Existing Advances Bond and the Other Existing Advances LOC, as applicable, the Contractor shall, not later than 30 days prior to the specified expiry date of each such Other Existing Advances Security, extend the validity of each such Other Existing Advances Security for a period of not less than one year (or such lesser period as the Contractor in good faith believes, as agreed with the Employer's Representative, will maintain each such Other Existing Advances Security in effect until the Other Existing Advances have been repaid) and provide the Employer's Representative with reasonable evidence thereof. To the extent that the December 31, 2018 Existing Advances Extended Repayment Date is accelerated by operation of Sub-Clause 8.13.7, the Contractor shall be obligated only to ensure that the maturity date of the Other Existing Advances LOC is to and including the date which is ten (10) Business Days following the December 31, 2018 Existing Advances Extended Repayment Date as so accelerated.

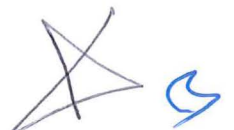
At all times until the Advance Payment for Specified Suppliers and the Advance Payment for Specified Expenditures are repaid in full to the Employer in accordance with this Sub-Clause 14.2J, the Contractor shall ensure that the Advance Payment Guarantees shall remain in full force and effect.

At all times until the Advance Payment for Lock Gates is repaid in full to the Employer in accordance with this Sub-Clause 14.2J, the Contractor shall ensure that:

- (i) the Advance Payment for Lock Gates remains secured by (a) the Plant and Material Security until its expiration date, and (b) from and after such expiration date, by the Advance Payment Guarantees and (c) from the date specified in Sub-Clause 14.1A.5, by the Other Existing Advances Guarantees; and
- (ii) each of the Other Existing Advances Guarantees provides, by its terms, that it shall automatically and without the need for any notice of action by any party extend to guarantee the full amount of the Advance Payment for Lock Gates from and after the date specified in Sub-Clause 14.1A.5.

Dispute Proceeds

- (j) The Other Existing Advances shall also be repaid through the payment of Dispute Proceeds (if any) pursuant to sub-paragraph (a) of Sub-Clause 20.9 [*Payment of Dispute Proceeds*]. In such event, the Other Existing Advances Outstanding Amount to be repaid by the Contractor shall be recalculated accordingly.

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Advance Payment for Lock Gates

- (k) The Parties acknowledge and agree that the Plant and Material Security shall remain valid and enforceable in accordance with Sub-Clause 14.5.5 [*Plant and Materials Intended for the Works*]. No later than 45 days prior to February 1, 2015, the Contractor at its sole cost shall provide to the Employer amendments to the Advance Payment Guarantees in the forms set out in Appendix II-1 and Appendix II-2 to Variation Agreement No. 108 with any modifications to such forms to be acceptable to the Employer, to include the outstanding balance of the Advance Payment for Lock Gates under the Advance Payment Guarantees."

L. Performance Bond and Replacement Performance and Defects Security

20. The Parties hereby agree to amend the Contract as follows:

20.1 Amend Sub-Clause 4.2A [*Performance Bond*] as follows:

- (a) in the second line of paragraph 2 of Sub-Clause 4.2A.1 after "in full force and effect until" insert "either: (i)";
- (b) in the fifth line of paragraph 2 of Sub-Clause 4.2A.1 after "Appendix to Tender" insert "; or (ii) the Surety has deposited or caused to be deposited the Surety Deposit into the Project Completion Account in accordance with Sub-Clause 14.16.2 [*Project Completion Account*]";
- (c) in the second line of paragraph 2 of Sub-Clause 4.2A.2 after "in full force and effect until" insert "either: (i)"; and
- (d) in the fifth line of paragraph 2 of Sub-Clause 4.2A.2 after "Appendix to Tender" insert "; or (ii) the Surety has deposited or caused to be deposited the Surety Deposit into the Project Completion Account in accordance with Sub-Clause 14.16.2 [*Project Completion Account*]".

20.2 In the first paragraph of Sub-Clause 4.2B [*Defects Notification Period Security*] in the third line, after "the Defects Notification Period Security", insert the words "in accordance with Sub-Clause 4.2F [*Replacement Performance and Defects Security*] and delete the remainder of the text in Sub-Clause 4.2B [*Defects Notification Period Security*].

20.3 Insert the following as a new Sub-Clause 4.2F [*Replacement Performance and Defects Security*] at the end of Sub-Clause 4.2 [*Security for Performance*]:

"4.2F Replacement Performance and Defects Security

The Contractor shall obtain, at its own cost, and furnish to the Employer the

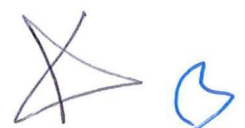


Replacement Performance and Defects Security. The Contractor shall deliver the Replacement Performance and Defects Security no later than 60 days prior to the commencement of the Functional Completion Tests in accordance with Sub-Clause 10A.5, and shall send a copy to the Employer's Representative. As a condition to the issuance of the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate under Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be, the Contractor shall cause (i) the available amount under the Replacement Performance and Defects Bond or Replacement Performance and Defects LOC, whichever is then outstanding, to be reinstated by the amount of any prior drawings made thereunder, and (ii) the Replacement Performance and Defects Bond or Replacement Performance and Defects LOC, whichever is then outstanding, to remain available during the Defects Notification Period; provided, however, that notwithstanding that the entitlement of the Employer to make a demand in respect of defects or damage under the Replacement Performance and Defects Security has not yet come into effect, the Employer may make demand on the Contractor in respect of defects or damage under and as provided in the Contract.

If the Contractor has not become entitled to the Performance Certificate by the date 45 days prior to the specified expiry date of the Replacement Performance and Defects Bond or Replacement Performance and Defects LOC, the Contractor shall, not later than 30 days prior to the specified expiry date of the Replacement Performance and Defects Bond or Replacement Performance and Defects LOC, whichever is then outstanding, extend the validity of such Replacement Performance and Defects Bond or Replacement Performance and Defects LOC, for a period of not less than one year (or such lesser period as the Contractor in good faith believes, as agreed in writing with the Employer's Representative, will maintain such Replacement Performance and Defects Bond or Replacement Performance and Defects LOC in effect until the Performance Certificate has been issued by the Employer's Representative), and provide the Employer's Representative with reasonable evidence thereof.

If the Contractor fails to deliver the Replacement Performance and Defects Security at least 60 days prior to the commencement of the Functional Completion Tests as noted above, Sub-Clause 14.2J(h)(vi) shall apply.

If after issuance of the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate under Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be, the Employer is entitled to payment of performance damages, as determined under Sub-Clause 9.4(b) [*Failure to Pass Tests on Completion*] in respect of Tests on Completion, the Employer may deduct the full amount of such damages or any part of such

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damages from the Retention Money, or where the Retention Money is insufficient for this purpose, the Employer's Representative shall determine the full amount or any part of such damages to be paid to the Employer by the Contractor pursuant to Sub-Clause 2.5 [*Employer's Claims*]. Nothing in this paragraph shall affect the right of the Contractor to the release of the Retention Money at the times and in the amounts contemplated in Sub-Clause 14.9.2 [*Payment of Retention Money or Provision of Retention Security*].

The Employer shall be entitled to make a claim under the Replacement Performance and Defects Security at the following respective times and in the following respective amounts: in respect of clause (a) until such time as the Taking-Over Certificate under Sub-Clause 10.1 [*Taking Over of the Works*] or the last Taking-Over Certificate under Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after which all of the Works shall have been taken over by the Employer, as the case may be, has been issued; in respect of clauses (b) or (c) after such issuance; and in respect of clauses (d) and (e) at all times hereunder and as specified in such clause:

- (a) if the Contractor fails to pay the Employer an amount of performance damages due, as determined under Sub-Clause 9.4(b) [*Failure to Pass Tests on Completion*], then such claim shall be for the lesser of (x) such amount, and (y) the total outstanding amount of the Replacement Performance and Defects Security;
- (b) if during the Defects Notification Period, the Contractor has failed to pay the Employer an amount due, as either agreed by the Contractor or determined under Sub-Clause 2.5 [*Employer's Claims*] or Clause 20 [*Claims, Disputes and Arbitration*], within 42 days after such agreement or determination, then such claim shall be for the lesser of (x) such amount, and (y) the total outstanding amount of the Replacement Performance and Defects Security;
- (c) if during the Defects Notification Period, the Contractor fails to remedy a default within the time period stated in the Employer's notice requiring the default to be remedied, then such claim shall be for the lesser of (x) such amount, and (y) the total outstanding amount of the Replacement Performance and Defects Security;
- (d) if the Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 [*Termination by the Employer*], irrespective of whether notice of termination has been given, then such claim shall be for the total outstanding amount of the Replacement Performance and Defects Security; and/or
- (e) if the Contractor has not become entitled to receive the Performance Certificate 45 days prior to the expiry date of the Replacement



August 1, 2014

Design and Construction of the Third Set of Locks

Performance and Defects LOC or Replacement Performance and Defects Bond whichever is outstanding and the Contractor fails to extend the validity of such Replacement Performance and Defects LOC or Replacement Performance and Defects Bond in accordance with this Sub-Clause 4.2F, then such claim shall be for the total outstanding amount of such Replacement Performance and Defects LOC or Replacement Performance and Defects Bond.

If the Contractor has provided the Replacement Performance and Defects Security consisting of the Replacement Performance and Defects Bond, the Replacement Performance and Defects Joint and Several Guarantee and the Replacement Performance and Defects Parent Guarantee, the Contractor agrees that any claim made by the Employer under the Replacement Performance and Defects Security shall be made under the Replacement Performance and Defects Bond to the full amount thereof first and any remaining claim or claims under the Replacement Performance and Defects Joint and Several Guarantee and/or the Replacement Performance and Defects Parent Guarantee.



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Design and Construction of the Third Set of Locks

The making of a demand and/or drawing of any amount by the Employer under the Replacement Performance and Defects LOC or Replacement Performance and Defects Bond shall be without prejudice to and shall not prevent the Employer from also making any demand on the Contractor under the Contract and/or, in the case of the Replacement Performance and Defects Bond, the Guarantors under the Replacement Performance and Defects Joint and Several Guarantee and the Replacement Performance and Defects Parent Guarantee for any and all amounts due in respect of performance damages as provided in the Contract (including, for the avoidance of doubt, following any action by the Employer pursuant to Sub-Clause 15.1 [*Notice to Correct*] or Sub-Clause 15.2 [*Termination by Employer*] of the Contract.

Notwithstanding any other provision of this Sub-Clause 4.2F [*Replacement Performance and Defects Security*], upon the expiration of the Defects Notification Period in respect of a part of the Works taken over under Sub-Clause 10.2 [*Taking Over of Parts of the Works*], the Contractor shall have the right to reduce the Defects Notification Period Security in an amount proportionate to the Works taken over pursuant to such Taking-Over Certificate, which reduction shall be implemented by (i) if the Contractor has provided the Replacement Performance and Defects Security consisting of the Replacement Performance and Defects Bond, the Replacement Performance and Defects Joint and Several Guarantee and the Replacement Performance and Defects Parent Guarantee, a pro rata reduction between such (a) bond and (b) guarantees, and (ii) if the Contractor has provided the Replacement Performance and Defects LOC, a proportionate reduction in the available amount thereunder."

- 20.4 In sub-paragraph (a) of Sub-Clause 15.2 [*Termination by Employer*] insert ", or Sub-Clause 4.2F [*Replacement Performance and Defects Security*]" after "Sub-Clause 4.2C [*Payment Bond*]".

M. Further Contract Payment Amount

21. The Parties hereby agree to add the following Sub-Clause 14.1A [*Further Contract Payment Amount*] after Sub-Clause 14.1 [*The Contract Price*] as follows:

"14.1A Further Contract Payment Amount

14.1A.1 Notwithstanding the fact that the Employer has made an advance payment of part of the Contract Price in the amount of the Existing Advances, and without prejudice to the Contractor's obligation to make repayment of the Existing Advances in accordance with Sub-Clauses 14.2A [*Advance Payment for Mobilisation*], 14.2B [*Advance Payment for Plant*], 14.2C [*Advance Payment for Key Suppliers*], 14.2F [*Advance Payment for Specified Suppliers*], 14.2H [*Advance Payment*

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August 1, 2014

Design and Construction of the Third Set of Locks

for Lock Gates] and 14.2J [*Repayment of Other Existing Advances*], the Employer shall make further payment to the Contractor for the Works in accordance with the terms of this Sub-Clause 14 [*Contract Price and Payment*], up to the Further Contract Payment Amount and otherwise in accordance with the terms set out in this Sub-Clause 14.1A, and solely in relation to applications for Interim Payment Certificates for progress of the Works submitted by the Contractor pursuant to Sub-Clause 14.3 [*Application for Interim Payment Certificates*] after the Effective Date unless otherwise indicated below.

14.1A.2 Subject to:

- (a) the prior use of the entire balance of the Contract Price outstanding on the date of signature of Variation Agreement No. 108; and
- (b) delivery by the Contractor to the Employer of the Confirmations from Issuers of the Advance Payment Securities,

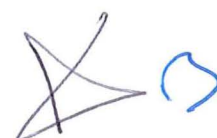
the Further Contract Payment Amount shall first be used, subject to the terms of this Sub-Clause 14 [*Contract Price and Payment*] and in accordance with Sub-Clause 14.1A.1 above, to make payment of Interim Payment Certificates for progress of the Works submitted by the Contractor pursuant to Sub-Clause 14.3 [*Application for Interim Payment Certificates*] after the date of signature of Variation Agreement No. 108 up to an equivalent amount of the Original Contract Advances equal to USD 100,000,000.

14.1A.3 Subject to:

- (a) the Employer having made payment of the Further Contract Payment Amount up to an amount of USD 100,000,000 in accordance with Sub-Clause 14.1A.2; and
- (b) the Contractor's prior satisfaction of the conditions set out in subparagraph (ii) of Sub-Clause 14.2A [*Advance Payment for Mobilisation*] and subparagraph (cc) of Sub-Clause 14.2B [*Advance Payment for Plant*],

the Further Contract Payment Amount shall then be used, subject to the terms of this Sub-Clause 14 [*Contract Price and Payment*] and in accordance with Sub-Clause 14.1A.1 above, to make payment of Interim Payment Certificates for progress of the Works up to an amount equivalent to the Original Contract Advances less USD 100,000,000.

14.1A.4 Subject to:



- (a) the Employer having made payment of the Further Contract Payment Amount up to an amount equivalent to the Original Contract Advances in accordance with Sub-Clause 14.1A.2 and 14.1A.3; and
- (b) the Contractor's prior satisfaction of the precondition set out in Sub-Clause 14.1A.5 below,

the Further Contract Payment Amount shall thereafter be used, subject to the terms of this Sub-Clause 14 [*Contract Price and Payment*] and in accordance with Sub-Clause 14.1A.1 above, to make payment of Interim Payment Certificates for progress of the Works up to an amount equivalent to the Other Existing Advances.

14.1A.5 As a precondition to the Employer's obligation to use any amount of the Further Contract Payment Amount that is equivalent to the Other Existing Advances in accordance with Sub-Clause 14.1A.4 above, and in any event no later than 30 days prior to the submission by the Contractor of the first application for an Interim Payment Certificate for progress of the Works pursuant to Sub-Clause 14.3 [*Application for Interim Payment Certificates*] for the Employer to make payment of any amount of the Further Contract Payment Amount that is equivalent to any amount of the Other Existing Advances, the Contractor shall at its sole cost provide to the Employer the Other Existing Advances Security."

N. Disputes – proceeds, small claims and arbitration

22. The Parties hereby agree to amend the Contract as follows:

22.1 Delete sub-paragraph (b) of Sub-Clause 20.6 [*Arbitration*] and insert "in addition to the Rules, the arbitrators will be guided but will not be bound, by the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration;"

22.2 Insert new Sub-Clause 20.9 [*Payment of Dispute Proceeds*] as follows:

"20.9 Payment of Dispute Proceeds

The Contractor agrees that any Dispute Proceeds will be paid by the Employer as follows:

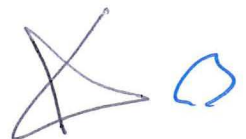
- (a) fifty percent (50%) of the Dispute Proceeds shall be applied by way of set-off to repay first the outstanding balance of the Other Existing Advances in the following order of priority (save in relation to those Dispute Proceeds awarded in favour of the

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Contractor as a result of a determination or agreement by the Employer's Representative pursuant to Sub-Clause 3.5 [*Determinations*] for which only sub-paragraph (iv) below shall apply):

- (i) to repay the Advance Payment for Key Suppliers, including the Deferred Repayments for Key Suppliers until the same is repaid in full; and thereafter
 - (ii) to repay the Advance Payment for Specified Suppliers until the same is repaid in full; and thereafter
 - (iii) to repay the Advance Payment for Lock Gates until the same is repaid in full; and thereafter
 - (iv) any outstanding Dispute Proceeds after repayment of the Other Existing Advances pursuant to this sub-paragraph (a) and 50% of the Dispute Proceeds awarded in favour of the Contractor as a result of a determination or agreement by the Employer's Representative pursuant to Sub-Clause 3.5 [*Determinations*] shall be deposited in the Project Completion Account (such remaining amounts, if any, to be deposited in the Project Completion Account being the "**Dispute Completion Proceeds**"),
- (b) the other fifty percent (50%) of the Dispute Proceeds shall be paid to the Contractor in accordance with the requirements of the Contract.
- (c) If, following any payment by the Employer of any Dispute Proceeds in accordance with this Sub-Clause 20.9:
- (i) a decision by the DAB pursuant to Sub-Clause 20.4 [*Obtaining a Dispute Adjudication Board's Decision*]; and/or
 - (ii) an award rendered by the ICC in respect of arbitration proceedings pursuant to Sub-Clause 20.6 [*Arbitration*],

overturns in whole or in part any determination, agreement or decision which formed the basis of the original payment by the Employer of such Dispute Proceeds such that sums are due and owing from the Contractor to the Employer, then the Contractor shall immediately repay to the Employer the full amount of such sums so decided or awarded.



For the avoidance of doubt and for the purposes of this sub-paragraph (c) only, an award rendered by the ICC in respect of arbitration proceedings pursuant to Sub-Clause 20.6 [*Arbitration*] may not be overturned.

- 22.3 Insert new Sub-Clause 20.9A [*Other Existing Advances Reduction Certificate*] as follows

"20.9A Other Existing Advances Reduction Certificate

Following the application of Dispute Proceeds to repay any amount of the outstanding balance of the Other Existing Advances pursuant to sub-paragraph (a) of Sub-Clause 20.9 [*Payment of Dispute Proceeds*], the Employer shall, within two Business Days of receipt of a written request from the Contractor and in any event within 30 days of the date of such repayment in full, provide to the Contractor a confirmation of the amount of the outstanding balance of the Other Existing Advances that has been so repaid in the form set out at Appendix M to Variation Agreement No. 108 (the "**Other Existing Advances Reduction Certificate**")."

- 22.4 Insert new Sub-Clause 20.10 [*Arbitration Procedure*] as follows:

"20.10 Arbitration Procedure

The Employer and the Contractor agree that it is their intention that all disputes referred to ICC arbitration pursuant to Sub-Clause 20.6 [*Arbitration*] of the Contract shall be the subject of final award by no later than October 31, 2018. The Employer and the Contractor agree to work together with each other, the DAB, any ICC tribunal and the ICC in good faith to put in place mutually agreeable timetables for all disputes so as to facilitate this goal. The Employer and the Contractor agree that they will each honor and promptly give full effect to and comply with any ICC arbitral award, notwithstanding that any such Party so complying may subsequently challenge or otherwise appeal or dispute such award in any court of competent jurisdiction."

- 22.5 Insert new Sub-Clause 20.11 [*Delay Damages Dispute Procedure*] as follows:

"20.11 Delay Damages Dispute Procedure

The Employer and the Contractor agree that the Contractor shall not pay or allow to the Employer any delay damages to which the Employer may become entitled pursuant to Sub-Clause 8.7 [*Delay Damages*] of the Contract, other than pursuant to any ICC arbitration proceedings between the Employer and the Contractor, wherein the



Employer shall have and retain all of its rights to claim the full amount of delay damages to which it is entitled pursuant to such Sub-Clause 8.7 [*Delay Damages*] of the Contract. The Employer and the Contractor agree that the Employer's right to deduct or claim delay damages pursuant to Sub-Clause 8.7 [*Delay Damages*] of the Contract shall not be required to be the subject of a prior decision of the DAB and may be raised for the first time by the Employer as part of any ICC arbitration proceedings between the Employer and the Contractor."

22.6 Insert new Sub-Clause 20.2A [*Fast Track DAB Claims*] after Sub-Clause 20.2 [*Appointment of the Dispute Adjudication Board*] as follows:

"20.2A Fast Track DAB Claims

Where after the Effective Date the Employer's Representative issues a determination in relation to a claim by the Contractor of less than USD 50,000,000, and in respect of which the Contractor disagrees with such determination and accordingly intends to refer such dispute to the DAB for determination, where appropriate, the Parties shall first seek to agree with the DAB a fast track timetable, consistent with the rules of natural justice, for such dispute with the intention that a DAB decision can be rendered in accordance with the 84 day time limit (or as close to this as practicable) set down in Sub-Clause 20.4 [*Obtaining Dispute Adjudication Board's Decision*]. If the Parties are unable to agree with the DAB on such a procedure, the parties agree that the DAB shall be permitted to impose such timetables and other procedural requirements necessary to ensure that the DAB's decision on any such claim is rendered within the 84-day period set forth in Sub-Clause 20.4. Nothing, however, is intended to prejudice the ability of the DAB or either party respectively to fairly determine or present the disputes between the Parties or to offend the rules of natural justice."

22.7 Insert new Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*] after Sub-Clause 20.2A [*Fast Track DAB Claims*] as follows:

"20.2B Fast Track Expert Determination for Excusable Delay Claims

20.2B.1 In the event that there is a dispute as to Non-Excusable Delay and/or Excusable Delay in respect of which the Contractor has given a prior notice in accordance with Sub-Clause 20.1 [*Contractor's Claims*] (except as otherwise provided in Sub-Clause 20.2B.11) and the Employer's Representative has made a determination in respect thereof, provided always that the Employer's Representative has been allowed a period of at least 14 Business Days to make a determination then such dispute ("**Fast Track Dispute**") shall be referred to an Expert pursuant to the following provisions of this Sub-




Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*].

20.2B.2 The Parties agree that Vivian Ramsey QC shall be appointed as the Expert for any Fast Track Dispute hereunder. If for any reason Vivian Ramsey QC is unable to execute a confirmation of no conflicts with respect to such role (including expressly that he has no conflict with the Parties and the Guarantors) or is otherwise unavailable or unwilling to accept such appointment, the Parties shall agree on the appointment of another Expert for each Fast Track Dispute (who also shall provide a confirmation of no conflicts on the same terms in order to serve as an Expert hereunder). If the Parties are unable to so agree on such Expert within 3 Business Days of a Party serving on the other Party written details of a minimum of 5 suggested Experts, either Party shall thereafter be entitled to request that the ICC propose, pursuant to Section II Proposal of Experts of the ICC Expertise Rules, an Expert experienced in the subject matter of the Fast Track Dispute. Any proposal by the ICC as aforesaid shall be binding on the Parties provided always that all: (i) communications with the ICC regarding such proposal shall be confined solely to the purposes of obtaining a proposed Expert from the ICC; and (ii) such communications shall be copied to the other Party. Upon the appointment of the Expert, the Parties will enter into an agreement with the Expert containing appropriate terms to enable the Expert to give a decision in accordance with this Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*].

20.2B.3 In resolving a Fast Track Dispute, the Expert shall: (i) consider all the facts and circumstances she or he deems reasonable given the nature of the dispute; and (ii) review the submissions made by and/or on behalf of the Employer, the Contractor and the Employer's Representative pursuant to this Sub-Clause 20.2B, as the case may be. The Contractor, the Employer and the Employer's Representative shall not be entitled to make any representations or issue any information to the Expert unless requested in writing so to do by the Expert. Any such representations and information sent to the Expert shall also be sent to the other Party and the Employer's Representative as appropriate.

20.2B.4 The Expert is required to prepare and give a written decision on a Fast Track Dispute to the Parties and the Employer's Representative simultaneously within a maximum of 45 days of the Fast Track Dispute being referred to the Expert, or such other period of time as notified in writing by the Expert to the Parties and agreed by the Parties in writing.

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- 20.2B.5 The Expert shall act as an expert in accordance with Sub-Clause 20.2B and not as an arbitrator. Subject to the Expert at all times reaching his decision fairly and in accordance with the rules of natural justice, the Expert shall be entitled to impose such timetable and other procedural requirements on the Parties, in addition to those specified herein, that are necessary to ensure that the Expert's decision is given to the Parties and the Employer's Representative within 45 days of the Fast Track Dispute being referred to the Expert or within such other period of time as notified in writing by the Expert to the Parties and agreed by the Parties in writing.
- 20.2B.6 The Expert's written decision on the Fast Track Dispute referred to him shall be final and binding on the Parties, save in respect of manifest error apparent from such written decision, in which event, either Party may provide written details of such manifest error to the Expert within 7 days of receipt of the Expert's decision, and the Expert shall issue a written determination in respect thereof no later than 7 days thereafter.
- 20.2B.7 Each Party shall bear its own costs in relation to the appointment of the Expert. The Expert's fees and any costs properly incurred by him in arriving at his decision (including any fees and costs of any advisers appointed by the Expert) shall be borne by the Parties equally or in such other proportions as the Expert shall direct in his decision.
- 20.2B.8 All matters concerning the process and result of the decision by the Expert shall be kept confidential among the Parties and the Expert.
- 20.2B.9 For the avoidance of doubt, the Parties acknowledge and agree that the Employer's Representative shall be entitled to make the determinations referred to at Sub-Clause 20.2B.1 above. In the event of any disagreement by the Contractor with any such determination by the Employer's Representative, such determination may be referred to the Expert for review in accordance with this Sub-Clause 20.2B.
- 20.2B.10 The Parties acknowledge and agree that any decisions of the Expert or of the Employer's Representative under this Sub-Clause 20.2B cannot and shall not be used or relied upon by them for any purpose other than for the determination of Excusable Delay for the purposes of Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] of the Contract, shall be without prejudice to the Parties' rights or remedies including with respect to delays under the

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Contract, and shall have no precedential or other effect with respect to any proceedings under Sub-Clause 20 of the Contract or otherwise.

20.2B.11 The Parties acknowledge and agree that, subject to Sub-Clause 20.2B.1 and notwithstanding anything in Sub-Clause 20.1 to the contrary, for the purposes only of any notice of claim under Sub-Clause 20.2B and not otherwise:

- (i) the deadline for notice of such claim with respect to any event or circumstance shall be the later of:
 - (1) the end of the 28-day notice period under Sub-Clause 20.1 with respect to such event or circumstance; and
 - (2) 70 days (save in respect of Agreed Performance Milestones M1 and M2 where such period will be 45 days) prior to the date of the relevant Gates Delivery Condition, relevant Agreed Performance Milestone, or the Functional Completion Date, as applicable;
- (ii) the third and fourth paragraphs of Sub-Clause 20.1 shall not apply; and
- (iii) the procedure for submissions to the Expert will be as follows:
 - (1) the Contractor will refer an Employer's Representative's determination or dispute by first serving its Referral on the Employer;
 - (2) the Employer will provide a Response to the Referral;
 - (3) the Contractor may Reply to the Employer's Response; and
 - (4) the Employer may provide a Rejoinder to the Contractor's Reply.

The Parties agree that: (a) the above submissions will be served within such periods as the Expert provides; and (b) once the procedure set out above has been completed, either Party may request a hearing before the Expert.

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22.8 Amend Sub-Clause 8.7 [*Deductions, Delay Damages and Bonus for Early Completion*] as follows:

- (a) in Sub-Clause 8.7.7 in the second line after "Sub-Clause 2.5 [*Employer's Claims*]" insert "and Sub-Clause 20.11 [*Delay Damages Dispute Procedure*]";
- (b) in Sub-Clause 8.7.8 in the first line after "Sub-Clause 8.7.11" insert "and Sub-Clause 20.11 [*Delay Damages Dispute Procedure*]"; and
- (c) in Sub-Clause 8.7.11 in the first line after "Sub-Clause 8.7" insert "and subject to Sub-Clause 20.11 [*Delay Damages Dispute Procedure*]".

O. Functional Completion, Delay and Extensions of Time

23. The Parties hereby agree to amend the Contract as follows:

23.1 Insert new Sub-Clause 10A [*Functional Completion*] before Sub-Clause 10 [*Employer's Taking Over*] as follows:

"10A Functional Completion

10A.1 The Parties acknowledge and agree that the Contractor has no obligation to attain or seek to attain Functional Completion. The Parties further acknowledge and agree that the provisions of Variation Agreement No. 108 relating to Functional Completion and the Tests on Completion referred to at Sub-Clause 10A.5 are solely for the purposes of establishing the Contractor's possible entitlement to a further temporary deferral of the repayment of the Advance Payment for Mobilisation pursuant to Sub-Clause 14.2A [*Advance Payment for Mobilisation*], the Advance Payment for Plant pursuant to Sub-Clause 14.2B [*Advance Payment for Plant*] and the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates pursuant to Sub-Clause 14.2J [*Repayment of Other Existing Advances*] of the Contract if and to the extent certain conditions as set out herein are met by the Contractor.

10A.2 Functional Completion means when, during the Tests on Completion: (i) the functional completion of the Works has been attained in accordance with the Contract, including but not limited to complying with all the requirements of Section 01 77 00 [*Taking-Over Procedures*] of the Employer's Requirements (except as allowed in sub-paragraph (a) of Sub-Clause 10A.4 and Sub-Clause 10A.5) and (ii) the Contractor has attained the passing of the Tests on Completion described at Sub-Clause 10A.5 ("**Functional Completion**").



- 10A.3 If the Contractor in its opinion has attained Functional Completion in accordance with Sub-Clause 10A.2, the Contractor may notify the Employer's Representative in writing.
- 10A.4 The Employer's Representative shall, within 14 days after receiving the Contractor's notification under Sub-Clause 10A.3, notify the Contractor in writing that:
- (a) Functional Completion has been attained in accordance with the Contract and confirming the date on which Functional Completion was so attained; or
 - (b) Functional Completion has not been attained in accordance with the Contract, giving reasons and specifying the actions to be taken by the Contractor to attain Functional Completion. The Contractor shall, if it still wishes to attain Functional Completion, then complete such actions before issuing a further notice under Sub-Clause 10A.3.
- 10A.5 For the avoidance of doubt, the Tests on Completion are not amended by this Sub-Clause 10A.5, and the tests set out below in this Sub-Clause 10A.5 are specified for the sole purpose of defining what is required to attain Functional Completion, and the Contractor shall at all times be required to achieve the passing of the Tests on Completion regardless of whether or not the Contractor has attained or is seeking to attain Functional Completion:
- A. Generally, the Employer requires that all tests be performed on the systems described in numbered paragraphs 1 to 24 inclusive (except numbered paragraph 10) of paragraph 1.03B of Section 01 91 00 (Tests on Completion and Tests after Completion) of the Employer's Requirements (the "**Main Systems**") to guarantee that the Works can be fully employed for their intended purpose. Except for the lock gates and culvert valves related to lock heads 1 and 2, full redundancy of the Works may not be available for Functional Completion but the Main Systems shall operate efficiently, safely and reliably as intended in accordance with the performance values set out at Sub-Clause 10A.5D below.
 - B. The tests set out in the following numbered paragraphs of Section 1.03B of Section 01 91 00 (*Tests on Completion and Tests after Completion*) of the Employer's Requirements shall be deleted and replaced with the following:
 - 1 – Filling and emptying systems required for the efficient, safe

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and reliable lockage operations as intended in accordance with Section 01 81 13 [Filling and Emptying Systems] and Section 01 81 13.13 [Physical Model for F-E System).

2 – Culvert and conduit valve- Operation Systems required for efficient, safe, reliable lockage operations as intended in accordance with Section 01 81 23 [Culvert and Conduit Valves].

3 – Lock gates operating system required for efficient, safe and reliable lockage operations as intended in accordance with Section 0110 00 [General Project Requirements] and 01 81 19 [Lock Gates].

4 – Culvert and conduit bulkhead installation and removal required for efficient, safe and reliable lockage operations as intended in accordance with Section 01 81 23 [Culvert and Conduit Valves].

5 – Lock machinery and other control systems required for efficient, safe and reliable lockage operations as intended in accordance with Section 01 81 26 (*Communications, Control, Safety, and Security Systems*).

6 – Safety and security systems required for efficient, safe and reliable lockage operations as intended in accordance with Section 01 81 26 [Communication, Control, Safety and Security Systems].

7 – Electrical systems required to operate the Main Systems in accordance with Section 01 81 29 (*Electrical and Lighting System*).

8 - The functionality and operational compliance of all buildings and facilities required for the locks operations that permit occupancy and use of the buildings for their intended purpose in accordance with Sections 01 81 36 (*O&M Buildings and Facilities – Program*) and 01 81 36.13 (*O&M Buildings and Facilities – Space Programming*).

9 - Potable water systems to permit operation of locks control, machinery and the facilities required by linehandlers, other employees and other persons engaged by the Employer in order to permit the efficient, safe and reliable operation of the locks for their intended purpose in accordance with Sections 33 11 00 (*Water Utility Distribution Piping*) and 33 11 00.13 (*Water Utility*



Main Lines). The Contractor may provide equivalent temporary potable water systems.

11 - Sewage collection systems to permit operation of locks control, machinery and the facilities required by linehandlers, other employees and other persons engaged by the Employer in order to permit the efficient, safe and reliable operation of the locks for their intended purpose in accordance with Sections 01 89 19 (*Sanitary Sewer / Wastewater*) and Section 40 95 13.22 (*Wastewater Treatment Control Systems*). The Contractor may provide equivalent temporary sewage collection systems.

12 - Fire alarm systems for buildings and facilities that are required for the efficient, safe and reliable operation of the locks for their intended purpose in accordance with Section 28 31 00 (*Fire Alarm Systems for Buildings*).

13 - Fire protection systems required for the efficient, safe and reliable lockage operations as intended in accordance with Section 01 86 13 [Plant-Mechanical Systems and Equipment].

14 - Foam firefighting systems required for the efficient, safe and reliable lockage operations as intended in accordance with section 01 86 13 [Plant-Mechanical Systems and Equipment].

15 - Communication systems required to operate the locks in accordance with Section 01 81 26 (*Communications, Control, Safety, and Security Systems*).

16 - Lock gate recess dewatering systems including bulkheads in accordance with Section 01 86 13 (*Plant - Mechanical Systems and Equipment*) and 01 92 00.13 (*Dry Outages*).

17 - Lock culverts and conduits dewatering systems including bulkheads in accordance with Section 01 86 13 (*Plant - Mechanical Systems and Equipment*) and 01 92 00.13 (*Dry Outages*).

18 - Valve pits dewatering systems including bulkheads in accordance with Section 01 86 13 (*Plant - Mechanical Systems and Equipment*) and 01 92 00.13 (*Dry Outages*).

19 - Lock chamber dewatering systems including bulkheads in accordance with Sections 01 86 13 (*Plant - Mechanical Systems and Equipment*) and 01 92 00.13 (*Dry Outages*).

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20 – Locks lighting systems to permit night operation of the locks in accordance with Section 01 81 29 (*Electrical and Lighting System*), and Section 26 50 00 (*Lighting Systems*).

21 -Vessel detection and navigation signaling systems to permit safe transit of vessels through the locks in accordance with Section 35 10 00 (*Waterway and Marine Signaling and Control Equipment*) and Section 35 12 00 (*Vessel Detection System (VDSs)*).

22 - Air conditioning systems for buildings and equipment to permit the efficient, safe and reliable operation of the locks for their intended purpose in accordance with Section 01 86 13 (*Plant – Mechanical Systems and Equipment*). The Contractor may provide equivalent temporary air conditioning systems.

23 – Plumbing systems to permit operation of locks control, machinery and the facilities required by linehandlers, other employees and other persons engaged by the Employer in order to permit the efficient, safe and reliable operation of the locks for their intended purpose in accordance with Section 01 86 13 (*Plant – Mechanical Systems and Equipment*). The Contractor may provide equivalent temporary plumbing systems.

24 - Elevator systems in accordance with Section 01 86 13 (*Plant – Mechanical Systems and Equipment*).

C. The test set out in numbered paragraph 10 of Section 103B of Section 01 91 00 (*Tests on Completion and Tests after Completion*) of the Employer's Requirements shall be deleted.

D. The performance values set out at the following numbered paragraphs of Section 1.05C of Section 01 91 00 (*Tests on Completion and Tests after Completion*) of the Employer's Requirements shall be deleted and replaced with the following:

1 - Measured filling and emptying times using Water-Saving Basins shall be no more than 120% of the values stated in Section 01 81 13 (*Filling and Emptying Systems*) Subparagraphs 1.06 A., 1.06 B, and 1.06 D .

2 - Measured filling and emptying times not using Water-Saving Basins shall be no more than 120% of the values stated in Section 01 81 13 (*Filling and Emptying Systems*) Subparagraphs 1.06 A, 1.06 C, and 1.06 D.



3 – Measured water slope in transverse and longitudinal directions in each chamber shall be no more than 120% of the values stated in Section 01 81 13 [Filling and Emptying Systems] sub paragraph 1.03 B.4. The Contractor shall accurately measure and record the water surface elevations during the various chamber filling and emptying operations to demonstrate that this requirement is met for each chamber and each different filling and emptying condition.

4 – Measure flow velocities in culverts, conduits and ports shall be no more than 120% of the values stated in Section 01 81 13 [Filling and Emptying Systems] Subparagraph 1.03 B.11.

6 - Measured surface velocities at lock intakes and discharges shall be no more than 120% of the values stated in Section 01 81 13 [Filling and Emptying Systems] Subparagraph 1.03 B.11.

7 – Volume of water saved with the use of WSBs as compared to without the use of WSBs for a given lake and ocean level shall be calculated by the Contractor and submitted to the Employer's Representative. Measured values shall be no less than 80% of the values stated in Section 01 81 13 [Filling and Emptying Systems] Subparagraph 1.03 B.5.

9 - Gate buoyancy chambers, ballast tanks, and other hollow cavities shall be tested so that the results demonstrate that the Employer may efficiently, safely and reliably employ the Works for their intended purpose.

10 - Gate operation and measured gate opening and closing times shall be less than: (i) 6 minutes for gate opening; and (ii) 6 minutes for gate closing, and no less than: (i) 4 minutes for gate opening and; (ii) 4 minutes for gate closing.

12 - Leakage through the gates and recess closures shall be tested so that the results demonstrate that the Employer may efficiently, safely and reliably employ the Works for their intended purpose.

13 - Conduit and culvert valve operation shall be tested so that the results demonstrate that the Employer may efficiently, safely and reliably employ the Works for their intended purpose.

14 - Measured conduit and culvert valve leakage shall be tested so that the results demonstrate that the Employer may

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efficiently, safely and reliably employ the Works for their intended purpose.

15 - Final field inspection tests of the communications, control, safety, and security systems shall be performed and be tested so that the results demonstrate that the Employer may efficiently, safely and reliably employ the Works for their intended purpose.

- E. The trial operation times set out in Sections 1.07B to 107E of Section 01 91 00 (*Tests on Completion and Tests after Completion*) shall be at values that are no more than 120% of the values stated in Sections 1.07B to 107E of Section 01 91 00 (*Tests on Completion and Tests after Completion*).

10A.6 In respect of the Tests on Completion described at Sub-Clause 10A.5 above and referred to below:

- (a) the equivalent temporary systems referred to at paragraphs B.9, B.11, B.22 and B.23 of Sub-Clause 10A.5 shall, within the Time for Completion, be replaced by the Contractor with a permanent system that complies with the Contract. Further, the Contractor shall so replace the temporary system with the permanent system in a manner that is not disruptive to the Employer, and which ensures that at all times, the Works can be operated efficiently, safely and reliably as intended in accordance with the Contract.
- (b) the tests referred to at paragraphs D.3, D.4, D.9, D.12, D.13, D.14 and D.15 of Sub-Clause 10A.5 shall demonstrate that the Employer may efficiently, safely and reliably employ the Works for their intended purpose to the satisfaction of the Employer's Representative.

10A.7 All rights and obligations of the Parties in connection with Functional Completion and/or the tests referred to at Sub-Clause 10A.5 shall not in any way prejudice or be deemed to prejudice:

- (a) the Contractor's obligations to complete the Works within the Time for Completion in accordance with Sub-Clause 8.2 [*Time for Completion*];
- (b) the Parties' rights and obligations in connection with delay damages and performance damages;

- (c) the Employer's rights to take-over any part of the Permanent Works pursuant to Sub-Clause 10.2 [*Taking Over of Parts of the Works*];
- (d) the Contractor's obligations under the Contract for the care of the Works and Goods;
- (e) the Contractor's obligations in respect of all tests under the Contract including achieving the passing of all Tests on Completion and all Tests after Completion; and/or
- (f) the Contractor's obligations in respect of insurances.

10A.8 If and when Functional Completion is attained by the Contractor this shall not be, nor shall it be deemed to be, taking over of the Works and/or use of the Works by the Employer, nor shall it impose or imply any obligation on the part of the Employer to take over or use any part or parts of the Works.

10A.9 The Contractor shall not be entitled to:

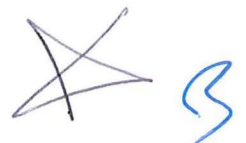
- (a) any extension of time to complete the Works or any Milestone; and/or
- (b) any additional time or money or any other relief or entitlement of any kind,

in any such case as a consequence of:

- (i) the Contractor electing to seek to attain and/or attaining Functional Completion, including but not limited to carrying out the tests under Sub-Clause 10A.5;
- (ii) the Contractor demonstrating that Functional Completion has occurred in accordance with this Contract; and/or
- (iii) the Contractor continuing the Tests on Completion following Functional Completion.

For the avoidance of doubt, any cost or expense in connection with the Tests on Completion that would not have been incurred but for the Contractor seeking to attain Functional Completion, shall be for the Contractor's own account.

23.2 At the end of the first paragraph of Sub-Clause 10.2 [*Taking Over of Parts of the Works*] insert:

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", which for the avoidance of doubt may include any geographical area of the Permanent Works and/or any part or parts of any specific structure(s), element(s) or system(s) which form part of the Permanent Works and all references to 'any part of the Permanent Works' in this Sub-Clause 10.2 shall be construed accordingly".

23.3 At the end of the fourth paragraph of Sub-Clause 10.2 [*Taking Over of Parts of the Works*] insert:

"For the avoidance of doubt, if the Contractor attains Functional Completion and thereafter the Employer elects to take over any part of the Works in accordance with this Sub-Clause 10.2:

- (a) the Contractor shall continue to carry out any and all Tests on Completion in accordance with Sub-Clause 9 [*Tests on Completion*]; and
- (b) no performance damages shall be payable by the Contractor or allowable to the Employer under sub-paragraph (b) of Sub-Clause 9.4 [*Failure to Pass Tests on Completion*] until any and all Tests on Completion have been conducted in accordance with the Contract, subject to Sub-Clauses 9.3 and 9.4.

However, the Contractor shall not be entitled to any Cost it incurs, any Cost Plus Reasonable Profit it incurs and/or to any other relief (including any Cost Plus Reasonable Profit under Sub-Clause 10.3 [*Interference with Tests on Completion*]) as a consequence of the Employer taking over and/or using any part or parts of the Works pursuant to Sub-Clause 10.1 [*Taking Over of the Works*] or this Sub-Clause 10.2 [*Taking Over of Parts of the Works*] or otherwise in circumstances where Functional Completion has occurred, but completion of the Works, including the completion of all Tests on Completion and completion of all minor outstanding work and/or rectification of defects, has not yet occurred. Further, in such circumstances, the Employer shall not raise any claims for additional costs it may incur after Functional Completion has occurred due to any interference of the Employer's transit operations by reason of the carrying out of any Tests on Completion in accordance with the Contract."

23.4 At the beginning of the first paragraph of Sub-Clause 10.3 [*Interference with Tests on Completion*] delete "If" and insert "Subject to the fourth paragraph of Sub-Clause 10.2 [*Taking Over of Parts of the Works*], if".



P. Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date

24. The Parties hereby agree to insert a new Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*] as follows:

"8.13 Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date

8.13.1 Notwithstanding the conditions set out in this Sub-Clause 8.13, nothing in this Sub-Clause 8.13 shall imply: (i) any waiver of the obligations of the Contractor under the Contract to complete the whole of the Works within the Time for Completion or (ii) that the Contractor is entitled to an extension of time for completion of the Works pursuant to Sub-Clause 8.4 [*Extension of Time for Completion*] or otherwise, or that any delay to the progress or completion of the Works is, or shall be, the responsibility of the Employer.

8.13.2 Not used.

8.13.3 The Contractor acknowledges and agrees that as of the signature of this VO No. 108, there existed no circumstances known to the Contractor which may affect the attainment of the Gates Delivery Conditions by the dates specified in the definition of "Gates Delivery Conditions" or the Agreed Performance Milestones by the dates set forth in the Schedule of Agreed Performance Milestones or the occurrence of Functional Completion by the Functional Completion Date, other than those circumstances set out in the Schedule of Milestone Circumstances.

The Parties acknowledge and agree that the dates set forth pursuant to Variation Agreement No. 108 for the attainment of the Gates Delivery Conditions, Agreed Performance Milestones and the Functional Completion Date were agreed and specified on the basis of circumstances known as of March 13, 2014, and are subject to extensions solely on the basis of circumstances that became or become known after March 13, 2014 and as determined in accordance with Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*]. Notwithstanding any other provisions of the Contract, the period for notifying the events or circumstances set out in the Schedule of Milestone Circumstances shall be as provided in Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*].



The Parties acknowledge and agree that the Schedule of Milestone Circumstances has been prepared solely by the Contractor and included in Variation Agreement No. 108 but does not constitute any agreement, acknowledgement or acceptance of any kind by the Employer, including as to whether any such circumstances set out in the Schedule of Milestone Circumstances entitle the Contractor to any extension of the dates for achievement of the Gates Delivery Conditions as specified in the definition thereof or the dates for achievement of the Agreed Performance Milestones as set forth in the Schedule of Agreed Performance Milestones or the occurrence of Functional Completion by the Functional Completion Date or any extension of the Existing Advances Extended Repayment Date which shall, unless agreed to by the Employer's Representative, be subject to determination pursuant to Sub-Clause 20.2B [*Fast Track Expert Determination for Excusable Delay Claims*].

8.13.4 Not used.

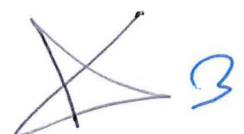
8.13.5 If completion of:

- (i) one or more of the Gates Delivery Conditions;
- (ii) one or more of the Agreed Performance Milestones; or
- (iii) the Functional Completion Date,

is or will be delayed by:

- (a) any cause of delay as noted in sub-paragraphs (a) to (e) inclusive in Sub-Clause 8.4 [*Extension of Time for Completion*]; and/or
- (b) any Transportation Delay Event,

together referred to in this Contract as "**Excusable Delay**", the Contractor shall be entitled, subject to Sub-Clause 20.1 [*Contractor's Claims*] and for the purposes only of establishing the Contractor's entitlement to any further temporary deferral to the repayment of the Advance Payment for Mobilisation pursuant to Sub-Clause 14.2A [*Advance Payment for Mobilisation*], the Advance Payment for Plant pursuant to Sub-Clause 14.2B [*Advance Payment for Plant*] and the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates pursuant to Sub-Clause 14.2J [*Repayment of Other Existing Advances*] of the Contract, to an extension of the relevant Gates Delivery Condition, Agreed Performance Milestone or Functional



Completion Date referred to in sub-paragraphs (i), (ii) or (iii) above to the extent that completion of the relevant Gates Delivery Condition, Agreed Performance Milestone or Functional Completion Date referred to in (i), (ii) or (iii) above is or will be delayed by any such Excusable Delay.

The Contractor shall only be entitled to an extension of the Gates Delivery Conditions, Agreed Performance Milestones, and/or (except as provided in Sub-Clause 8.13.6) the Functional Completion Date (as applicable) as set out in (a) and (b) above.

For the avoidance of doubt, the Contractor's entitlement to an extension of any one of the Gates Delivery Conditions, Agreed Performance Milestones, and/or the Functional Completion Date (as applicable) shall be assessed separately on each occasion and it shall not follow that if the Contractor is entitled to an extension of one of the Gates Delivery Conditions or Agreed Performance Milestones, it shall be entitled to an extension of the next or any later Gates Delivery Condition or Agreed Performance Milestone.

8.13.6 In addition to any entitlement of the Contractor under Sub-Clause 8.13.5, the Contractor shall also be entitled to an extension of the Functional Completion Date if and to the extent that Functional Completion is or will be delayed by any cause of delay other than Excusable Delay ("**Non-Excusable Delay**") up to a maximum of 60 days in total, less the aggregate number of days of delay in completion of the Gates Delivery Conditions which is not Excusable Delay ("**Non-Excusable Delay Buffer Period**"). For the avoidance of doubt, the Contractor's maximum aggregate entitlement to any extension of the Functional Completion Date for Non-Excusable Delay under the Contract shall be no more than 60 days in total. Any days of Excusable Delay shall not count as a usage of days to which the Contractor is entitled in the Non-Excusable Delay Buffer Period.

8.13.7 Where Functional Completion is delayed by Non-Excusable Delay under Sub-Clause 8.13.6 above then for any period of Non-Excusable Delay in excess of the Non-Excusable Delay Buffer Period, irrespective of whether or not the Contractor has applied for an extension to the Functional Completion Date under Sub-Clauses 8.13.5 and/or 8.13.6, the December 31, 2018 Existing Advances Extended Repayment Date then in effect shall be brought forward by three days for every day of Non-Excusable Delay in excess of the Non-Excusable Delay Buffer Period.

8.13.8 If the Contractor considers himself to be entitled to an extension to any of the Gates Delivery Conditions, Agreed Performance Milestones

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and/or the Functional Completion Date, the Contractor shall give notice to the Employer's Representative in accordance with Sub-Clause 20.2B.1 [*Fast Track Expert Determination for Excusable Delay Claims*] including citing in such notice whether the extension relates to Excusable Delay or Non-Excusable Delay (or a combination of both in which case the Contractor shall cite the number of days of extension being applied for as Excusable Delay and the number of days of extension being applied for as Non-Excusable Delay).

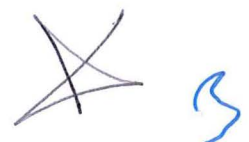
- 8.13.9 It shall not necessarily follow that where the Contractor is entitled to an extension to a Gates Delivery Condition(s), Agreed Performance Milestone(s) and/or the Functional Completion Date under this Sub-Clause 8.13 it will also be entitled to an extension to the Time for Completion under Sub-Clause 8.4 [*Extension of Time for Completion*] and/or an extension to any Milestone under Sub-Clause 8.4A [*Extension of Milestone Dates*] on the same grounds or for the same or any period.

Similarly, it shall not necessarily follow that if the Contractor is entitled to an extension of the Time for Completion under Sub-Clause 8.4 [*Extension of Time for Completion*] and/or a Milestone Date under Sub-Clause 8.4A [*Extension of Milestone Dates*] it will also be entitled to an extension to any Gates Delivery Condition(s), Agreed Performance Milestone(s) or the Functional Completion Date under this Sub-Clause 8.13 on the same grounds or for the same or any period.

The Employer's Representative, in determining any contractual entitlement under this Sub-Clause 8.13 to any extension of a Gates Delivery Condition(s), Agreed Performance Milestone(s) and/or Functional Completion Date, Sub-Clause 8.4 [*Extension of Time for Completion*] and Sub-Clause 8.4A [*Extension of Milestone Dates*] shall do so separately.

- 8.13.10 Where the Contractor has failed to attain any of the Gates Delivery Conditions and/or Agreed Performance Milestones under this Contract subject to Sub-Clause 8.13.5, the following provisions shall apply:

- (a) if the Contractor has failed to attain the Agreed Performance Milestone "M5" but subsequently attains the Agreed Performance Milestone "M6";
- (b) if the Contractor has failed to attain the Agreed Performance Milestone "M7" but subsequently attains the Agreed Performance Milestone "M8";



August 1, 2014

Design and Construction of the Third Set of Locks

- (c) if the Contractor has failed to attain the Agreed Performance Milestone "M9" but subsequently attains the Agreed Performance Milestone "M10";
- (d) if the Contractor has failed to attain the Agreed Performance Milestone "M11" but subsequently attains the Agreed Performance Milestone "M13";
- (e) if the Contractor has failed to attain the Agreed Performance Milestone "M12" but subsequently attains the Agreed Performance Milestone "M14";
- (f) if the Contractor has failed to attain one or more of the Agreed Performance Milestones "M1", "M3", "M5", "M6", "M11", "M13", "M17", "M18", and/or "M21" but subsequently attains the Agreed Performance Milestone "M23A";
- (g) if the Contractor has failed to attain one or more of the Agreed Performance Milestones "M2", "M4", "M7", "M8", "M9", "M12", "M14", "M19", "M20" and/or "M22" but subsequently attains the Agreed Performance Milestone "M23B";
- (h) if the Contractor has failed to attain any of the Gates Delivery Conditions but subsequently attains both Agreed Performance Milestones "M23A" and "M23B"; and/or
- (i) if the Contractor has failed to attain any of the Gates Delivery Conditions and/or Agreed Performance Milestones but Functional Completion subsequently occurs by the Functional Completion Date,

then any such failure or failures shall be deemed to be rectified for purposes of establishing the Contractor's entitlement to a further temporary deferral of the repayment of the Advance Payment for Mobilisation pursuant to Sub-Clause 14.2A [*Advance Payment for Mobilisation*], the Advance Payment for Plant pursuant to Sub-Clause 14.2B [*Advance Payment for Plant*] and the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates pursuant to Sub-Clause 14.2J [*Repayment of Other Existing Advances*] of the Contract.

For the avoidance of doubt, the rectification of such failure or failures referred to in this Sub-Clause 8.13.10 is a rectification of dates only and not a rectification of any of the Contractor's other obligations under the Contract, including but not limited to the Contractor's obligations with regard to the provision of any amendment and/or extension and/or



rider to any security to be provided by the Contractor in accordance with the Contract and/or to pay the Other Existing Advances Attained Milestone Amount, if any, on the dates specified for payment in Sub-Clause 14.2J [*Repayment of Other Existing Advances*].

8.13.11 Nothing in this Sub-Clause 8.13 [*Gates Delivery Conditions, Agreed Performance Milestones, Functional Completion and Existing Advances Extended Repayment Date*], Sub-Clause 4.1.2(f) [*Contractor's General Obligations*], Sub-Clause 4.23 [*Contractor's Operations on Site*], Sub-Clause 7.4 [*Testing*], and/or Sub-Clause 10A [*Functional Completion*] shall:

- (a) affect, waive or relax the Contractor's obligation to complete the whole of the Works within the Time for Completion in accordance with Sub-Clause 8.2 [*Time for Completion*] of the Contract; and/or
- (b) affect, waive or relax the Contractor's obligation to achieve taking over of the Works in accordance with Sub-Clause 10.1 [*Taking Over of the Works*] of the Contract; and/or
- (c) extend the Time for Completion or any Milestone Date; and/or
- (d) amount to an instruction under the Contract for the Contractor to accelerate the completion of the Works.

8.13.12 For the avoidance of doubt, the Parties acknowledge and agree that the sole purpose of any agreements in this Sub-Clause 8.13 in relation to:

- (a) Functional Completion;
- (b) the Gates Delivery Conditions; and/or
- (c) the Agreed Performance Milestones,

is to establish whether the Contractor shall be entitled to a temporary deferral of the repayment of any of the Advance Payment for Mobilisation pursuant to Sub-Clause 14.2A [*Advance Payment for Mobilisation*], the Advance Payment for Plant pursuant to Sub-Clause 14.2B [*Advance Payment for Plant*] and the Advance Payment for Key Suppliers, the Advance Payment for Specified Suppliers and the Advance Payment for Lock Gates pursuant to Sub-Clause 14.2J [*Repayment of Other Existing Advances*] of the Contract. In the event that any agreements in this Sub-Clause 8.13 are inconsistent with the Contractor's obligations to complete the whole of the Works within the Time for Completion in accordance with Sub-Clause 8.2 [*Time for*



Completion] and/or achieve any Milestone Date, such agreements shall be without prejudice to the Parties' respective rights, remedies, claims and defences concerning and arising out of any delay and/or responsibility for delay to the Time for Completion or any Milestone Date and the Parties' respective rights, remedies, claims and defenses remain fully reserved."

Q. Taking Over of the Works and Part of the Works and Defects Liability

25. The Parties hereby agree to amend the Contract as follows:

25.1 Amend Sub-Clause 10.1 [*Taking Over of the Works*] as follows:

- (a) in the first paragraph in the second line after "the Works" insert "excluding for the avoidance of doubt any part or parts of the Works taken over previously pursuant to Sub-Clause 10.2 [*Taking Over Parts of the Works*]"; and
- (b) in sub-paragraph (a) of the third paragraph in the third line after "recorded in" delete "the" and insert "a".

25.2 In the second line of Sub-Clause 10.2 [*Taking Over of Parts of the Works*] after "Permanent Works" insert "stating the date on which the part of the Works were completed in accordance with the Contract, except for any minor outstanding work and defects recorded in a Schedule of Outstanding Minor Works and Defects which will not affect the use of that part of the Works for their intended purpose (either until or whilst this work is completed and these defects are remedied)".

25.3 Amend Sub-Clause 11.1 [*Completion of Outstanding Work Remedying Defects*] as follows:

- (a) in the first line delete "and Contractor's Documents" and insert "or part of the Works and the relevant Contractor's Documents in respect of the Works or the relevant part of the Works (as applicable)";
- (b) in the second line before "Defects Notification Period" insert "relevant";
- (c) in sub-paragraph (a) of the first paragraph after "set out in" delete "the" and insert "any"; and
- (d) in sub-paragraph (b) of the first paragraph before "Defects Notification Period" insert "relevant".

25.4 Amend Sub-Clause 11.3 [*Extension of Defects Notification Period*] as follows:

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- (a) in the second line before "Defects Notification Period" delete "the" and insert "any";
- (b) in the second line after "for the Works" insert "or any part of the Works";
- (c) in the second line after "that the Works" insert "or the relevant part of the Works"; and
- (d) in the fourth line before "Defects Notification Period" delete "the" and insert "any".

25.5 Amend Sub-Clause 11.4 [*Failure to Remedy Defects*] as follows:

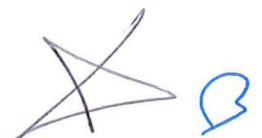
- (a) in the first paragraph in the second line before "Schedule of Outstanding Minor Work" delete "the" and insert "any";
- (b) in the first paragraph in the fifth line before "Schedule of Outstanding Minor Work" insert "relevant"; and
- (c) in the second paragraph in the first line before "Schedule" insert "relevant".

25.6 In the second paragraph of Sub-Clause 11.9 [*Performance Certificate*] in the second line before "Defects Notification Period" insert "last".

R. The Contractor Debenture

26 The Parties hereby agree to insert a new Sub-Clause 17.1C after Sub-Clause 17.1B as follows:

"17.1C The Contractor shall indemnify, defend and hold harmless the Indemnified Parties against and from all claims, proceedings, suits, penalties, fines, debts, costs, damages, losses, expenses (including legal fees and expenses), awards and judgments, in respect of or arising out of or in relation to (i) the Contractor Debenture, (ii) any or all of the Contractor Debenture Notices and/or (iii) the assignment of Dispute Proceeds by the Contractor pursuant to the Contractor Debenture, including any such amounts arising out of or in relation to any actual or purported action or enforcement thereunder by or on behalf of the security trustee and/or the secured creditors named in the Contractor Debenture."

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In Witness whereof the Parties hereto have caused this Variation Agreement No. 108 to be executed on the 1st day of August of the year 2014 by their duly authorized representatives.


For ACP



Jorge de la Guardia

Employer's Representative

For GUPCSA



Giuseppe Quarta

Contractor's Representative

APPENDIX A

SCHEDULE OF EFFECTIVE DATE CONDITIONS

1. Schedule of Existing Advances (Appendix B)
2. Checklist for Functional Completion
3. Agreed Performance Milestones (Appendix D)
4. Agreed Project Funding Schedules (Appendix E)
5. Schedule of Outstanding Payables (Appendix I)
6. Schedule of Other Existing Advances Milestone Deductions (Appendix G)
7. Schedule of Milestone Circumstances
8. Rider to Plant and Material Security (Form at Appendix O)
9. Confirmation of Joint and Several Guarantee (Form at Appendix P)
10. Confirmation of Parent Company Guarantee for the Joint and Several Guarantee (Form at Appendix Q)
11. Confirmation of Advance Payment Joint and Several Guarantee (Form at Appendix R)
12. Confirmation of Advance Payment Parent Guarantee (Form at Appendix S)
13. VO No. 108 Bond Issuer Confirmation (Form at Appendix GG)
14. Monthly Eligible Costs List –August (Form at Appendix C)
15. Confirmations from Issuers of the Advance Payment Securities (Form at Appendix Z)
16. Performance Bond Confirmation (Form at Appendix JJ)
17. Guarantor Arbitration Agreement (Form at Appendix HH)
18. Project Completion Account Trust Agreement
19. The deposit of the Surety Deposit in the Surety Deposit Account
20. Resolutions of Administrator (Project Completion Account Trust Agreement) – Employer

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21. Certificate of incorporation of Grupo Unidos por el Canal, S.A. ("GUPCSA") from Public Registry of Republic of Panama
22. Certified copy of share register of GUPCSA
23. Resolutions of Board of Directors of GUPCSA, including authorized signatories
24. Power of Attorney for Mr. Manual Manrique, Chief Executive Officer of Sacyr Vallehermoso S.A. (now Sacyr S.A.) ("Sacyr")
25. Resolutions of Impregilo S.p.A. (now Salini Impregilo S.p.A.) ("Impregilo")
26. Special Power of Attorney for Mr. Claudio Lautizi, Mr. Paolo Möder and Mr. Giuseppe Quarta on behalf of Impregilo
27. Resolutions of Jan De Nul N.V. ("JDN")
28. Resolutions of Constructora Urbana, S.A. ("CUSA")
29. Resolutions of Jan De Nul Group (Sofidra S.A.) ("Sofidra")
30. Power of Attorney of Project Completion Account Trustee
31. Opinion of Panamanian counsel to the Contractor, Sacyr, Impregilo, JDN and Sofidra (Form at Appendix KK)
32. Opinion of Spanish counsel to Sacyr (Form at Appendix LL)
33. Opinion of Italian counsel to Impregilo (Form at Appendix MM)
34. Opinion of Belgian counsel to JDN (Form at Appendix NN)
35. Opinion of Panamanian counsel to CUSA (Form at Appendix PP)
36. Opinion of Luxembourg counsel to Sofidra (Form at Appendix OO)
37. Opinion of Panamanian counsel to Project Completion Account Trustee (Form at Appendix RR)

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APPENDIX B
SCHEDULE OF EXISTING ADVANCES

Name	Amount
Advance Payment for Mobilisation	\$247,958,819.42
Advance Payment for Plant	\$300,000,000.00
Total Original Contract Advances	\$547,958,819.42
Advance Payment for Key Suppliers	\$68,279, 504.67
Advance Payment for Specified Suppliers	\$147,415, 983.94
Advance Payment for Lock Gates	\$12,754,457.06
Total Other Existing Advances	\$228,449,945.67
Total Existing Advances	\$776,408,765.09

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APPENDIX C

FORM OF MONTHLY ELIGIBLE COSTS LIST

MONTH: _____

Categories	Rev. 0		Rev. 1 (if any)	
	USD		USD	
Cat. 1 – Payroll, Salaries & CSS		%		%
Labor	\$ -		\$ -	
Employees	\$ -		\$ -	
CSS	\$ -		\$ -	
Market	\$ -		\$ -	
...	\$ -		\$ -	
Cat. 2 – Materials & Spare Parts		%		%
[Name of Supplier]	\$ -		\$ -	
[Name of Supplier]	\$ -		\$ -	
[Name of Supplier]	\$ -		\$ -	
[Name of Supplier]	\$ -		\$ -	
...	\$ -		\$ -	
Cat. 3 – Services & Miscel. Subcont.		%		%
[Name of Supplier/Subcontractor]	\$ -		\$ -	
[Name of Supplier/Subcontractor]	\$ -		\$ -	
[Name of Supplier/Subcontractor]	\$ -		\$ -	
...	\$ -		\$ -	
Cat. 4 – Subcontracts Civil Works		%		%
[Name of Subcontractor]	\$ -		\$ -	
[Name of Subcontractor]	\$ -		\$ -	
[Name of Subcontractor]	\$ -		\$ -	
...	\$ -		\$ -	
Cat. 5 – Subcontracts E&M		%		%
[Name of Subcontractor]	\$ -		\$ -	
[Name of Subcontractor]	\$ -		\$ -	
[Name of Subcontractor]	\$ -		\$ -	
...	\$ -		\$ -	
Cat. 6– Other Expenditures		%		%
[Name of Supplier/Subcontractor/Cost]	\$ -		\$ -	
[Name of Supplier/Subcontractor/Cost]	\$ -		\$ -	
[Name of Supplier/Subcontractor/Cost]	\$ -		\$ -	
...	\$ -		\$ -	
Total				

X 3

Notes:

Rev. 0 – To be provided 14 days prior to the first day of every month occurred after the Effective Date;

Rev. 1 – To be provided prior to the first day of every month if in the total there is a change exceeding +/- 10 million with respect of Rev. 0.

 3

APPENDIX D

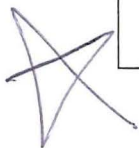
SCHEDULE OF AGREED PERFORMANCE MILESTONES

NOTE: The dates for the attainment of the Agreed Performance Milestones set forth in this Appendix D are specified on the basis of circumstances known as of March 13, 2014, and such dates are subject to the matters specified in the Schedule of Milestone Circumstances and the terms of Sub-Clause 8.13 of the Contract.

Agreed Performance Milestone		The Agreed Performance Milestone is attained when:	Date by which the Agreed Performance Milestone should be attained
Concrete Structures			
Atlantic site			
M1	LH1 and LH4 ready for Cimolai	<p>Lock head 1</p> <ol style="list-style-type: none"> 1. A total of #20 meters of vertical recess closure in the lock head is ready for Cimolai to start plates installation (surface treatment and rebar) 2. Cranes access ramp to the large recess ready 3. Four (#04) maintenance supports are ready to install the lower embeds by Cimolai (surface treatment of anchor plates for maintenance supports) 4. A total of #80 meters of the upper rails is ready for Cimolai to install the upper rails (surface treatment and rebar) <p>Lock head 4</p> <ol style="list-style-type: none"> 1. A total of #20 meters of vertical recess closure in the lock head is ready for Cimolai to start plates installation (surface treatment and rebar) 2. Cranes access ramp to the large recess ready 	October 31, 2014

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		<p>3. Four (#04) maintenance supports are ready to install the lower embeds by Cimolai (surface treatment of anchor plates for maintenance supports)</p> <p>4. A total of #80 meters of the upper rails area is ready to install the lower embeds by Cimolai (surface treatment)</p>	
M3	Valve structures #3, #4, #5 and #6 ready for Hyundai	<p>#3</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p> <p>#4</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p> <p>#5</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p> <p>#6</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the</p>	February 28, 2015



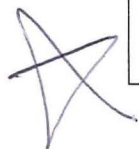
		slots are ready for installation of second stage embeds by Hyundai	
Pacific site			
M2	LH3 and LH4 ready for Cimolai	<p>Lock head 3</p> <ol style="list-style-type: none"> 1. A total of #20 meters of vertical recess closure area in the lock head is ready for Cimolai to start plates installation (surface treatment and rebar) 2. Cranes access ramp to the large recess ready 3. Four (#04) maintenance supports are ready to install the lower embeds by Cimolai (surface treatment of anchor plates for maintenance supports) 4. A total of #80 meters of the upper rails area is ready for Cimolai to install the upper rails (surface treatment and rebar) <p>Lock head 4</p> <ol style="list-style-type: none"> 1. A total of #20 meters of vertical recess closure area in the lock head is ready for Cimolai to start plates installation (surface treatment and rebar) 2. Cranes access ramp to the large recess ready 3. Four (#04) maintenance supports are ready to install the lower embeds by Cimolai (surface treatment of anchor plates for maintenance supports) 4. A total of #80 meters of the upper rails area is ready for Cimolai to install the upper rails (surface treatment and rebar) 	October 31, 2014
M4	Valve structure #3, #4, #5 and #6 ready for Hyundai	<p>#3</p> <ol style="list-style-type: none"> 1. The first stage concrete of the valve structures is complete except the last upper lift (W01) 2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai <p>#4</p>	February 28, 2015



		<p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p> <p>#5</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p> <p>#6</p> <p>1. The first stage concrete of the valve structures is complete except the last upper lift (W01)</p> <p>2. All slots in valves structures have received the concrete joint treatment in their whole length, rebar installation is complete and the slots are ready for installation of second stage embeds by Hyundai</p>	
Concrete Repair			
Atlantic site			
M5	Progress	<p>Progress Repair in Culverts: 500 Units Completed</p> <p>Progress Repair in Walls: 85,000m² Completed</p> <p>Progress Repair in Floors: 7,500m² Completed</p>	March 31, 2015
M6	Sufficient to start flooding	<p>At start of flooding:</p> <p>i) Wing walls/inlet structure repair complete up to el. +8.90 PLD level</p> <p>ii) Upper Chamber:</p> <ul style="list-style-type: none"> - Concrete repair walls completed up to el. 0.00 PLD level - Concrete repair completed in culverts up to el. 0.00 PLD level 	June 4, 2015



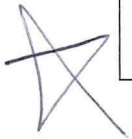
		<ul style="list-style-type: none"> - Concrete repairs completed in chamber Conduits & Trifurcations iii) Middle Chamber: <ul style="list-style-type: none"> - Concrete repair completed wall up to el. 0.00 PLD level - Concrete repairs completed in Culverts, Chamber Conduits, Trifurcations iv) Lower Chamber: <ul style="list-style-type: none"> - Concrete repairs walls completed wall to crest - Concrete repairs completed in Culverts, Chamber Conduits, Trifurcations v) Wing walls Outlet Structure – Concrete repairs completed up to -3.00 PLD level vi) Approach Structure Ocean side – Concrete repairs completed up to el. -3.00 PLD level	
Pacific site			
M7	Progress	Progress Repair in Culverts: 450 Units Completed Progress Repair in Walls: 80,000m ² Completed Progress Repair in Floors: 7,500m ² Completed	March 31, 2015
M8	Sufficient to start flooding	At start of flooding: <ul style="list-style-type: none"> i) Approach Structure Gatun side up to el. +8.90 PLD level ii) Wing walls/inlet structure repair complete up to el. +8.90 PLD level iii) Upper Chamber: <ul style="list-style-type: none"> - Concrete repair walls completed up to el. 0.00 PLD level - Concrete repair completed in culverts up to el. 0.00 PLD level - Concrete repairs completed in chamber Conduits & Trifurcations iv) Middle Chamber: <ul style="list-style-type: none"> - Concrete repair completed wall up to el. 0.00 PLD level - Concrete repairs completed in Culverts, Chamber Conduits, Trifurcations v) Lower Chamber:	June 4, 2015



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		<ul style="list-style-type: none"> - Concrete repairs walls completed wall to crest - Concrete repairs completed in Culverts, Chamber Conduits, Trifurcations vi) Wing walls Outlet Structure – Concrete repairs completed up to -1.00 PLD level vii) Approach Structure Ocean side – Concrete repairs completed up to el. -4.20 PLD level 	
Borinquen Dams			
M9	Dam Fills: Progress	Total fill progress 3.5 Million m3 (out of total of 6.886 million) (excluding backfill behind the dams)	December 31, 2014
M10	Dam Fills: Sufficient to start flooding Upper Chamber above el 6.40	At crest elevation, with at least 50% of the instrumentation but excluding road, landscaping, slope protection etc. (Works exclude Gatun Plug and backfill behind the dams)	August 20, 2015
Backfill Structures			
Atlantic site			
M11	Progress	Fill Progress 1.3 Million m3	December 31, 2014
M13	Sufficient to start flooding	Fill Progress 1.7 Million m3	June 4, 2015
Pacific site (excluding WSB)			
M12	Progress	Fill Progress 2.6 Million m3	December 31, 2014
M14	Sufficient to start flooding	Fill Progress 3.6 Million m3	June 4, 2015
Water Saving Basins			
M15	Atlantic site – lining completed	Lining Completed	September 15, 2015

M16	Pacific site – lining completed	Lining Completed	September 15, 2015
Machinery & Control Buildings			
Atlantic site			
M17	Control building ready for E&M	The ground floor of Control Building is ready for starting of installation of electrical and control cabinets and cabling	December 15, 2014
M18	Machinery building #1 to 4 ready for E&M	<p>Machinery Building #1</p> <ol style="list-style-type: none"> 1. The steel structure of the building is completed 2. The overhead crane is operational to allow start of Cimolai equipment installation 3. The area for Cimolai drive mechanisms installation is protected from the rain <p>Machinery Building #2</p> <ol style="list-style-type: none"> 1. The steel structure of the building is completed 2. The overhead crane is operational to allow start of Cimolai equipment installation 3. The area for Cimolai drive mechanisms installation is protected from the rain <p>Machinery Building #3</p> <ol style="list-style-type: none"> 1. The steel structure of the building is completed 2. The overhead crane is operational to allow start of Cimolai equipment installation 3. The area for Cimolai drive mechanisms installation is protected from the rain <p>Machinery Building #4</p> <ol style="list-style-type: none"> 1. The steel structure of the building is completed 2. The overhead crane is operational to allow start of Cimolai equipment 	January 31, 2015



		<p>installation</p> <p>3. The area for Cimolai drive mechanisms installation is protected from the rain</p>	
Pacific site			
M19	Control building ready for E&M	The ground floor of Control Building is ready for starting of installation of electrical and control cabinets and cabling	December 15, 2014
M20	Machinery building #1 to 4 ready for E&M	<p>Machinery Building #1</p> <p>1. The steel structure of the building is completed</p> <p>2. The overhead crane is operational to allow start of Cimolai equipment installation</p> <p>3. The area for Cimolai drive mechanisms installation is protected from the rain</p> <p>Machinery Building #2</p> <p>1. The steel structure of the building is completed</p> <p>2. The overhead crane is operational to allow start of Cimolai equipment installation</p> <p>3. The area for Cimolai drive mechanisms installation is protected from the rain</p> <p>Machinery Building #3</p> <p>1. The steel structure of the building is completed</p> <p>2. The overhead crane is operational to allow start of Cimolai equipment installation</p> <p>3. The area for Cimolai drive mechanisms installation is protected from the rain</p> <p>Machinery Building #4</p> <p>1. The steel structure of the building is completed</p> <p>2. The overhead crane is operational to allow start of Cimolai equipment</p>	January 31, 2015

★
W

		installation 3. The area for Cimolai drive mechanisms installation is protected from the rain	
Valves & Appurtenances			
Atlantic site			
M21	<p>Valves and appurtenances ready for flooding</p> <ul style="list-style-type: none"> - Valve structure #5 and #6 installed <p>- Culvert valves LH4 East & West installed</p> <p>- Equalization valves LH4 installed</p>	<p>Valve Structure #5</p> <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the valve structure are installed and complete 2. Second Stage Concrete in the valve structure is complete 3. Valves and bulkheads ready to be placed in closed position <p>Valve Structure #6</p> <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the valve structure are installed and complete 2. Second Stage Concrete in the valve structure is complete 3. Valves and bulkheads ready to be placed in closed position <p>1. Second Stage Embedded parts in the lock head are installed</p> <p>2. Second Stage Concrete in the lock head is complete</p> <p>3. Lock structure is ready for placing a culvert valve or a bulkhead in closed position</p> <p>1. Second Stage Embedded parts in the lock head complete</p> <p>2. Second Stage Concrete in the lock head complete</p> <p>3. Equalization valve or a bulkhead ready to be installed in closed position</p>	June 4, 2015
Pacific site			
M22	Valves and appurtenances ready for		June 4, 2015

	<p>flooding</p> <ul style="list-style-type: none"> - Valve structure #5 and #6 installed <ul style="list-style-type: none"> - Culvert valves LH4 East & West installed <ul style="list-style-type: none"> - Equalization valves LH4 installed 	<p>Valve Structure #5</p> <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the valve structure are installed and complete 2. Second Stage Concrete in the valve structure is complete 3. Valves and bulkheads ready to be placed in closed position <p>Valve Structure #6</p> <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the valve structure are installed and complete 2. Second Stage Concrete in the valve structure is complete 3. Valves and bulkheads ready to be placed in closed position <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the lock head are installed 2. Second Stage Concrete in the lock head is complete 3. Lock structure is ready for placing a culvert valve or a bulkhead in closed position <ol style="list-style-type: none"> 1. Second Stage Embedded parts in the lock head complete 2. Second Stage Concrete in the lock head complete 3. Equalization valve or a bulkhead ready to be installed in closed position 	
M23	<p>A) Atlantic Locks ready for flooding</p> <p>B) Pacific Locks ready for flooding</p>	<p>All lock gates inside their respective recesses, hanging from the maintenance supports. All lower trackways installed. All earth-fill temporary structures inside the chambers removed.</p> <p>All lock gates inside their respective recesses, hanging from the maintenance supports. All lower trackways installed.</p>	<p>June 5, 2015</p> <p>June 5, 2015</p>



6

		All earth-fill temporary structures inside the chambers removed.	
NOTES:	M6 CURES M5; M8 CURES M7; M10 CURES M9; M13 CURES M11; M14 CURES M12 M23 A) cures M1, M3, M5, M6, M11, M13, M17, M18, and M21 M23 B) cures M2, M4, M7, M8, M9, M12, M14, M19, M20 and M22 M23 (A+B) CURES GATE DELIVERY CONDITIONS (G1, G2 AND G3) FUNCTIONAL COMPLETION CURES EVERYTHING		



Handwritten signature and initials in blue ink, consisting of a stylized 'A' and a wavy line below it.

APPENDIX E

AGREED PROJECT FUNDING SCHEDULES

APPENDIX E: Agreed Project Funding Schedule - Item 14.16.4 (ELEGIBLE COSTS)

Categories	2014		2014		2014		2014		2014		2015	
	AUGUST 15 - 31		SEPTEMBER 1 - 30		OCTOBER 1 - 31		NOVEMBER 1 - 30		DECEMBER 1 - 31		JANUARY 1 - 31	
	(Range)		(Range)		(Range)		(Range)		(Range)		(Range)	
	Min. \$	Max. \$	Min. \$	Max. \$	Min. \$	Max. \$	Min. \$	Max. \$	Min. \$	Max. \$	Min. \$	Max. \$
Cat.1 - Payroll, Salaries & CSS	7.00	11.00	16.00	20.00	15.00	19.00	10.00	16.00	10.00	16.00	-	-
Cat.2 - Materials & Spare Parts	32.00	60.00	30.00	45.00	6.00	12.00	6.00	13.00	6.00	13.00	-	14.00
Cat.3 - Services & Miscel. Subcont.	2.00	7.00	2.00	7.00	2.00	7.00	2.00	7.00	2.00	7.00	-	-
Cat.4 - Subcontracts Civil Works	8.00	15.00	7.00	15.00	7.00	15.00	6.00	12.00	6.00	12.00	-	10.00
Cat.5 - Subcontracts E&M	25.00	45.00	14.00	28.00	19.00	32.00	20.00	32.00	20.00	32.00	-	21.00
Cat.6 - Other Expenditures	1.00	5.00	1.00	5.00	1.00	5.00	1.00	5.00	1.00	5.00	-	-
Monthly Range (\$)	\$ 75.0	\$ 143.0	\$ 70.0	\$ 120.0	\$ 50.0	\$ 90.0	\$ 45.0	\$ 85.0	\$ 45.0	\$ 85.0	\$ -	\$ 45.0

Categories	2014		2014		2014		2014		2014		2015	
	AUGUST 15 - 31		SEPTEMBER 1 - 30		OCTOBER 1 - 31		NOVEMBER 1 - 30		DECEMBER 1 - 31		JANUARY 1 - 31	
	(Range)		(Range)		(Range)		(Range)		(Range)		(Range)	
	Min. %	Max. %	Min. %	Max. %	Min. %	Max. %	Min. %	Max. %	Min. %	Max. %	Min. %	Max. %
Cat.1 - Payroll, Salaries & CSS	9%	8%	23%	17%	30%	21%	22%	19%	22%	19%	0%	0%
Cat.2 - Materials & Spare Parts	43%	42%	43%	38%	12%	13%	13%	15%	13%	15%	0%	31%
Cat.3 - Services & Miscel. Subcont.	3%	5%	3%	6%	4%	8%	4%	8%	4%	8%	0%	0%
Cat.4 - Subcontracts Civil Works	11%	10%	10%	13%	14%	17%	13%	14%	13%	14%	0%	22%
Cat.5 - Subcontracts E&M	33%	31%	20%	23%	38%	36%	44%	38%	44%	38%	0%	47%
Cat.6 - Other Expenditures	1%	3%	1%	4%	2%	6%	2%	6%	2%	6%	0%	0%
Monthly Range (\$)	\$ 75.0	\$ 143.0	\$ 70.0	\$ 120.0	\$ 50.0	\$ 90.0	\$ 45.0	\$ 85.0	\$ 45.0	\$ 85.0	\$ -	\$ 45.0

APPENDIX F

EFFECTIVE DATE CONFIRMATION

Date: [____], 2014

GRUPO UNIDOS POR EL CANAL, S.A.
Building 22B, Brujas Road, Cocoli,
Panama, Republic of Panama
Attn: Mr. Giuseppe Quarta
Contractor's Representative

Dear Mr. Quarta:

Reference is made to Variation Agreement No. 108, dated August 1, 2014 ("VO No. 108"), between Grupo Unidos por el Canal, S.A. and Autoridad del Canal de Panamá (the "**Employer**"). Terms used without definition herein have the respective meanings provided in VO No. 108.

The Employer hereby confirms that, in its sole opinion, the conditions to the Effective Date other than the deposit of the Surety Deposit in the Surety Deposit Account have been satisfied.

**AUTORIDAD DEL CANAL DE
PANAMÁ**, as the Employer

By: _____
Name: Mr. Jorge de la Guardia
Title: Employer's Representative

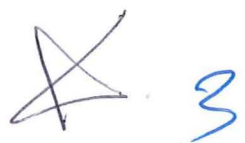
 3

APPENDIX G

SCHEDULE OF OTHER EXISTING ADVANCES MILESTONE DEDUCTIONS

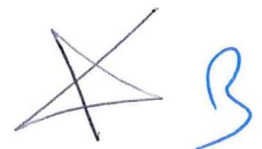
Agreed Performance Milestone		Other Existing Advances Milestone Deduction (USD) ¹
Concrete Structures		
Atlantic site		
M1	LH1 and LH4 ready for Cimolai	371,000
M3	Valve structures #3, #4, #5 and #6 ready for Hyundai	519,000
Pacific site		
M2	LH3 and LH4 ready for Cimolai	371,000
M4	Valve structure #3, #4, #5 and #6 ready for Hyundai	519,000
Concrete Repair		
Atlantic site		
M5	Progress	577,000
M6	Sufficient to start flooding	742,000
Pacific site		
M7	Progress	577,000
M8	Sufficient to start flooding	742,000
Borinquen Dams		
M9	Dam Fills: Progress	433,000
M10	Dam Fills: Sufficient to start flooding Upper Chamber above el 6.40	1,199,000
Backfill Structures		
Atlantic site		
M11	Progress	433,000
M13	Sufficient to start flooding	742,000
Pacific site (excluding WSB)		
M12	Progress	433,000
M14	Sufficient to start flooding	742,000
Water Saving Basins		
M15	Atlantic site – lining completed	1,483,000
M16	Pacific site – lining completed	1,483,000

¹ Monthly rate based on a 30 day month



Machinery & Control Buildings		
Atlantic site		
M17	Control building ready for E&M	415,000
M18	Machinery building #1 to 4 ready for E&M	472,000
Pacific site		
M19	Control building ready for E&M	415,000
M20	Machinery building #1 to 4 ready for E&M	472,000
Valves & Appurtenances		
Atlantic site		
M21	Valves and appurtenances ready for flooding - Valve structure #5 and #6 installed - Culvert valves LH4 East & West installed - Equalization valves LH4 installed	742,000
Pacific site		
M22	Valves and appurtenances ready for flooding - Valve structure #5 and #6 installed - Culvert valves LH4 East & West installed - Equalization valves LH4 installed	742,000
M23	A) Atlantic Locks ready for flooding	0
	B) Pacific Locks ready for flooding	0
Gates Delivery Condition		Other Existing Advances Milestone Deduction (USD)²
G1	4 gates departure from Trieste	2,538,000
G2	Third shipment of gates from Trieste	3,173,000
G3	The delivery of the remainder of the 12 gates to the Site	3,807,000

² Monthly rate based on a 30 day month



APPENDIX H

REPORT OF ACTUAL EXPENDITURES OF ELIGIBLE COSTS

Categories	Month: [●] 20[●]		
	Actual expenditure	Monthly Eligible Costs List amount	Difference between actual expenditure and Monthly Eligible Costs List amount
	(+ 7 days)	(- 14 days) or R1	
	USD	USD	USD
Cat. 1 – Payroll, Salaries & CSS	[●]	[●]	[●]
Labor	[●]	[●]	[●]
Employees	[●]	[●]	[●]
CSS	[●]	[●]	[●]
Market	[●]	[●]	[●]
...			
Cat. 2 – Materials & Spare Parts	[●]	[●]	[●]
[Name of Supplier]	[●]	[●]	[●]
[Name of Supplier]	[●]	[●]	[●]
[Name of Supplier]	[●]	[●]	[●]
...			
Cat. 3 – Services & Miscel. Subcont.	[●]	[●]	[●]
[Name of Supplier/Subcontractor]	[●]	[●]	[●]
[Name of Supplier/Subcontractor]	[●]	[●]	[●]
[Name of Supplier/Subcontractor]	[●]	[●]	[●]
...			
Cat. 4 – Subcontracts Civil Works	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
...			
Cat. 5 – Subcontracts E&M	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
[Name of Subcontractor]	[●]	[●]	[●]
...			
Cat. 6– Other Expenditures	[●]	[●]	[●]
[Name of Supplier/Subcontractor/Cost]	[●]	[●]	[●]
[Name of Supplier/Subcontractor/Cost]	[●]	[●]	[●]
[Name of Supplier/Subcontractor/Cost]	[●]	[●]	[●]
...			
Total	[●]	[●]	[●]




APPENDIX I

SCHEDULE OF OUTSTANDING PAYABLES

[illegible]

APPENDIX J

FORM OF APM LOC – EXTENSION

[Scotiabank Letterhead]

DATE: _____, 201[]

OUR LETTER OF CREDIT NUMBER 700000000645 DATED DECEMBER 18, 2009.

BENEFICIARY:

AUTORIDAD DEL CANAL DE PANAMA
ALTOS DE BALBOA
BALBOA
REPUBLICA DE PANAMA

APPLICANT:

GRUPO UNIDOS POR EL CANAL, S.A.
EDIF. 732, COROZAL OESTE,
PANAMA, REPUBLICA DE PANAMA

MAXIMUM STATED AMOUNT: USD 247,958,819.42 (TWO HUNDRED FORTY SEVEN MILLION NINE HUNDRED FIFTY EIGHT THOUSAND EIGHT HUNDRED NINETEEN AND 42/100 U.S. DOLLARS)

EXPIRATION DATE: DECEMBER 31, 2015

AMENDMENT NUMBER []

THE ABOVE MENTIONED LETTER OF CREDIT IS AMENDED AS FOLLOWS:

1. THE EXPIRATION DATE OF THE LETTER OF CREDIT IS AMENDED TO BE [DECEMBER 31, 2016] [DECEMBER 31, 2018].³

ALL OTHER TERMS AND CONDITIONS OF THE ABOVE MENTIONED LETTER OF CREDIT REMAIN UNCHANGED AND IN EFFECT.

THIS AMENDMENT IS TO BE CONSIDERED AS AN INTEGRAL PART OF THE ABOVE LETTER OF CREDIT AND MUST BE ATTACHED THERETO.

³ This amendment can be used for an extension to accommodate repayment at December 2016 or 2018.



PLEASE ADVISE YOUR CONSENT TO THIS AMENDMENT NO. [], IN WRITING ON
YOUR LETTERHEAD SIGNED BY AN AUTHORIZED SIGNATORY OF YOUR
COMPANY UNDER HIS/HER NAME AND TITLE.

THE BANK OF NOVA SCOTIA, PANAMA
REPUBLIC OF PANAMA

[NAME]
[TITLE]

[NAME]
[TITLE]

X 3

APPENDIX K

FORM OF APP LOC (BANISTMO) – EXTENSION

[Banistmo Letterhead]

DATE: PANAMA, _____, 201[] LETTER OF CREDIT SLCPNM101670
DATED NOVEMBER 23rd, 2010

BENEFICIARY: AUTORIDAD DEL CANAL DE PANAMA
ALTOS DE BALBOA, BALBOA,
PANAMA, REPUBLICA DE PANAMA

APPLICANT: GRUPO UNIDOS POR EL CANAL, S.A.
COROZAL OESTE, EDIFICIO 732,
PANAMA, REPUBLICA DE PANAMA

MAXIMUM STATED AMOUNT: \$200,000,000.00 (TWO HUNDRED MILLION U.S.
DOLLARS)

EXPIRATION DATE: DECEMBER 31st, 2015

AMENDMENT NO. []

THE ABOVE MENTIONED LETTER OF CREDIT IS AMENDED, AS FOLLOWS:

1. THE EXPIRATION DATE OF THE LETTER OF CREDIT IS AMENDED TO BE
[DECEMBER 31st, 2016] [DECEMBER 31st, 2018].⁴

ALL OTHER TERMS AND CONDITIONS OF THE ABOVE MENTIONED LETTER OF
CREDIT REMAIN UNCHANGED AND IN EFFECT.

THIS AMENDMENT IS TO BE CONSIDERED AS AN INTEGRAL PART OF THE ABOVE
LETTER OF CREDIT AND MUST BE ATTACHED THERETO.

⁴ This amendment can be used for an extension to accommodate repayment at December 2016 or 2018.



PLEASE ADVISE YOUR CONSENT TO THIS AMENDMENT NO. [], IN WRITING ON
YOUR LETTERHEAD SIGNED BY AN AUTHORIZED SIGNATORY OF YOUR
COMPANY UNDER HIS/HER NAME AND TITLE.

BY: BANISTMO, S.A.

[NAME]
[TITLE]

[NAME]
[TITLE]

A handwritten signature in black ink, followed by the letter 'B' in blue ink.

APPENDIX L

FORM OF APP LOC (SCOTIA) – EXTENSION

[Scotiabank Letterhead]

DATE: _____, 201[]

OUR LETTER OF CREDIT NUMBER 700000001339 DATED JULY 26, 2010.

BENEFICIARY:

AUTORIDAD DEL CANAL DE PANAMA
ALTOS DE BALBOA
BALBOA
REPUBLICA DE PANAMA

APPLICANT:

GRUPO UNIDOS POR EL CANAL, S.A.
COROZAL OESTE, EDIFICIO 732,
ANCON, PANAMA
REPUBLICA DE PANAMA

MAXIMUM STATED AMOUNT: USD 100,000,000.00 (ONE HUNDRED MILLION U.S. DOLLARS)

EXPIRATION DATE: DECEMBER 31, 2015

AMENDMENT NUMBER []

THE ABOVE MENTIONED LETTER OF CREDIT IS AMENDED AS FOLLOWS:

1. THE EXPIRATION DATE OF THE LETTER OF CREDIT IS AMENDED TO BE [DECEMBER 31, 2016] [DECEMBER 31, 2018].⁵

ALL OTHER TERMS AND CONDITIONS OF THE ABOVE MENTIONED LETTER OF CREDIT REMAIN UNCHANGED AND IN EFFECT.

THIS AMENDMENT IS TO BE CONSIDERED AS AN INTEGRAL PART OF THE ABOVE LETTER OF CREDIT AND MUST BE ATTACHED THERETO.

⁵ This amendment can be used for an extension to accommodate repayment at December 2016 or 2018.



PLEASE ADVISE YOUR CONSENT TO THIS AMENDMENT NO. [], IN WRITING ON
YOUR LETTERHEAD SIGNED BY AN AUTHORIZED SIGNATORY OF YOUR
COMPANY UNDER HIS/HER NAME AND TITLE.

THE BANK OF NOVA SCOTIA, PANAMA
REPUBLIC OF PANAMA

[NAME]
[TITLE]

[NAME]
[TITLE]

X 3

APPENDIX M

OTHER EXISTING ADVANCES REDUCTION CERTIFICATE

Contractor: Grupo Unidos por el Canal
S.A.
Building 22B
Brujas Road
Cocoli
Panama, Republic of Panama

Employer: Autoridad del Canal de
Panama
Building 740
Corozal
Panama, Republic of Panama

Attention: [●]

Attention: [●]

RFP: RFP-76161

Contract: CMC-221427

Design and Construction of the Third Set of Locks dated August 11, 2009 (as the same has been or may be varied, amended, supplemented or otherwise modified).

Date: [●]

It is hereby certified that:

1. the amount of the Other Existing Advances repaid by the application of Dispute Proceeds pursuant to sub-paragraph (a) of Sub-Clause 20.9 [*Payment of Dispute Proceeds*] following the [determination/agreement by the Employer's Representative][decision by the DAB][settlement by the Parties][award rendered by the ICC] dated [●]; and
2. the amount of the Other Existing Advances as at the date of this certificate, following repayment of item 1 above,

are as set out in columns 1 and 2 respectively in the table below:

Name	1. (USD)	2. (USD)
Advance Payment for Key Suppliers	[●]	[●]
Advance Payment for Specified Suppliers	[●]	[●]
Advance Payment for Lock Gates	[●]	[●]



Total Advances	Other Existing	[●]	[●]
---------------------------	---------------------------	-----	-----

.....
Signature Name

Employer's Representative

A handwritten signature in black ink, followed by the number '3' written in blue ink.

APPENDIX N

EXISTING ADVANCES BALANCE NOTICE

[To be typed on the letterhead of the ACP]

[insert date]

DCN: [●]

GRUPO UNIDOS POR EL CANAL, S.A.,

as Contractor ("**Contractor**")

Building 22B, Brujas Road

Cocoli, Republic of Panamá

Att: [●]

Contractor's Representative

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of Locks,
Panama Canal

Subject: Existing Advances Balance Notice

Dear Sirs

We are writing to inform you that, as at the date of this Existing Advances Balance Notice, the outstanding balances of the Existing Advances are as follows:

Name	Amount (USD)
Advance Payment for Mobilisation	[●]
Advance Payment for Plant	[●]
Total Original Contract Advances	[●]
Advance Payment for Key Suppliers	[●]
Advance Payment for Specified Suppliers	[●]
Advance Payment for Lock Gates	[●]
Total Other Existing Advances	[●]
Total Existing Advances	[●]

A handwritten signature in blue ink, followed by the number 3.

Sincerely yours,

Jorge de la Guardia
Employer's Representative
Locks Project Management Division

X3

APPENDIX O

FORM OF RIDER TO PLANT AND MATERIAL SECURITY

This RIDER to be attached to and form a part of

Bond no. PAY09098907

WHEREAS, on or about the 11th day of August, 2009, **Grupo Unidos por el Canal S.A.**, as Contractor, entered into a written agreement with the Panama Canal Authority, as Obligee (Employer), for the **Design and Construction of the Third Set of Locks of the Panama Canal – Contract No. CMC221427**, as amended, supplemented or otherwise modified, including by variation agreements thereto, herein referred to as the Contract; and

WHEREAS, the Contractor, as Principal, and Zurich American Insurance Company, as Surety, have executed an Advance Payment Bond, dated December 20, 2012 (Bond no. PAY09098907), in favor of Employer as required by the Contract, and Surety has issued a Rider to such Advance Payment Bond, dated September 16, 2013 and an additional Rider to such Advance Payment Bond, dated May 15, 2014;

WHEREAS, Surety has been provided with a copy of Variation Agreement No. 108, dated August 1, 2014, executed by the Obligee and the Contractor, to the Contract (the "Variation Agreement No. 108");

and

WHEREAS, Obligee has requested that the Advance Payment Bond be amended to update Contract references therein and to include certain conditions in the Notice of Claim, as set forth in Variation Agreement No. 108.

NOW, THEREFORE, the undersigned hereby agree as follows: The Advance Payment Bond is hereby amended as follows:

1. The Bond is amended to delete clause 5 in the Notice of Claim (Annex I) and insert the following clause in lieu thereof:

"5. The Employer is entitled to demand payment of the whole of the balance of the Advance Payment for Lock Gates in accordance with Sub-Clause 14.2J(h) of the Conditions of Contract. Accordingly the undersigned hereby makes demand for payment in the amount of the whole of the balance of the Advance Payment for Lock Gates, which is \$ _____ (the "**Demand Amount**")."
2. All other terms and conditions of the Advance Payment Bond are unchanged and shall remain in full force and effect.



SIGNED, sealed and dated this ____ day of _____, 2014.

WITNESS OR ATTEST:

Panama Canal Authority
Employer

By: _____ (SEAL)

WITNESS OR ATTEST:

/s/ _____

Grupo Unidos por el Canal S.A.
Contractor

By: _____ (SEAL)

Zurich American Insurance Company
Surety

By: _____

A handwritten signature in black ink, followed by a blue handwritten number '3'.

APPENDIX P

FORM OF CONFIRMATION OF JOINT AND SEVERAL GUARANTEE

PANAMÁ CANAL EXPANSION – THIRD SET OF LOCKS PROJECT

SECOND CONFIRMATION OF JOINT AND SEVERAL GUARANTEE AGREEMENT

THIS SECOND CONFIRMATION OF JOINT AND SEVERAL GUARANTEE AGREEMENT (this "**Confirmation**") is dated and effective as of _____, 2014. Capitalized terms used herein have the respective meanings provided in the Joint and Several Guarantee (as defined below).

BACKGROUND:

(A) The undersigned Guarantors entered into a contract, on a joint and several basis, with the Employer for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panama Canal expansion project (as amended, modified or supplemented, "**Contract**").

(B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010 (the "**Assignment Agreement**"), became the Contractor under the Contract (the "**Contractor**").

(C) As a condition to and in connection with such assignment of the Contract, the undersigned executed and delivered to the Employer the Joint and Several Guarantee, dated May 31, 2010, pursuant to which each of the undersigned provided its joint and several guarantee of all of the obligations of the Contractor under and pursuant to the Contract (as confirmed by the Confirmation of Joint and Several Guarantee Agreement, dated July 26, 2012, and as the same may be further confirmed, amended, modified or supplemented, the "**Joint and Several Guarantee**").

(D) In furtherance of completion of the Works under the Contract, the Employer, the Contractor and the Surety (as defined in the Contract) agreed to a Memorandum of Understanding, dated March 13, 2014, specifying on Annex A thereto the terms of a transaction to be implemented thereto (the "**Annex A Transaction**").

(E) In connection with the implementation of such Annex A Transaction, the Employer and the Contractor have entered into Variation Agreement Number 108, dated as of August 1, 2014 ("**Variation No. 108**"), and an express condition precedent to the Effective Date under (and as defined in) such Variation Agreement No. 108 is the execution and delivery by the Guarantors of this Confirmation.



(F) Whereas, the entry into Variation Agreement No. 108, the delivery of this Confirmation by the Guarantors and the effectiveness of the Annex A Transaction are in the best interests of the respective parties thereto and agreed to by each Guarantor for its own valuable corporate interests and purposes.

(G) Therefore, each of the Guarantors, for its own valuable corporate interests and purposes of facilitating the effectiveness of the Annex A Transaction, has agreed to provide this Confirmation which confirms the obligations of each such Guarantor under the Joint and Several Guarantee.

CONFIRMATION:

- (a) Each of the undersigned Guarantors hereby:
- (i) acknowledges receipt of a copy of Variation Agreement No. 108;
 - (ii) agrees that all references in the Joint and Several Guarantee to the "Contract" shall be deemed to mean the Contract, as varied by Variation Agreement No. 108 and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time;
 - (iii) confirms, affirms and ratifies the Joint and Several Guarantee and its obligations and agreements thereunder in all respects;
 - (iv) acknowledges that the Employer has relied on this Confirmation in agreeing to Variation Agreement No. 108 and the terms thereunder, and in entering into or accepting the delivery of the other documents, agreements and instruments executed and/or delivered in connection with the Effective Date (as defined in Variation Agreement No. 108); and
 - (v) represents and warrants that this Confirmation has been duly authorized by all necessary organizational action on its part and constitutes its legal, valid and binding obligation.
- (b) Ondernemingen Jan De Nul N.V., as a Guarantor, hereby confirms that (i) its registered corporate name is "Ondernemingen Jan De Nul N.V."; (ii) it is the entity referred to in the Joint and Several Guarantee as "Jan De Nul N.V."; and (iii) any and all obligations of "Jan De Nul N.V." set forth in the Joint and Several Guarantee are the legal, valid and binding obligations of Ondernemingen Jan De Nul N.V.

This Confirmation shall be governed by and construed in accordance with the laws of the Republic of Panama. Any disputes arising out of, under or in connection with this Confirmation shall be resolved as provided in Paragraph 9.2 of the Joint and Several Guarantee.

A handwritten signature, possibly 'X', followed by the number '3' in blue ink.

In Witness whereof the parties hereto have caused this Confirmation to be executed the day and year before written by their duly authorised representatives.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Guarantors and for and on behalf of SACYR S.A. (formerly SACYR VALLEHERMOSO S.A.), as Guarantor in the presence of

Witness:

Witness:

Name:

Name:

Address: Building ___, Corozal

Address:

Date:

Date:

A handwritten signature in black ink, followed by a blue number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN
JAN DE NUL N.V., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'A' shape with a diagonal line through it, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

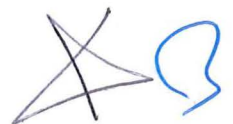
for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

Name:

Address:

Date:

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a 'B'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

Handwritten signature and initials in blue ink. The signature is a stylized 'X' shape, and the initials are a blue circle with a vertical line through it.

APPENDIX Q

FORM OF CONFIRMATION OF PARENT COMPANY GUARANTEE FOR THE JOINT AND SEVERAL GUARANTEE

PANAMÁ CANAL EXPANSION – THIRD SET OF LOCKS PROJECT

SECOND CONFIRMATION OF PARENT COMPANY GUARANTEE

THIS SECOND CONFIRMATION OF PARENT COMPANY GUARANTEE (this "**Confirmation**") is dated and effective as of _____, 2014. Capitalized terms used herein have the respective meanings provided in the Parent Guarantee (as defined below).

BACKGROUND:

(A) Jan De Nul N.V. (the "**Relevant Member**"), together with Impregilo S.p.A. (now Salini Impregilo S.p.A.) ("**Impregilo**"), Sacyr Vallehermoso, S.A. (now Sacyr S.A.) ("**Sacyr**") and Constructora Urbana, S.A. ("**CUSA**", and together with the Relevant Member, Impregilo and Sacyr, the "**Shareholder Guarantors**") entered into a contract, on a joint and several basis, with the Employer for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panama Canal expansion project (as amended, modified or supplemented, "**Contract**").

(B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Shareholder Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010 (the "**Assignment Agreement**"), became the Contractor under the Contract (the "**Contractor**").

(C) As a condition to and in connection with such assignment of the Contract, the undersigned executed and delivered to the Employer the Parent Company Guarantee in respect of Joint and Several Obligations of a Member, dated May 31, 2010 (as confirmed by the Confirmation of Parent Company Guarantee, dated July 26, 2012, and as the same may be further confirmed, amended, modified or supplemented, the "**Parent Guarantee**"), pursuant to which the undersigned provided its guarantee of all of the obligations of the Relevant Member, a wholly and directly owned subsidiary of the undersigned, under the Joint and Several Guarantee, dated May 31, 2010, pursuant to which the Relevant Member provided its joint and several guarantee (together with each of the other Shareholder Guarantors) of all of the obligations of the Contractor under and pursuant to the Contract (as confirmed by the Confirmation of Joint and Several Guarantee Agreement, dated July 26, 2012, the Second Confirmation of Joint and Several Guarantee (as defined below) and as the same may be further confirmed, amended, modified or supplemented, the "**Joint and Several Guarantee**").

(D) In furtherance of completion of the Works under the Contract, the Employer, the Contractor and the Surety (as defined in the Contract) agreed to a Memorandum of

Handwritten signature and initials in blue ink, consisting of a large 'X' and a stylized 'B' or '3'.

Understanding, dated March 13, 2014, specifying on Annex A thereto the terms of a transaction to be implemented thereto (the "**Annex A Transaction**").

(E) In connection with the implementation of such Annex A Transaction, the Employer and the Contractor have entered into Variation Agreement Number 108, dated as of August 1, 2014 ("**Variation No. 108**"), and an express condition precedent to the Effective Date under (and as defined in) such Variation Agreement No. 108 is the execution and delivery of (1) a Second Confirmation of Joint and Several Guarantee Agreement, dated on or about the date hereof, to be executed and delivered by the Relevant Member and each of the other Shareholder Guarantors (the "**Second Confirmation of Joint and Several Guarantee**"); and (2) this Confirmation by the Parent Guarantor.

(F) Whereas, the entry into Variation Agreement No. 108, the delivery of this Confirmation by the Parent Guarantor and the effectiveness of the Annex A Transaction are in the best interests of the respective parties thereto and agreed to by the Relevant Member for its own respective valuable corporate interests and purposes.

(G) Therefore, the Parent Guarantor, for its own valuable corporate interests and purposes of facilitating the effectiveness of the Annex A Transaction, has agreed to provide this Confirmation which confirms the obligations of the Relevant Member under the Joint and Several Guarantee.

CONFIRMATION:

The undersigned Parent Guarantor hereby:

- (i) acknowledges receipt of a copy of Variation Agreement No. 108 and the Second Confirmation of Joint and Several Guarantee;
- (ii) agrees that all references in the Parent Guarantee and the Joint and Several Guarantee to the "Contract" shall be deemed to mean the Contract, as varied by Variation Agreement No. 108 and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time;
- (iii) confirms, affirms and ratifies the Parent Guarantee and its obligations and agreements thereunder in all respects;
- (iv) acknowledges that the Employer has relied on this Confirmation in agreeing to Variation Agreement No. 108 and the terms thereunder, and in entering into or accepting the delivery of the other documents, agreements and instruments executed and/or delivered in connection with the Effective Date (as defined in Variation Agreement No. 108);
- (v) represents and warrants that this Confirmation has been duly authorized by all necessary organizational action on its part and constitutes its legal, valid and binding obligation; and
- (vi) confirms that (1) its registered corporate name is "Sofidra S.A."; (2) it is the entity referred to in the Parent Guarantee as "Jan De Nul Group (Sofidra S.A.)"; and (3) any and all



obligations of "Jan De Nul Group (Sofidra S.A.)" set forth in the Parent Guarantee are the legal, valid and binding obligations of Sofidra S.A.

This Confirmation shall be governed by and construed in accordance with the laws of the Republic of Panama. Any disputes arising out of, under or in connection with this Confirmation shall be resolved as provided in Paragraph 9.2 of the Parent Guarantee.

In Witness whereof the parties hereto have caused this Confirmation to be executed the day and year before written by their duly authorised representatives.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Parent Guarantor
and for and on behalf of SOFIDRA S.A.
(JAN DE NUL GROUP), as Parent
Guarantor in the presence of

Witness:

Witness:

Name:

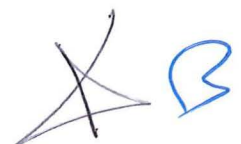
Name:

Address: Building ___, Corozal

Address:

Date:

Date:

Handwritten signature and initials in blue ink at the bottom right of the page.

APPENDIX R

FORM OF CONFIRMATION OF ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE

PANAMÁ CANAL EXPANSION – THIRD SET OF LOCKS PROJECT

CONFIRMATION OF ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE

THIS CONFIRMATION OF ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE (this "**Confirmation**") is dated and effective as of _____, 2014. Capitalized terms used herein have the respective meanings provided in the Advance Payment J+S Guarantee (as defined below).

BACKGROUND:

(A) The undersigned Guarantors entered into a contract, on a joint and several basis, with the Employer for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panama Canal expansion project (as amended, modified or supplemented, "**Contract**").

(B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").

(C) In connection with and as a condition precedent to the making by the Employer to the Contractor of the Advance Payment for Specified Suppliers pursuant to Variation Agreement Number 058, dated as of December 24, 2012, each of the undersigned executed and delivered the Advance Payment Joint and Several Guarantee, dated December 24, 2012 (as the same may be confirmed, amended, modified or supplemented from time to time, the "**Advance Payment J+S Guarantee**"), pursuant to which each of the undersigned provided its joint and several guarantee of all of the obligations of the Contractor in connection with the Advance Payment for Specified Suppliers;

(D) In connection with and as a condition precedent to the making by the Employer to the Contractor of the Advance Payment for Specified Expenditures pursuant to Variation Agreement Number 090, dated as of March 13, 2014, each of the undersigned executed and delivered the Amendment to Advance Payment Joint and Several Guarantee, dated March 18, 2014, pursuant to which each of the undersigned provided its joint and several guarantee of all of the obligations of the Contractor in connection with the Advance Payment for Specified Expenditures.

(E) In furtherance of completion of the Works under the Contract, the Employer, the

Handwritten signature and initials in blue ink, consisting of a large 'X' and a stylized 'B' or 'G'.

Contractor and the Surety (as defined in the Contract) agreed to a Memorandum of Understanding, dated March 13, 2014, specifying on Annex A thereto the terms of a transaction to be implemented thereto (the "**Annex A Transaction**").

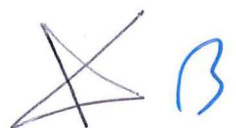
(G) In connection with the implementation of such Annex A Transaction, the Employer and the Contractor have entered into Variation Agreement Number 108, dated as of August 1, 2014 ("**Variation No. 108**"), and an express condition precedent to the Effective Date under (and as defined in) such Variation Agreement No. 108 is the execution and delivery by the Guarantors of this Confirmation.

(H) Whereas, the entry into Variation Agreement No. 108, the delivery of this Confirmation by the Guarantors and the effectiveness of the Annex A Transaction are in the best interests of the respective parties thereto and agreed to by each Guarantor for its own valuable corporate interests and purposes.

(I) Therefore, each of the Guarantors, for its own valuable corporate interests and purposes of facilitating the effectiveness of the Annex A Transaction, has agreed to provide this Confirmation which confirms the obligations of each such Guarantor under the Advance Payment J+S Guarantee.

CONFIRMATION:

- (a) Each of the undersigned Guarantors hereby:
- (i) acknowledges receipt of a copy of Variation Agreement No. 108;
 - (ii) agrees that all references in the Advance Payment J+S Guarantee to the "Contract" shall be deemed to mean the Contract, as varied by Variation Agreement No. 108 and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time;
 - (iii) confirms, affirms and ratifies the Advance Payment J+S Guarantee and its obligations and agreements thereunder in all respects;
 - (iv) acknowledges that the Employer has relied on this Confirmation in agreeing to Variation Agreement No. 108 and the terms thereunder, and in entering into or accepting the delivery of the other documents, agreements and instruments executed and/or delivered in connection with the Effective Date (as defined in Variation Agreement No. 108); and
 - (v) represents and warrants that this Confirmation has been duly authorized by all necessary organizational action on its part and constitutes its legal, valid and binding obligation.
- (b) Ondernemingen Jan De Nul N.V., as a Guarantor, hereby confirms that (i) its registered corporate name is "Ondernemingen Jan De Nul N.V."; (ii) it is the entity referred to in the Advance Payment J+S Guarantee as "Jan De Nul N.V."; and (iii) any and all obligations of "Jan De Nul N.V." set forth in the Advance Payment J+S Guarantee are the legal, valid and



binding.

This Confirmation shall be governed by and construed in accordance with the laws of the Republic of Panama. Any disputes arising out of, under or in connection with this Confirmation shall be resolved as provided in Paragraph 9.2 of the Advance Payment J+S Guarantee.

X B

In Witness whereof the parties hereto have caused this Confirmation to be executed the day and year before written by their duly authorised representatives.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Guarantors and for and on behalf of SACYR S.A. (formerly SACYR VALLEHERMOSO S.A.), as Guarantor in the presence of

Witness:

Witness:

Name:

Name:

Address: Building ___, Corozal

Address:

Date:

Date:

Handwritten signature and the number 3 in blue ink.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN
JAN DE NUL N.V., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a cursive 'S'.

APPENDIX S

FORM OF CONFIRMATION OF ADVANCE PAYMENT PARENT GUARANTEE

PANAMÁ CANAL EXPANSION – THIRD SET OF LOCKS PROJECT

CONFIRMATION OF ADVANCE PAYMENT PARENT COMPANY GUARANTEE

THIS CONFIRMATION OF ADVANCE PAYMENT PARENT COMPANY GUARANTEE (this "**Confirmation**") is dated and effective as of _____, 2014. Capitalized terms used herein have the respective meanings provided in the Advance Payment Parent Guarantee (as defined below).

BACKGROUND:

(A) Jan De Nul N.V. (the "**Relevant Member**"), together with Impregilo S.p.A. (now Salini Impregilo S.p.A.) ("**Impregilo**"), Sacyr Vallehermoso, S.A. (now Sacyr S.A.) ("**Sacyr**") and Constructora Urbana, S.A. ("**CUSA**", and together with the Relevant Member, Impregilo and Sacyr, the "**Shareholder Guarantors**") entered into a contract, on a joint and several basis, with the Employer for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panama Canal expansion project (as amended, modified or supplemented, "**Contract**").

(B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Shareholder Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").

(C) In connection with and as a condition precedent to the making by the Employer to the Contractor of the Advance Payment for Specified Suppliers pursuant to Variation Agreement Number 058, dated as of December 24, 2012, the undersigned executed and delivered the Parent Company Guarantee in respect of Advance Payment Joint and Several Guarantee Obligations of a Member, dated December 26, 2012 (as the same may be confirmed, amended, modified or supplemented from time to time, the "**Advance Payment Parent Guarantee**"), pursuant to which the undersigned provided its guarantee of all of the obligations of the Relevant Member, a wholly and directly owned subsidiary of the undersigned, under the Advance Payment Joint and Several Guarantee, dated December 24, 2012 (as confirmed by the Confirmation of Advance Payment Joint and Several Guarantee (as defined below) and as the same may be further confirmed, amended, modified or supplemented from time to time, the "**Advance Payment J+S Guarantee**"), pursuant to which the Relevant Member provided its joint and several guarantee of all of the obligations of the Contractor in connection with the Advance Payment for Specified Suppliers;

(D) In connection with and as a condition precedent to the making by the Employer to the Contractor of the Advance Payment for Specified Expenditures pursuant to Variation

Agreement Number 090, dated as of March 13, 2014, the undersigned executed and delivered the Amendment to Parent Company Guarantee in respect of Advance Payment Joint and Several Guarantee Obligations of a Member, dated March 18, 2014, pursuant to which the undersigned provided its guarantee of all of the obligations of the Relevant Member under the Amendment to Advance Payment Joint and Several Guarantee, dated March 18, 2014, pursuant to which the Relevant Member provided its joint and several guarantee of all of the obligations of the Contractor in connection with the Advance Payment for Specified Expenditures.

(E) In furtherance of completion of the Works under the Contract, the Employer, the Contractor and the Surety (as defined in the Contract) agreed to a Memorandum of Understanding, dated March 13, 2014, specifying on Annex A thereto the terms of a transaction to be implemented thereto (the "**Annex A Transaction**").

(F) In connection with the implementation of such Annex A Transaction, the Employer and the Contractor have entered into Variation Agreement Number 108, dated as of August 1, 2014 ("**Variation No. 108**"), and an express condition precedent to the Effective Date under (and as defined in) such Variation Agreement No. 108 is the execution and delivery of (1) a Confirmation of Advance Payment Joint and Several Guarantee Agreement, dated on or about the date hereof, to be executed and delivered by the Relevant Member and each of the other Shareholder Guarantors (the "**Confirmation of Advance Payment Joint and Several Guarantee**"); and (2) this Confirmation by the Parent Guarantor.

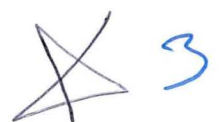
(G) Whereas, the entry into Variation Agreement No. 108, the delivery of this Confirmation by the Parent Guarantor and the effectiveness of the Annex A Transaction are in the best interests of the respective parties thereto and agreed to by the Relevant Member for its own respective valuable corporate interests and purposes.

(H) Therefore, the Parent Guarantor, for its own valuable corporate interests and purposes of facilitating the effectiveness of the Annex A Transaction, has agreed to provide this Confirmation which confirms the obligations of the Relevant Member under the Advance Payment J+S Guarantee.

CONFIRMATION:

The undersigned Parent Guarantor hereby:

- (i) acknowledges receipt of a copy of Variation Agreement No. 108 and the Confirmation of Advance Payment J+S Guarantee;
- (ii) agrees that all references in the Advance Payment Parent Guarantee and the Advance Payment J+S Guarantee to the "Contract" shall be deemed to mean the Contract, as varied by Variation Agreement No. 108 and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time;
- (iii) confirms, affirms and ratifies the Advance Payment Parent Guarantee and its obligations and agreements thereunder in all respects;



(iv) acknowledges that the Employer has relied on this Confirmation in agreeing to Variation Agreement No. 108 and the terms thereunder, and in entering into or accepting the delivery of the other documents, agreements and instruments executed and/or delivered in connection with the Effective Date (as defined in Variation Agreement No. 108);

(v) represents and warrants that this Confirmation has been duly authorized by all necessary organizational action on its part and constitutes its legal, valid and binding obligation; and

(vi) confirms that (1) its registered corporate name is "Sofidra S.A."; (2) it is the entity referred to in the Advance Payment Parent Guarantee as "Jan De Nul Group (Sofidra S.A.)"; and (3) any and all obligations of "Jan De Nul Group (Sofidra S.A.)" set forth in the Advance Payment Parent Guarantee are the legal, valid and binding obligations of Sofidra S.A.

This Confirmation shall be governed by and construed in accordance with the laws of the Republic of Panama. Any disputes arising out of, under or in connection with this Confirmation shall be resolved as provided in Paragraph 9.2 of the Advance Payment Parent Guarantee.

A handwritten signature in black ink, followed by the initials "JS" in blue ink.

In Witness whereof the parties hereto have caused this Confirmation to be executed the day and year before written by their duly authorised representatives.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Parent Guarantor and for and on behalf of SOFIDRA S.A. (JAN DE NUL GROUP), as Parent Guarantor in the presence of

Witness:

Witness:

Name:

Name:

Address: Building ___, Corozal

Address:

Date:

Date:

A handwritten signature in blue ink, consisting of a stylized 'X' shape, followed by the number '3'.

APPENDIX T

FORM OF REPLACEMENT PERFORMANCE AND DEFECTS LOC

Date: Panama, _____, 20XX

Letter of Credit: XXXXXXXXXXXX

Beneficiary: **Autoridad del Canal de Panama**
Altos de Balboa, Balboa
Panama, Republica de Panama
as the Employer under the Contract referred to below

Applicant: **Grupo Unidos por el Canal, S.A.**
Corozal Oeste, Edificio 732, Ancon,
Panama, Republica de Panama

Maximum Stated Amount: **\$200,000,000.00 (Two Hundred Million U.S. Dollars)**

Expiration Date: _____, 20XX

At the request and for the account of Grupo Unidos por el Canal, S.A. (the "Applicant") the undersigned [Issuing Bank] (the "Bank") hereby establishes this clean, irrevocable Letter of Credit (this "Letter of Credit") in your favor as beneficiary ("Beneficiary") for drawing up to the maximum stated amount set forth above, effective _____, 20XX. As used in this Letter of Credit, "Dollars" and "\$" means the lawful currency of the United States of America.

This Letter of Credit is issued, presentable and payable at the Bank's office at [address] Panama, Attention: _____ and expires with the Bank's close of business on _____, 20XX. This Letter of Credit cannot be modified or revoked without your written consent.

This Letter of Credit is issued in connection with the Contract dated August 11, 2009, between you, as Employer (the "Employer") and Grupo Unidos por el Canal, S.A., as Contractor (the "Contractor"), with respect to the design and construction of the third set of locks (as amended, supplemented or otherwise modified, the "Contract"), entered into by the Employer and the Contractor pursuant to your request for proposal for design and construction of the third set of locks, number 76161.

This Letter of Credit is valid and effective immediately and, on and after the date hereof, drawings hereunder may be made by you from time to time by presentation of your demand for payment at our office specified above on or before the expiry date hereof in the form of Annex I hereto (each, a "Notice of Claim"), in each case appropriately completed and purportedly signed by one of your authorized officers. We shall not be obligated to check the authenticity of such signature. Our only obligations with regards to a drawing under this Letter of Credit shall be to examine the Notice of Claim presented and to pay in accordance therewith, and we shall not be obligated to make any inquiry in connection with the presentation of such Notice of Claim.



Multiple and partial draws are allowed.

Drawings hereunder may be made by you prior to the expiration hereof at any time during our business hours at the aforementioned address in Panama, on any "Business Day" (as defined below). We hereby agree to honor each such drawing within three (3) Business Days after receipt thereof, provided that the drawing conforms to the terms and conditions of this Letter of Credit. "Business Day" means a day on which we are open at the aforesaid address for the purpose of conducting commercial banking business.

If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice promptly (but in any case no later than one (1) Business Day after presentation of such demand) that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand prior to 11:00 am Panama City time on the expiration date stated above.

All amounts paid by the Bank under the Letter of Credit shall be paid in immediately available funds, by wire transfer to the account specified by you in the Notice of Claim, free and clear of, and without deduction for, any taxes, duties, fees, liens, set-offs or other deductions of any kind and regardless of any objection of any third party.

This Letter of Credit sets forth in full the terms of our undertaking, and this undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to or to which this Letter of Credit relates, except for the Annex attached hereto. The obligation of the Bank under this Letter of Credit is the individual obligation of the Bank and is not contingent or conditioned upon reimbursement by the applicant or any other party with respect thereto, or upon the Bank's ability to obtain, perfect or realize upon any lien or security interest in any collateral, or any other reimbursement.

This Letter of Credit is subject to and governed by the laws of the Republic of Panama and the International Standby Practices ISP98 of the International Chamber of Commerce (Publication No. 590) and in the event of any conflict the laws of the Republic of Panama will control.

By: [Issuing Bank]

Name:
Title:

Name:
Title:



NOTICE OF CLAIM

_____, 20 ____

(Name of Issuing Bank)
(Address)

All terms used herein which are defined in the Letter of Credit No. XXXXXXXXXXXX, dated as of _____, 20XX issued by you have the same meanings when used herein. All capitalized terms used in this Notice of Claim which are defined in the Contract shall have the meanings given them therein.

The undersigned hereby certifies and states that: [choose applicable paragraph]

1. The Contractor has failed to pay an amount of performance damages due, as determined under Sub-Clause 9.4(b) of the conditions of Contract. Accordingly the undersigned hereby makes demand for payment in the amount of \$ _____ (the "Demand Amount").

[or]

2. During the Defects Notification Period, the Contractor has failed to pay the Employer an amount due, as either agreed by the Contractor or determined under Sub-Clause 2.5 [*Employer's Claims*] or Clause 20 [*Claims, Disputes and Arbitration*], within 42 days after such agreement or determination. Accordingly the undersigned hereby makes demand for payment in the amount of \$ _____ (the "Demand Amount").

[or]

3. The Employer is entitled to terminate the Contractor's right to complete the Contract in accordance with Sub-Clause 15.2 of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

4. The Contractor has not become entitled to receive the Performance Certificate by the date 45 days prior to the expiry date of the Letter of Credit and the Contractor has failed to extend the validity of the Letter of Credit in accordance with Sub-Clause 4.2F of the conditions of Contract. Accordingly the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

5. During the Defects Notification Period, the Contractor has failed to remedy a default



within the time stated in the Employer's notice requiring such default to be remedied. Accordingly the undersigned hereby makes demand for payment in the amount of \$_____ (the "Demand Amount").

The Beneficiary is making a drawing under the Letter of Credit in the amount of the Demand Amount stated above. You are hereby directed to make payment of the requested drawing to Autoridad del Canal de Panama; [Account Details].

AUTORIDAD DEL CANAL DE PANAMA

By:
Name:
Title:

 3

APPENDIX U

FORM OF REPLACEMENT PERFORMANCE AND DEFECTS BOND

Bond Number:	
Contract No. CMC221427 dated 11 August, 2009.	
Date:	[_____, 20XX]
Contractor	GRUPO UNIDOS POR EL CANAL, S.A.
Maximum Amount of the Bond: US\$50,000,00.00	

The undersigned, Surety ("Surety") issues this replacement performance and defects bond (the "Bond") as the Replacement Performance and Defects Security in accordance with (and as defined in) Sub-Clause 4.2F of Contract CMC-221427 dated 11th, August, 2009 for the Design and Construction of the Third Set of Locks of the Panama Canal (as amended, supplemented, varied or otherwise modified, including as varied by Variation Agreement No. 0XX⁶ and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time, the "Contract") to guarantee to the PANAMA CANAL AUTHORITY (hereinafter referred as "ACP" or the "Employer" and together with the Surety, the "Parties") the sum of **FIFTY MILLION 00/100 (US\$50,000,000.00) UNITED STATES DOLLARS** (the "Maximum Amount of the Bond") as security for the performance by GRUPO UNIDOS POR EL CANAL, S.A. (the "Contractor"), in accordance with the following terms and conditions:

1. For purposes of this Bond, "Dollars" and "\$" means the legal currency of the United States of America.
2. The Surety hereby guarantees to ACP the payment of the Maximum Amount of the Bond. The Surety shall make payment under this Bond within thirty (30) calendar days from the date of receipt by the Surety of a notice of claim in the form of Annex I hereto ("Notice of Claim"), delivered to the offices of the Surety located at [_____] on or before the expiration date of this Bond specified below, in each case appropriately completed and purportedly signed by an authorized representative of ACP. Multiple and partial drawings are allowed.
3. All amounts payable under this Bond shall be paid by the Surety in immediately available funds, by wire transfer to the account specified by the Employer in a Notice or Claim, free and clear of and without deduction for, any taxes, duties, fees, set-offs or other deductions of any kind and regardless of any objection of any third party.

⁶ Complete with identifying number and date of applicable variation agreement executed prior to execution of this bond.



4. The Surety waives notice of any amendment, modification, supplement or variation to the Contract.

5. This Bond shall be valid and enforceable until [time] on _____, 20XX⁷.

6. This Bond is subject to the laws of the Republic of Panama.

7. Any and all disputes or controversy arising out of or related to this Bond, including its interpretation, application and enforcement shall be resolved by arbitration in law (within the meaning of Panamanian law). Unless otherwise agreed by the Parties:

(a) the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "Rules");

(b) in addition to the Rules, the arbitration shall be conducted according to the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration;

(c) the dispute shall be settled by three arbitrators who shall all be licensed lawyers appointed in accordance with the Rules;

(d) the arbitration shall be decided in law (within the meaning of Panamanian law) and shall be conducted in the English language;

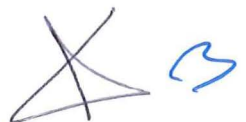
(e) the venue of the arbitration shall be Miami, Florida - United States of America; and

(f) the arbitration agreement and the arbitration shall be governed by the United States Federal Arbitration Act, 9 U.S.C. § 1 et seq.

8. Any arbitration demand initiated by ACP under this Bond shall be filed jointly against the Contractor and the Surety.

In witness hereof, this Bond is issued in the city of Panama, on the date stated above.

⁷ For period specified in Sub-Clause 4.2F of the Contract.

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a 'B'.

NOTICE OF CLAIM

_____, 20____,
[NAME OF SURETY]
[ADDRESS]

All terms used herein which are defined in the Replacement Performance Security Bond Number _____, dated as of _____, 20__ (the "Bond") issued by you have the same meanings when used herein. All capitalized terms used in this Notice of Claim which are defined in the Contract shall have the meanings given them therein.

The undersigned hereby certifies and states that: [choose applicable paragraph]:

1. The Contractor has failed to pay an amount of performance damages due, as determined under Sub-Clause 9.4(b) of the conditions of Contract. Accordingly the undersigned hereby makes demand for payment in the amount of \$ _____ (the "Demand Amount").

[or]

2. During the Defects Notification Period, the Contractor has failed to pay the Employer an amount due, as either agreed by the Contractor or determined under Sub-Clause 2.5 [*Employer's Claims*] or Clause 20 [*Claims, Disputes and Arbitration*], within 42 days after such agreement or determination. Accordingly the undersigned hereby makes demand for payment in the amount of \$ _____ (the "Demand Amount").

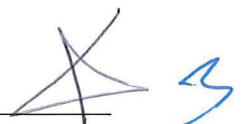
[or]

3. The Employer is entitled to terminate the Contractor's right to complete the Contract in accordance with Sub-Clause 15.2 of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

[or]

4. The Contractor has not become entitled to receive the Performance Certificate by the date 45 days prior to the expiry date of the Bond and the Contractor has failed to extend the validity of the Bond in accordance with Sub-Clause 4.2F of the conditions of Contract. Accordingly the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

[or]



5. During the Defects Notification Period, the Contractor has failed to remedy a default within the time stated in the Employer's notice requiring such default to be remedied. Accordingly the undersigned hereby makes demand for payment in the amount of \$_____ (the "Demand Amount").

The Employer is making a demand under the Bond in the amount of the Demand Amount stated above. You are hereby directed to make payment of the requested demand to Autoridad del Canal de Panama; [account details].

AUTORIDAD DEL CANAL DE PANAMA

By:
Name:
Title:

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APPENDIX V

**FORM OF REPLACEMENT PERFORMANCE AND DEFECTS JOINT AND SEVERAL
GUARANTEE**

Dated _____, 20XX

- (1) THE GUARANTORS NAMED HEREIN
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

JOINT AND SEVERAL GUARANTEE –
REPLACEMENT PERFORMANCE AND DEFECTS
SECURITY IN RESPECT OF THE THIRD SET OF
LOCKS CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

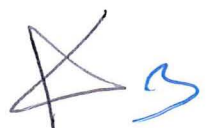


THIS JOINT AND SEVERAL GUARANTEE – REPLACEMENT PERFORMANCE AND DEFECTS SECURITY, dated _____, 20XX (as amended, modified or supplemented, this "**Guarantee**") is made between:

- (1) **SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.)**, a company incorporated in Spain, having its registered office at Paseo de la Castellana N° 83-85, Madrid, 28046, Spain, duly registered at the Commercial Registry of Madrid at Volume 1884, Page M-33841, Sheet 61, and with Tax Identification Number (C.I.F.) A-28013811,
 - (2) **ONDERNEMINGEN JAN DE NUL N.V.**, a company incorporated in Belgium, having its registered office at Tragel 60, 9308 Hofstade (Aalst), Belgium,
 - (3) **SALINI IMPREGILO S.p.A. (formerly Impregilo S.p.A.)**, a company incorporated in Italy, having its registered office at via dei Missaglia 97, 20142 Milan, Italy, and
 - (4) **CONSTRUCTORA URBANA, S.A.**, a *sociedad anónima* organized and existing under the laws of the Republic of Panama, registered under microjacket number 20812 of the Mercantile Section of the Public Registry Office of the Republic of Panama, having its registered office at Calle 19, Río Abajo, Panama
- (each, a "**Guarantor**" and, collectively, the "**Guarantors**"); and
- (5) **AUTORIDAD DEL CANAL DE PANAMÁ**, an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**").

BACKGROUND:

- (A) The Guarantors (including Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.), as Lead Member of the consortium), on a joint and several basis, and the Employer entered into a contract for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**").
- (B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").
- (C) The Guarantors are the Shareholders in and collectively own directly one hundred percent (100%) of the Share Capital of the Contractor.

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- (D) Pursuant to Sub-Clause 4.2F of the Contract, in connection with the commencement of the Functional Completion Tests in accordance with Sub-Clause 10A.5 of the Contract, the Contractor is required to deliver the Replacement Performance and Defects Security, which at its election, may include this Guarantee. Pursuant to Sub-Clauses 4.2B and 4.2F of the Contract, as a condition to the issuance of the Taking Over Certificate under Sub-Clause 10.1 or the last Taking Over Certificate 10.2 of the Contract after which all of the Works shall have been taken over by the Employer, as the case may be, the Contractor is required to deliver the Defects Notification Period Security, which at its election, may include this Guarantee.
- (E) Whereas, the delivery of this Guarantee by the Guarantors hereunder is in the best interests of, and desired by, each such Guarantor for its own valuable corporate interests and purposes.
- (F) Therefore, each of the Guarantors has, jointly and severally, agreed to guarantee the obligations of the Contractor pursuant to Sub-Clause 4.2F and/or Sub-Clause 9.4 and Sub-Clause 4.2B and/or Sub-Clause 11.4 of the Contract on the terms set out in this Guarantee.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Guarantee, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein. In addition, wherever used in this Guarantee, the following terms shall have the following meanings:
- (a) **"Defects Guaranteed Amounts"** shall mean any and all amounts payable by and/or recoverable from the Contractor pursuant to Sub-Clause 4.2B, Sub-Clause 4.2F and/or Sub-Clause 11.4 of the Contract.
- (b) **"Defects Maximum Amount"** shall mean USD 150,000,000.00.
- (c) **"Performance Guaranteed Amounts"** shall mean any and all amounts payable by and/or recoverable from the Contractor pursuant to Sub-Clause 4.2F and/or Sub-Clause 9.4 of the Contract.
- (d) **"Performance Maximum Amount"** shall mean USD 150,000,000.00.
- 1.2 A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Guarantee.
- 1.3 Each Guarantor shall be bound by this Guarantee even if any person who was intended to execute it or be bound by it as a Guarantor has not duly executed or become bound by it.

2. GUARANTEE AND INDEMNITY

- 2.1 Each of the Guarantors, jointly and severally:



(a) as primary obligor and not as surety, unconditionally and irrevocably, jointly and severally guarantees to the Employer the payment by the Contractor of each and all of (i) the Performance Guaranteed Amounts as and when due pursuant to the Contract; and (ii) the Defects Guaranteed Amounts as and when due pursuant to the Contract; and

(b) if the Contractor is in breach of any of its obligations as set out in sub-paragraph (a), shall upon demand by the Employer from time to time, forthwith perform the obligations of which the Contractor is in breach in the same manner that the Contractor is required to perform such obligations according to the terms of the Contract; provided that the Employer shall be entitled to make a demand hereunder in respect of any of (i) the Performance Guaranteed Amounts only until such time as the Taking-Over Certificate under Sub-Clause 10.1 or the last Taking-Over Certificate under Sub-Clause 10.2 after which all of the Works shall have been taken over by the Employer, as the case may be, has been issued; and (ii) the Defects Guaranteed Amounts only after such issuance.

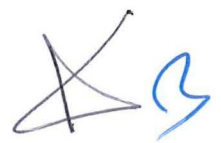
The total amount recoverable by the Employer under this paragraph 2.1 shall not exceed (i) in the case of the Performance Guaranteed Amounts, the Performance Maximum Amount; and (ii) in the case of the Defects Guaranteed Amounts, the Defects Maximum Amount.

- 2.2 Each of the Guarantors, jointly and severally, unconditionally and irrevocably agrees, as a separate and distinct obligation to its obligations set out in paragraph 2.1, to indemnify on demand the Employer against all losses, damages, costs and expenses which the Employer may suffer or incur arising out of or in any way in connection with (a) any breach by the Contractor of any of its obligations as set out in paragraph 2.1(a), or (b) any proceedings taken by the Employer for the enforcement of any claim under this Guarantee or the Contract.

3. **PROTECTIVE CLAUSES**

- 3.1 This Guarantee cannot be revoked without the prior written consent of the Employer, and none of the Guarantors shall in any way be released or discharged or otherwise absolved of liability hereunder by reason of, and each of the Guarantors hereby waives notice of, any of the following:

- (a) any suspension of the Works or the Maintenance Services or variation to or amendment of the Works or the Contract;
- (b) any extension of time for performance by the Contractor under the Contract;
- (c) any adjustment to the amounts payable to the Contractor under the Contract;
- (d) the termination of (i) the Contractor's right to complete the Contract, or (ii) the Contract;
- (e) any forbearance, variation or waiver of any right or remedy the Employer may have against the Contractor or any Guarantor or negligence by the Employer in enforcing

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any right or remedy afforded under the Contract or granting of time, indulgence or concession;

(f) any bond, security, insurance, surety or guarantee (other than this Guarantee) held or obtained by the Employer, including any actions taken pursuant to such instruments, in respect of the obligations of the Contractor or any Guarantor under the Contract, or any release or waiver thereof;

(g) any act or omission of the Contractor or any Guarantor pursuant to any other arrangement with the Guarantors, any change in the relationship between the Guarantors and the Contractor or dispute or disagreement between them under or in relation to the Contract or otherwise;

(h) any change in status or constitution of the Contractor, any Guarantor or the Employer;

(i) the issuance of the Performance Certificate or any other certificate under the Contract;

(j) any breach of the Contract by or other default of the Employer;

(k) the Contract or any provision thereof being or becoming illegal, invalid, void, voidable or unenforceable, including without limitation, any liquidated damages under the Contract;

(l) the Dissolution (as defined in paragraph 8.4) of the Contractor, or any Guarantor;

(m) the taking over of the Contract by any other guarantor, surety or any other person;

(n) the Employer's step-in rights under any Subcontractor Warranty; and/or

(o) any other matter or thing which may otherwise create a defense, whether legal or equitable, whereby any of the obligations of the Guarantor hereunder might be discharged or affected.

3.2 Each of the Guarantors authorizes the Contractor and the Employer to make any addendum, variation or amendment to the Contract or the Works without reference to it or any other Guarantor, and agrees that this Guarantee shall apply to such addendum, variation or amendment.

3.3 The obligations of each of the Guarantors hereunder are primary and not by way of surety and none of the Guarantors shall be entitled as against the Employer to any right of set-off or counterclaim whatsoever and howsoever arising. The Employer shall not be obliged to take any action in any court or arbitral proceedings against the Contractor or any Guarantor, to make any claim against or any demand of the Contractor or any Guarantor, to enforce any bond, security, insurance, surety or guarantee held by it in respect of the obligations of the Contractor under the Contract or to exercise, levy or enforce any distress, diligence or other process of execution against the Contractor or any

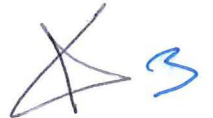
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Guarantor. Without prejudice to the obligations of any of the Guarantors under this Guarantee, in the event that the Employer brings proceedings (including any counterclaims) against the Contractor, each of the Guarantors will be bound absolutely by any findings of fact, interim or final award or judgment made by an arbitrator or arbitrators or court in such proceedings or counterclaims or any decision of the DAB where such decision has become final and binding under the Contract.

- 3.4 Each of the Guarantors' obligations under this Guarantee are continuing and accordingly shall remain in full force and effect (notwithstanding any intermediate satisfaction by the Contractor, any of the Guarantors or any other person) until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract shall have been satisfied or performed in full and are not revocable and are in addition to and not in substitution for and shall not merge with, otherwise prejudice or affect or be prejudiced by, any other right, remedy, guarantee, indemnity, insurance, surety or security which the Employer may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such right, remedy, guarantee, indemnity or security. Accordingly, this Guarantee may be enforced notwithstanding the existence of all or any of the same and also notwithstanding the Employer at any time releasing or abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of the same.

4. **PAYMENTS**

- 4.1 In relation to a demand under paragraph 2.1(b) or 2.2 where the relevant obligation, warranty, undertaking or duty is to pay a sum of money or a demand under any other provision of this Guarantee, the Guarantors shall have fourteen (14) days from the date of demand to make payment in full to the Employer. The Guarantors shall pay interest on any amount due under this Guarantee from the date of demand to the date of full payment (as well as before any judgment) calculated on a daily basis at the rate of two (2) percent per annum in excess of LIBOR (as defined in paragraph 4.2), or the highest rate allowed by law, whichever is less. All payments to be made by any Guarantor under this Guarantee shall be paid to the Employer in immediately available funds in United States Dollars.
- 4.2 Determinations of interest rate and amounts under this Guarantee shall be made by the Employer, which determinations shall be conclusive and binding hereunder in the absence of manifest error. For purposes of this Guarantee, "LIBOR" shall mean a rate per annum (calculated on the basis of a 360 day year and actual days elapsed) equal to (a) the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the offered rates which appear on Bloomberg Page BBAM1 (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, for purposes of providing quotations of interest rates of leading reference banks in the London interbank market, as designated from time to time by the Employer) as of 11:00 A.M. (London time) for deposits in U.S. dollars for a period equal to the relevant period for calculation of interest hereunder on the day two (2) Business Days prior to the first day of such period, or (b) if fewer than two (2) such offered rates appear which are



relevant to the applicable period, the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the rates at which the Employer in its reasonable discretion shall determine at approximately 11:00 A.M. (London time) on the day that is two (2) Business Days preceding such period are the applicable rates offered for U.S. dollar deposits by at least two (2) prime banks in the London interbank market for a period comparable to such period.

- 4.3 If at any time any applicable law, regulation or regulatory requirement or any governmental authority requires any of the Guarantors to make any deduction or withholding in respect of taxes or other governmental levies or duties from any payment due under this Guarantee, the sum due from the Guarantors in respect of such payment shall be increased to the extent necessary to ensure that after the making of such deduction or withholding, the Employer receives on the due date for such payment a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Guarantors, jointly and severally, shall on demand indemnify the Employer against any losses or costs which it has incurred by reason of failure by any of the Guarantors to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. Each of the Guarantors shall promptly deliver to the Employer any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 Each of the Guarantors warrants and undertakes that (a) it is duly incorporated and validly existing under the laws of its respective jurisdiction of incorporation or formation, as the case may be, (b) it has sufficient and all legal capacity, power and authority (corporate and otherwise) to enter into, exercise the rights and fulfill the obligations arising out of the Guarantee and to carry on its business as presently conducted and (c) this Guarantee is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Guarantee and the transactions contemplated by it have been obtained and are in full force and effect.
- 5.2 Each of the Guarantors warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Guarantee and to implement the provisions of this Guarantee.
- 5.3 Each of the Guarantors warrants and undertakes to the Employer that neither the execution and performance by such Guarantor of the Guarantee nor the assumption of its obligations thereunder (a) violates any law of its jurisdiction of incorporation currently in force, (b) conflicts with the by-laws or constitutional documents of such Guarantor or (c) violates or conflicts with any agreement or undertaking to which such Guarantor is party.
- 5.4 Each of the Guarantors warrants and undertakes to the Employer that no authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public



bodies or authorities of its jurisdictions of incorporation, exemptions, registrations or filings are required by the laws of its jurisdiction for such Guarantor to incur the obligations referred to in this Guarantee and/or to execute and deliver this Guarantee or any other documents and instruments to be delivered by it pursuant thereto.

- 5.5 Each of the Guarantors warrants and undertakes to the Employer that no corporate action has been taken by, or legal proceedings started against it for the declaration of its insolvency (concurso), winding-up (liquidación), dissolution, administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.
- 5.6 Each of the Guarantors warrants and undertakes to the Employer that it has not entered into this Guarantee in reliance upon, nor was it induced to enter into this Guarantee by any representation, warranty or undertaking made by or on behalf of the Employer (whether express or implied and whether pursuant to statute or otherwise).
- 5.7 Each of the Guarantors represents and warrants that its payment obligations under this Guarantee to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

6. **ASSIGNMENT**

- 6.1 No party hereto shall assign any or all of its right, title and interest in and to this Guarantee without, in the case of any assignment by the Employer, the Lead Member's, or, in the case of any assignment by any of the Guarantors, the Employer's, prior written consent.

7. **NOTICES**

- 7.1 All documents and notices arising out of or in connection with this Guarantee shall be served upon each of the Guarantors at the address specified in the Schedule attached hereto.
- 7.2 Any Guarantor may change its nominated address for service of documents or notices to another address in the same country as the address stated herein but only by prior written notice to the Employer. All documents and notices served by the Employer shall be in writing and in English.

8. **MISCELLANEOUS**

- 8.1 The Employer's rights under this Guarantee are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, and the Employer may exercise its rights under this Guarantee from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.



- 8.2 Any waiver by the Employer of the terms of this Guarantee or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 8.3 If at any time any one or more of the provisions of this Guarantee is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Guarantee.
- 8.4 In this Guarantee, "**Dissolution**" of a person includes the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganization, administration, administrative or other receivership or dissolution of that person, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing.
- 8.5 Where applicable, words and expressions used in this Guarantee shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction. For the avoidance of doubt, all references to the Contractor shall be deemed to mean the Contractor from and after the date of assignment of the Contract.
- 8.6 This Guarantee constitutes the entire agreement between the Employer and each of the Guarantors as to the matters addressed herein. This Guarantee may not be modified except by written agreement of the Employer and each of the Guarantors.
- 8.7 This Guarantee may be executed in any number of counterparts, with the same effect as if the signatures on the counterparts were contained on a single copy of this Guarantee.
- 8.8 Nothing herein shall prejudice the rights (including any step-in rights) of the Employer under any Subcontractor Warranty.

9. **GOVERNING LAW, JURISDICTION AND ENFORCEMENT**

- 9.1 This Guarantee, and any non-contractual obligations arising out of or in connection with it, are governed by, and shall be construed in accordance with, English law.
- 9.2 Jurisdiction of English Courts
- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee).



- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any dispute referred to in paragraph 9.2(a) and accordingly no Party will argue to the contrary.
- (c) The Parties agree that the exclusive jurisdiction of the English courts referred to above shall not prevent any enforcement of a judgment obtained pursuant to paragraph 9.2(a) or proceedings arising under paragraph 10 below in a jurisdiction in which the assets of any Party are located.

9.3 Service of Process

Without prejudice to any other mode of service allowed under any relevant law, each Guarantor:

- (a) irrevocably appoints [●] as its agent for service of process in relation to any proceedings before the English courts in connection with this Guarantee;
- (b) agrees that a failure by the process agent to notify such Guarantor of the process will not invalidate the proceedings concerned; and
- (c) agrees that this appointment constitutes a special power of attorney granted in favour of the agent, so that the agent has sufficient authorization and powers to receive service of process and to represent each Guarantor for every procedural matter in relation to any proceedings before the English courts.

10. EXECUTION

In Witness whereof the parties hereto have caused this Guarantee to be executed the day and year before written by their duly authorised representatives.⁸

⁸ Note: to be executed by each Guarantor in the presence of a Notary Public in such Guarantor's jurisdiction, or if executed abroad, in the presence of a notary accompanied by the requisite powers of attorney or other documents for the notary to ascertain the signatory's power to bind the Guarantor under the law of the jurisdiction of such Guarantor.

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and the number '3'.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Guarantors and for and on behalf of SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.), as Guarantor in the presence of

Witness:

Witness:

Name:

Name:

Address: Building ____, Corozal

Address:

Date:

Date:

A handwritten signature in black ink, followed by a blue mark that resembles a stylized '3' or a checkmark.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN
JAN DE NUL N.V., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, followed by a blue number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

Name:

Address:

Date:



SIGNED by:

Name:

Position:

Date:

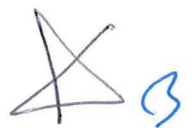
for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' or 'A' shape, followed by a blue handwritten number '3'.

SCHEDULE

NOTICE ADDRESSES FOR GUARANTORS

If to **SACYR, S.A.** (formerly Sacyr Vallehermoso, S.A.), at:

Paseo de la Castellana n° 83-85
28046, Madrid, Spain
Attention: Jose Manuel Laureda Lopez
Manuel Manrique

If to **ONDERNEMINGEN JAN DE NUL N.V.**, at:

Tragel 60
B-9308 Hofstade (Aalst)
Belgium
Attention: Jan Kop

If to **SALINI IMPREGILO S.p.A.** (formerly Impregilo S.p.A.), at:

Via dei Missaglia n° 97
Milan, 20142, Italy
Attention: Salvatore Fabrizio Andrea Melani

If to **CONSTRUCTORA URBANA, S.A.**, at:

Calle 19 Final Rio Abajo
Panama, Republic of Panama
Attention: Carlos Fabrega



APPENDIX W

**FORM OF REPLACEMENT PERFORMANCE AND DEFECTS PARENT
GUARANTEE**

Dated _____, 20XX

- (1) SOFIDRA S.A. (JAN DE NUL GROUP)
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

GUARANTEE IN RESPECT OF JOINT AND
SEVERAL GUARANTEE – REPLACEMENT
PERFORMANCE AND DEFECTS SECURITY IN
RESPECT OF THE THIRD SET OF LOCKS
CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

A handwritten signature in black ink, followed by a blue number '3'.

THIS PARENT COMPANY GUARANTEE IN RESPECT OF JOINT AND SEVERAL GUARANTEE – REPLACEMENT PERFORMANCE AND DEFECTS SECURITY, dated _____, 20XX (as amended, modified or supplemented, this "**Guarantee**") is made between:

- (1) **SOFIDRA S.A.**, a company incorporated in Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg, registered with the *Registre de Commerce et des Sociétés* under number B73723, operating under the commercial name "**JAN DE NUL GROUP**" (the "**Guarantor**"); and
- (2) **AUTORIDAD DEL CANAL DE PANAMÁ**, an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**" and together with the Guarantor, the "**Parties**").

BACKGROUND:

- (A) Ondernemingen Jan De Nul N.V. ("**Relevant Member**"), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.) ("**Impregilo**"), Constructora Urbana, S.A. ("**CUSA**"), Sacyr, S.A. (now Sacyr Vallehermoso, S.A.) ("**Sacyr**" and together with the Relevant Member, Impregilo and CUSA, the "**Shareholder Guarantors**") and the Employer have entered into the Joint and Several Guarantee – Replacement Performance and Defects Security, dated _____, 20XX (the "**RPDS J+S Guarantee**"), in respect of the obligations of the Contractor under a contract for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**").
- (B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Shareholder Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").
- (C) The Relevant Member is a wholly and directly owned subsidiary of the Guarantor.
- (D) Pursuant to Sub-Clause 4.2F of the Contract, in connection with the commencement of the Functional Completion Tests in accordance with Sub-Clause 9A of the Contract, the Contractor is required to deliver the Replacement Performance Security, which at its election, may include this Guarantee. Pursuant to Sub-Clauses 4.2B and 4.2F of the Contract, as a condition to the issuance of the Taking Over Certificate under Sub-Clause 10.1 or the last Taking Over Certificate 10.2 of the Contract after which all of the Works shall have been taken over by the Employer, as the case may be, the Contractor is required to deliver the Defects Notification Period Security, which at its election, may include this Guarantee

(E) Whereas, the delivery of this Guarantee by the Guarantor hereunder is in the best interests of, and desired by, the Guarantor for its own valuable corporate interests and purposes.

(F) Therefore, the Guarantor has agreed to guarantee the obligations of the Relevant Member under the RPDS J+S Guarantee in respect of its obligations under the Contract.

1. **DEFINITIONS AND INTERPRETATION**

1.1 In this Guarantee, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein. In addition, wherever used in this Guarantee, the following terms shall have the following meanings:

(a) **"Defects Guaranteed Amounts"** shall mean any and all amounts payable by the Contractor pursuant to Sub-Clause 4.2B of the Contract.

(b) **"Defects Maximum Amount"** shall mean USD 150,000,000.00.

(c) **"Performance Guaranteed Amounts"** shall mean any and all amounts payable by the Contractor pursuant to Sub-Clause 4.2F of the Contract.

(d) **"Performance Maximum Amount"** shall mean USD 150,000,000.00.

1.2 A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Guarantee.

1.3 The Guarantor shall be bound by this Guarantee even if any person who was intended to execute it or be bound by it as a Guarantor has not duly executed or become bound by it.

2. **GUARANTEE AND INDEMNITY**

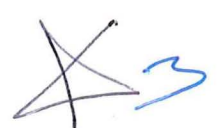
2.1 The Guarantor:

(a) as primary obligor and not as surety, unconditionally and irrevocably guarantees to the Employer the payment by the Relevant Member of the Performance Guaranteed Amounts and the Defects Guaranteed Amounts as and when due pursuant to the RPDS J+S Guarantee; and

(b) if the Relevant Member is in breach of any of its obligations as set out in subparagraph (a), shall upon demand by the Employer from time to time, forthwith perform the obligations of which the Relevant Member is in breach in the same manner that the Relevant Member is required to perform such obligations according to the terms of the RPDS J+S Guarantee.

The total amount recoverable by the Employer under this paragraph 2.1 shall not exceed

(i) in the case of the Performance Guaranteed Amounts, the Performance Maximum

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Amount; and (ii) in the case of the Defects Guaranteed Amounts, the Defects Maximum Amount.

- 2.2 The Guarantor unconditionally and irrevocably agrees, as a separate and distinct obligation to its obligations set out in paragraph 2.1, to indemnify on demand the Employer against all losses, damages, costs and expenses which the Employer may suffer or incur arising out of or in any way in connection with (a) any breach by the Relevant Member of any of its obligations under the RPDS J+S Guarantee, or (b) any proceedings taken by the Employer for the enforcement of any claim under this Guarantee or the RPDS J+S Guarantee.
- 2.3 The Guarantor shall not have any greater liability to the Employer under this Guarantee than the Guarantor would have had to the Employer had the Guarantor been an original party to the RPDS J+S Guarantee in place of the Relevant Member; provided that this paragraph 2.3 shall not limit or otherwise modify the Guarantor's liability to the Employer under paragraph 2.2(b).

3. **PROTECTIVE CLAUSES**

- 3.1 This Guarantee cannot be revoked without the prior written consent of the Employer, and the Guarantor shall not in any way be released or discharged or otherwise absolved of liability hereunder by reason of, and the Guarantor hereby waives notice of, any of the following:
- (a) any suspension of the Works or the Maintenance Services or variation to or amendment of the Works or the Contract;
 - (b) any extension of time for performance by the Contractor under the Contract or for performance by the Relevant Member under the RPDS J+S Guarantee;
 - (c) any adjustment to the amounts payable to the Contractor under the Contract or under the RPDS J+S Guarantee;
 - (d) the termination of (i) the Contractor's right to complete the Contract, or (ii) the Contract, or (iii) the RPDS J+S Guarantee;
 - (e) any forbearance, variation or waiver of any right or remedy the Employer may have against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) or negligence by the Employer in enforcing any right or remedy afforded under the Contract or the RPDS J+S Guarantee or granting of time, indulgence or concession;
 - (f) any bond, security, insurance, surety or guarantee (other than this Guarantee) held or obtained by the Employer, including any actions taken pursuant to such instruments, in respect of the obligations of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) under the Contract, or any release or waiver thereof;



- (g) any act or omission of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) pursuant to any other arrangement with the Guarantor, any change in the relationship between the Guarantor and the Contractor and/or any Shareholder Guarantor (including without limitation the Relevant Member) or dispute or disagreement between them under or in relation to the Contract or otherwise;
- (h) any change in status or constitution of the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), the Guarantor or the Employer;
- (i) the issuance of the Performance Certificate or any other certificate under the Contract;
- (j) any breach of the Contract by or other default of the Employer;
- (k) the Contract or the RPDS J+S Guarantee or any provision thereof being or becoming illegal, invalid, void, voidable or unenforceable, including without limitation, any liquidated damages under the Contract;
- (l) the Dissolution (as defined in paragraph 8.4) of the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), or the Guarantor;
- (m) the taking over of the Contract by any other guarantor, surety or any other person;
- (n) the Employer's step-in rights under any Subcontractor Warranty; and/or
- (o) any other matter or thing which may otherwise create a defense, whether legal or equitable, whereby any of the obligations of the Guarantor hereunder might be discharged or affected.

3.2 The Guarantor authorizes (a) the Contractor and the Employer to make any addendum, variation or amendment to the Contract or the Works, and (b) the Relevant Member and the Employer to make any addendum, variation or amendment to the RPDS J+S Guarantee, without reference to the Guarantor, and agrees that this Guarantee shall apply to such addendum, variation or amendment.

3.3 The obligations of the Guarantor hereunder are primary and not by way of surety and the Guarantor shall not be entitled as against the Employer to any right of set-off or counterclaim whatsoever and howsoever arising. The Employer shall not be obliged to take any action in any court or arbitral proceedings against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member), to make any claim against or any demand of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member), to enforce any bond, security, insurance, surety or guarantee (including without limitation the RPDS J+S Guarantee) held by it in respect of the obligations of the Contractor under the Contract or the Relevant Member or any other Shareholder Guarantor under the RPDS J+S Guarantee, or to exercise, levy or enforce any distress, diligence or other process of execution against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member). Without prejudice to the obligations of the Guarantor under this Guarantee, in the event that the



Employer brings proceedings (including any counterclaims) against the Contractor under the Contract and/or against the Relevant Member or any other Shareholder Guarantor under the RPDS J+S Guarantee, the Guarantor will be bound absolutely by any findings of fact, interim or final award or judgment made by an arbitrator or arbitrators or court in such proceedings or counterclaims or any decision of the DAB where such decision has become final and binding under the Contract.

- 3.4 The Guarantor's obligations under this Guarantee are continuing and accordingly shall remain in full force and effect (notwithstanding any intermediate satisfaction by the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), the Guarantor or any other person) until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract and by the Shareholder Guarantors (including without limitation the Relevant Member) under the RPDS J+S Guarantee shall have been satisfied or performed in full and are not revocable and are in addition to and not in substitution for and shall not merge with, otherwise prejudice or affect or be prejudiced by, any other right, remedy, guarantee, indemnity, insurance, surety or security which the Employer may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such right, remedy, guarantee, indemnity or security. Accordingly, this Guarantee may be enforced notwithstanding the existence of all or any of the same and also notwithstanding the Employer at any time releasing or abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of the same.

4. PAYMENTS

- 4.1 In relation to a demand under paragraph 2.1(b) or 2.2 where the relevant obligation, warranty, undertaking or duty is to pay a sum of money or a demand under any other provision of this Guarantee, the Guarantor shall have fourteen (14) days from the date of demand to make payment in full to the Employer. The Guarantor shall pay interest on any amount due under this Guarantee from the date of demand to the date of full payment (as well as before any judgment) calculated on a daily basis at the rate of two (2) percent per annum in excess of LIBOR (as defined in paragraph 4.2), or the highest rate allowed by law, whichever is less. All payments to be made by the Guarantor under this Guarantee shall be paid to the Employer in immediately available funds in United States Dollars.
- 4.2 Determinations of interest rate and amounts under this Guarantee shall be made by the Employer, which determinations shall be conclusive and binding hereunder in the absence of manifest error. For purposes of this Guarantee, "LIBOR" shall mean a rate per annum (calculated on the basis of a 360 day year and actual days elapsed) equal to (a) the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the offered rates which appear on Bloomberg Page BBAM1 (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, for purposes of providing quotations of interest rates of leading reference banks in the London interbank market, as designated from time to time by the Employer) as of 11:00 A.M. (London time) for deposits in U.S. dollars for a period equal to the relevant period

 3

for calculation of interest hereunder on the day two (2) Business Days prior to the first day of such period, or (b) if fewer than two (2) such offered rates appear which are relevant to the applicable period, the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the rates at which the Employer in its reasonable discretion shall determine at approximately 11:00 A.M. (London time) on the day that is two (2) Business Days preceding such period are the applicable rates offered for U.S. dollar deposits by at least two (2) prime banks in the London interbank market for a period comparable to such period.

- 4.3 If at any time any applicable law, regulation or regulatory requirement or any governmental authority requires the Guarantor to make any deduction or withholding in respect of taxes or other governmental levies or duties from any payment due under this Guarantee, the sum due from the Guarantor in respect of such payment shall be increased to the extent necessary to ensure that after the making of such deduction or withholding, the Employer receives on the due date for such payment a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Guarantor shall on demand indemnify the Employer against any losses or costs which it has incurred by reason of failure by the Guarantor to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. The Guarantor shall promptly deliver to the Employer any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 The Guarantor warrants and undertakes that (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation, (b) it has sufficient and all legal capacity, power and authority (corporate and otherwise) to enter into, exercise the rights and fulfill the obligations arising out of the Guarantee and to carry on its business as presently conducted and (c) this Guarantee is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Guarantee and the transactions contemplated by it have been obtained and are in full force and effect.
- 5.2 The Guarantor warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Guarantee and to implement the provisions of this Guarantee.
- 5.3 The Guarantor warrants and undertakes to the Employer that neither the execution and performance by the Guarantor of the Guarantee nor the assumption of its obligations thereunder (a) violates any law of its jurisdiction of incorporation currently in force, (b) conflicts with its by-laws or constitutional documents or (c) violates or conflicts with any agreement or undertaking to which it is party.
- 5.4 The Guarantor warrants and undertakes to the Employer that no authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public

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bodies or authorities of its jurisdiction of incorporation, exemptions, registrations or filings are required by the laws of its jurisdiction for the Guarantor to incur the obligations referred to in this Guarantee and/or to execute and deliver this Guarantee or any other documents and instruments to be delivered by it pursuant thereto.

- 5.5 The Guarantor warrants and undertakes to the Employer that no corporate action has been taken by, or legal proceedings started against it for the declaration of its insolvency (concurso), winding-up (liquidación), dissolution, administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.
- 5.6 The Guarantor warrants and undertakes to the Employer that it has not entered into this Guarantee in reliance upon, nor was it induced to enter into this Guarantee by any representation, warranty or undertaking made by or on behalf of the Employer (whether express or implied and whether pursuant to statute or otherwise).
- 5.7 The Guarantor represents and warrants that its payment obligations under this Guarantee to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

6. **ASSIGNMENT**

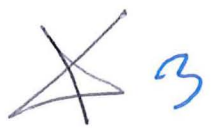
- 6.1 Neither Party hereto shall assign any or all of its right, title and interest in and to this Guarantee without the other Party's prior written consent.

7. **NOTICES**

- 7.1 All documents and notices arising out of or in connection with this Guarantee shall be served upon the Guarantor at 12, Rue du Cimetière, L-8413 Steinfort, Grand Duchy of Luxembourg, with a copy to Ondernemingen Jan De Nul N.V. at Tragel 60, B-9803 Hofstade (Aalst), Belgium.
- 7.2 The Guarantor may change its nominated address for service of documents or notices to another address in the same country as the address stated herein but only by prior written notice to the Employer. All documents and notices served by the Employer shall be in writing and in English.

8. **MISCELLANEOUS**


- 8.1 The Employer's rights under this Guarantee are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, including any and all such rights as the Employer may hold under or in relation to the RPDS J+S Guarantee, and the Employer may exercise its rights under this Guarantee from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.



- 8.2 Any waiver by the Employer of the terms of this Guarantee or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 8.3 If at any time any one or more of the provisions of this Guarantee is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Guarantee.
- 8.4 In this Guarantee, "**Dissolution**" of a person includes the bankruptcy, insolvency (including '*concordat*' under the laws of the Grand Duchy of Luxembourg), liquidation, amalgamation, reconstruction, reorganization, administration (including '*gestion controlée*' under the laws of the Grand Duchy of Luxembourg), administrative or other receivership or dissolution of that person, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing.
- 8.5 Where applicable, words and expressions used in this Guarantee shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract and the RPDS J+S Guarantee shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction. For the avoidance of doubt, all references to the Contractor shall be deemed to mean the Contractor from and after the date of assignment of the Contract.
- 8.6 This Guarantee constitutes the entire agreement between the Employer and the Guarantor as to the matters addressed herein. This Guarantee may not be modified except by written agreement of the Employer and the Guarantor.
- 8.7 This Guarantee may be executed in any number of counterparts, with the same effect as if the signatures on the counterparts were contained on a single copy of this Guarantee.
- 8.8 Nothing herein shall prejudice the rights (including any step-in rights) of the Employer under any Subcontractor Warranty.

9. **GOVERNING LAW, JURISDICTION AND ENFORCEMENT**

- 9.1 This Guarantee, and any non-contractual obligations arising out of or in connection with it, are governed by, and shall be construed in accordance with, English law.
- 9.2 Jurisdiction of English Courts
- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee).



- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any dispute referred to in paragraph 9.2(a) and accordingly neither Party will argue to the contrary.
- (c) The Parties agree that the exclusive jurisdiction of the English courts referred to above shall not prevent any enforcement of a judgment obtained pursuant to paragraph 9.2(a) in a jurisdiction in which the assets of any Party are located.

9.3 Service of Process

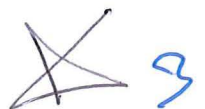
Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:

- (a) irrevocably appoints [●] as its agent for service of process in relation to any proceedings before the English courts in connection with this Guarantee;
- (b) agrees that a failure by the process agent to notify it of the process will not invalidate the proceedings concerned; and
- (c) agrees that this appointment constitutes a special power of attorney granted in favour of the agent, so that the agent has sufficient authorization and powers to receive service of process and to represent the Guarantor for every procedural matter in relation to any proceedings before the English courts.

10. EXECUTION

In Witness whereof the parties hereto have caused this Guarantee to be executed the day and year before written by their duly authorised representatives.⁹

⁹ Note: to be executed by the Guarantor in the presence of a Notary Public in Luxembourg, or if executed abroad, in the presence of a notary accompanied by the requisite powers of attorney or other documents for the notary to ascertain the signatory's power to bind the Guarantor under Luxembourg law.



SIGNED by:

Name: Jorge de la Guardia
Position: Employer's Representative
Date:

for and on behalf of the Employer in the
presence of

Witness:

Name:
Address: Building ____, Corozal
Date:

SIGNED by:

Name:
Position:
Date:

for and on behalf of the Guarantor and for
and on behalf of SOFIDRA S.A. (JAN DE
NUL GROUP), as Guarantor in the
presence of

Witness:

Name:
Address:
Date:

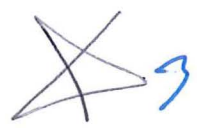
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APPENDIX X

NOT USED

APPENDIX Y

NOT USED



APPENDIX Z

FORMS OF CONFIRMATIONS FROM ISSUERS OF THE ADVANCE PAYMENT SECURITIES

[BANK OF NOVA SCOTIA LETTERHEAD]

[DATE]

AUTORIDAD DEL CANAL DE PANAMA
Building 740, Corozal
Panama, Republic of Panama

Subject: OUR LETTER OF CREDIT NUMBER 700000000645 DATED DECEMBER 18, 2009, AS AMENDED BY AN AMENDMENT NO.1 DATED JULY 22, 2010, AN AMENDMENT NO. 2 DATED NOVEMBER 23, 2012, AN AMENDMENT NO. 3 DATED APRIL 26, 2013, AND AN AMENDMENT NUMBER 4 DATED JANUARY 15, 2014. (ADVANCE PAYMENT FOR MOBILISATION SECURITY).

OUR LETTER OF CREDIT NUMBER 700000001339 DATED JULY 26, 2010, AS AMENDED BY AN AMENDMENT NO. 1 DATED APRIL 30, 2013 AND AN AMENDMENT NUMBER 2 DATED DECEMBER 23, 2013. (ADVANCE PAYMENT FOR PLANT SECURITY).

Dear Sirs,

The Bank of Nova Scotia, Panama Branch (the "Bank") acting in its capacity of Issuer of the above referenced letters of credit hereby acknowledges that it has received a copy of the Memorandum of Understanding entered into as between GRUPO UNIDOS POR EL CANAL S.A. ("GUPC" or "Applicant") and the Autoridad del Canal de Panama ("ACP" or Beneficiary") and GRUPO UNIDOS POR EL CANAL S.A. dated as of March 13, 2014 and Variation Agreement No. 105 dated as of June 16, 2014 pursuant to which the Applicant to provide an Amendment to the Advance Payment for Mobilisation Security and Advance Payment for Plant Security, extending the expiration date to December 31, 2015.

At the request of GUPC we are pleased to advise that the Bank of Nova Scotia, Panama Branch (the "Bank") has been working with both GUPC and its partners (Sacyr Vallerhermoso S.A. now "Sacyr S.A.", Impregilo S.p.A. now "Salini-Impregilo S.p.A", Jan de Nul N.V. and Constructora Urbana S.A.) for the issuance of the required Amendments to the above referenced letters of credit and has received all of the required counter guarantees from the partners, which are necessary for the extension of the referenced letters of credit.

Based on the above and the intense work we have undertaken so far, together with both GUPC and its Partners, we expect to be soon in a position to finalize the transaction and issue the required Amendments. This remains, of course, subject to the final approval of the Bank's Credit Committee, as well as the satisfaction of the Bank's legal and general documentation, as it is standard for this type of transaction.

The terms set out in this document are indicative only and do not constitute a commitment or offer by the Bank to amend the terms and conditions contained in the above referenced letter of credit.



The undersigned is an officer of the Bank with the necessary authority to issue this confirmation on behalf of the Bank.

THE BANK OF NOVA SCOTIA

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

[BANISTMO S.A. LETTER HEAD]

[DATE]

AUTORIDAD DEL CANAL DE PANAMA
Building 740, Corozal
Panama, Republic of Panama

Subject: OUR LETTER OF CREDIT NUMBER SLCPNM101670 DATED
NOVEMBER 23, 2010, AS AMENDED BY AMENDMENT NO. 1 DATED DECEMBER 17,
2013 (ADVANCE PAYMENT FOR PLANT SECURITY).

Dear Sirs,

BANISTMO S.A. (the "Bank") acting in its capacity of Issuer of the above referenced letters of credit hereby acknowledges that it has received a copy of the Memorandum of Understanding entered into as between GRUPO UNIDOS POR EL CANAL S.A. ("GUPC" or "Applicant") and the the Autoridad del Canal de Panama ("ACP" or Beneficiary") dated as of March 13, 2014 and Variation Agreement No. 105 dated as of June 16, 2014, pursuant to which GUPC agreed to provide an Amendment to the Advance Payment for Plant Security, extending the expiration date to December 31, 2015.

At the request of GUPC we are pleased to advise that the Bank has been working with both GUPC and its partners (Sacyr Vallerhermoso S.A. now "Sacyr S.A.", Impregilo S.p.A., now "Salini-Impregilo S.p.A., Jan de Nul N.V. and Constructora Urbana S.A.) for the issuance of the required Amendments to the above referenced letters of credit and has received all of the required counter guarantees from the partners, which are necessary for the extension of the referenced letters of credit..

Based on the above and the intense work we have undertaken so far, together with both GUPC and its Partners, we expect to be soon in a position to finalize the transaction and issue the required Amendment. This remains, of course, subject to the final approval of the Bank's Credit Committee, as well as the satisfaction of the Bank's legal and general documentation, as it is standard for this type of transaction.

The terms set out in this document are indicative only and do not constitute a commitment or offer by the Bank to amend the terms and conditions contained in the above referenced letter of credit.

The undersigned is an officer of the Bank with the necessary authority to issue this confirmation on behalf of the Bank.

BANISTMO

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APPENDIX AA

NOT USED

✱ 3

APPENDIX BB


FORM OF OTHER EXISTING ADVANCES BOND

Bond Number:	
Contract No. CMC221427 dated 11 August, 2009.	
Date:	[_____, 20XX]
Contractor	GRUPO UNIDOS POR EL CANAL, S.A.
Maximum Amount of the Bond: [INSERT AMOUNT UP TO OTHER EXISTING ADVANCES OUTSTANDING AMOUNT]	

The undersigned, Surety ("Surety") issues this advance payment security bond (the "Bond") as the Other Existing Advances Security in accordance with the Contract CMC-221427 dated 11th, August, 2009 for the Design and Construction of the Third Set of Locks of the Panama Canal (as amended, supplemented, varied or otherwise modified, including as varied by Variation Agreement No. 0XX¹⁰ and each other variation agreement prior thereto, and as the Contract may be further varied, amended, modified or supplemented after the date hereof, from time to time, the "Contract") to guarantee to the PANAMA CANAL AUTHORITY (hereinafter referred as "ACP" or the "Employer" and together with the Surety, the "Parties") the sum of [INSERT AMOUNT UP TO OTHER EXISTING ADVANCES OUTSTANDING AMOUNT] (US\$[_____]) **UNITED STATES DOLLARS** (the "Maximum Amount of the Bond") as security for the performance by GRUPO UNIDOS POR EL CANAL, S.A. (the "Contractor"), in accordance with the following terms and conditions:

1. For purposes of this Bond, "Dollars" and "\$" means the legal currency of the United States of America.
2. The Surety hereby guarantees to ACP the payment of the Maximum Amount of the Bond. The Surety shall make payment under this Bond within thirty (30) calendar days from the date of receipt by the Surety of a notice of claim in the form of Annex 1 hereto ("Notice of Claim"), delivered to the offices of the Surety located at [_____] on or before the expiration date of this Bond specified below, in each case appropriately completed and purportedly signed by an authorized representative of ACP. Multiple and partial drawings are allowed.
3. All amounts payable under this Bond shall be paid by the Surety in immediately available funds, by wire transfer to the account specified by the Employer in a Notice or Claim, free and clear of and without deduction for, any taxes, duties, fees, set-offs or other deductions of any kind and regardless of any objection of any third party.

¹⁰ Complete with identifying number and date of applicable variation agreement executed prior to execution of this bond.



4. The Surety waives notice of any amendment, modification, supplement or variation to the Contract.

5. This Bond shall be valid and enforceable until [time] on _____, 20XX¹¹.

6. This Bond is subject to the laws of the Republic of Panama.

7. Any and all disputes or controversy arising out of or related to this Bond, including its interpretation, application and enforcement shall be resolved by arbitration in law (within the meaning of Panamanian law). Unless otherwise agreed by the Parties:

(a) the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "Rules");

(b) in addition to the Rules, the arbitration shall be conducted according to the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration;

(c) the dispute shall be settled by three arbitrators who shall all be licensed lawyers appointed in accordance with the Rules;

(d) the arbitration shall be decided in law (within the meaning of Panamanian law) and shall be conducted in the English language;

(e) the venue of the arbitration shall be Miami, Florida - United States of America; and

(f) the arbitration agreement and the arbitration shall be governed by the United States Federal Arbitration Act, 9 U.S.C. § 1 et seq.

8. Any arbitration demand initiated by ACP under this Bond shall be filed jointly against the Contractor and the Surety.

In witness hereof, this Bond is issued in the city of Panama, on the date stated above.

¹¹ For period specified in Contract.



NOTICE OF CLAIM

_____, 20____,
[NAME OF SURETY]
[ADDRESS]

All terms used herein which are defined in the Other Existing Advances Security Bond Number _____, dated as of _____, 20__ (the "Bond") issued by you have the same meanings when used herein. All capitalized terms used in this Notice of Claim which are defined in the Contract shall have the meanings given them therein.

The undersigned hereby certifies and states that: [choose applicable paragraph]:

1. The Contractor has failed to pay in full the Other Existing Advances on the date due as set forth in Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

[or]

2. The Contractor has failed to pay in full the Other Existing Advances prior to a termination under Clause 15, Clause 16 or Clause 19 (as the case may be) of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

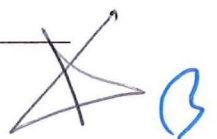
[or]

3. The Contractor has failed to pay in full the Other Existing Advances as stated in Sub-Clause 14.2J of the conditions of Contract 45 days prior to the specified expiry date of the Bond, and the Contractor has failed to extend the validity of the Bond in accordance with sub-paragraph (i) of Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

[or]

4. The Employer is entitled to terminate the Contractor's right to complete the Contract in accordance with Sub-Clause 15.2 of the conditions of Contract. Accordingly, the undersigned hereby makes demand of payment in the total outstanding amount of the Bond, which is \$ _____ (the "Demand Amount").

[or]



5. The Contractor has failed to provide the Replacement Performance Security by the date required by Sub-Clause 4.2F of the Conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Bond, which is \$_____ (the "Demand Amount").

[or]

6. The Contractor has failed to pay in full the Other Existing Advances Milestone Deductions on the Other Existing Advances Milestone Deduction Payment Date as set forth in Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment of such amount, which is \$_____ (the "Demand Amount").

The Employer is making a demand under the Bond in the amount of the Demand Amount stated above. You are hereby directed to make payment of the requested demand to Autoridad del Canal de Panama; [account details].

AUTORIDAD DEL CANAL DE PANAMA

By:
Name:
Title:

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APPENDIX CC

FORM OF OTHER EXISTING ADVANCES JOINT AND SEVERAL GUARANTEE

Dated _____, 20XX

- (1) THE GUARANTORS NAMED HEREIN
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

JOINT AND SEVERAL GUARANTEE – OTHER
EXISTING ADVANCES SECURITY IN RESPECT OF
THE THIRD SET OF LOCKS CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

X 3

THIS JOINT AND SEVERAL GUARANTEE – OTHER EXISTING ADVANCES SECURITY, dated _____, 20XX (as amended, modified or supplemented, this "**Guarantee**") is made between:

- (1) **SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.)**, a company incorporated in Spain, having its registered office at Paseo de la Castellana N° 83-85, Madrid, 28046, Spain, duly registered at the Commercial Registry of Madrid at Volume 1884, Page M-33841, Sheet 61, and with Tax Identification Number (C.I.F.) A-28013811,
 - (2) **ONDERNEMINGEN JAN DE NUL N.V.**, a company incorporated in Belgium, having its registered office at Tragel 60, 9308 Hofstade (Aalst), Belgium,
 - (3) **SALINI IMPREGILO S.p.A. (formerly Impregilo S.p.A.)**, a company incorporated in Italy, having its registered office at via dei Missaglia 97, 20142 Milan, Italy, and
 - (4) **CONSTRUCTORA URBANA, S.A.**, a *sociedad anónima* organized and existing under the laws of the Republic of Panama, registered under microjacket number 20812 of the Mercantile Section of the Public Registry Office of the Republic of Panama, having its registered office at Calle 19, Río Abajo, Panama
- (each, a "**Guarantor**" and, collectively, the "**Guarantors**"); and
- (5) **AUTORIDAD DEL CANAL DE PANAMÁ**, an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**").

BACKGROUND:

- (A) The Guarantors (including Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.), as Lead Member of the consortium), on a joint and several basis, and the Employer entered into a contract for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**").
- (B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").
- (C) The Guarantors are the Shareholders in and collectively own directly one hundred percent (100%) of the Share Capital of the Contractor.



(D) Pursuant to Sub-Clause 14.1A of the Contract, in connection with the use of the Further Contract Payment Amount by the Employer to make payment under the Contract of Interim Payment Certificates up to a further amount equivalent to the Other Existing Advances, the Contractor is required to deliver the Other Existing Advances Security, which at its election, may include this Guarantee.

(E) Whereas, the delivery of this Guarantee by the Guarantors hereunder is in the best interests of, and desired by, each such Guarantor for its own valuable corporate interests and purposes.

(F) Therefore, each of the Guarantors has, jointly and severally, agreed to guarantee the obligations of the Contractor pursuant to Sub-Clause 14.1A of the Contract on the terms set out in this Guarantee.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Guarantee, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein. In addition, wherever used in this Guarantee, "**Guaranteed Amount**" shall mean the Other Existing Advances Outstanding Amount (including the Other Existing Advances Milestone Deductions, if any) less any amount of the Other Existing Advances Outstanding Amount secured by the Other Existing Advances LOC or the Other Existing Advances Bond, if any.
- 1.2 A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Guarantee.
- 1.3 Each Guarantor shall be bound by this Guarantee even if any person who was intended to execute it or be bound by it as a Guarantor has not duly executed or become bound by it.

2. GUARANTEE AND INDEMNITY

- 2.1 Each of the Guarantors, jointly and severally:
- (a) as primary obligor and not as surety, unconditionally and irrevocably, jointly and severally guarantees to the Employer the payment by the Contractor of the Guaranteed Amount as and when due pursuant to the Contract; and
- (b) if the Contractor is in breach of any of its obligations as set out in sub-paragraph (a), shall upon demand by the Employer from time to time, forthwith perform the obligations of which the Contractor is in breach in the same manner that the Contractor is required to perform such obligations according to the terms of the Contract.
- 2.2 Each of the Guarantors, jointly and severally, unconditionally and irrevocably agrees, as a separate and distinct obligation to its obligations set out in paragraph 2.1, to indemnify on demand the Employer against all losses, damages, costs and expenses which the Employer may suffer or incur arising out of or in any way in connection with (a) any breach by the Contractor of any of its obligations as set out in paragraph 2.1(a), or (b) any



proceedings taken by the Employer for the enforcement of any claim under this Guarantee or the Contract.

3. **PROTECTIVE CLAUSES**

3.1 This Guarantee cannot be revoked without the prior written consent of the Employer, and none of the Guarantors shall in any way be released or discharged or otherwise absolved of liability hereunder by reason of, and each of the Guarantors hereby waives notice of, any of the following:

- (a) any suspension of the Works or the Maintenance Services or variation to or amendment of the Works or the Contract;
- (b) any extension of time for performance by the Contractor under the Contract;
- (c) any adjustment to the amounts payable to the Contractor under the Contract;
- (d) the termination of (i) the Contractor's right to complete the Contract, or (ii) the Contract;
- (e) any forbearance, variation or waiver of any right or remedy the Employer may have against the Contractor or any Guarantor or negligence by the Employer in enforcing any right or remedy afforded under the Contract or granting of time, indulgence or concession;
- (f) any bond, security, insurance, surety or guarantee (other than this Guarantee) held or obtained by the Employer, including any actions taken pursuant to such instruments, in respect of the obligations of the Contractor or any Guarantor under the Contract, or any release or waiver thereof;
- (g) any act or omission of the Contractor or any Guarantor pursuant to any other arrangement with the Guarantors, any change in the relationship between the Guarantors and the Contractor and/or any Guarantor or dispute or disagreement between them under or in relation to the Contract or otherwise;
- (h) any change in status or constitution of the Contractor, any Guarantor or the Employer;
- (i) the issuance of the Performance Certificate or any other certificate under the Contract;
- (j) any breach of the Contract by or other default of the Employer;
- (k) the Contract or any provision thereof being or becoming illegal, invalid, void, voidable or unenforceable, including without limitation, any liquidated damages under the Contract;
- (l) the Dissolution (as defined in paragraph 8.4) of the Contractor, or any Guarantor;



- (m) the taking over of the Contract by any other guarantor, surety or any other person;
- (n) the Employer's step-in rights under any Subcontractor Warranty; and/or
- (o) any other matter or thing which may otherwise create a defense, whether legal or equitable, whereby any of the obligations of the Guarantor hereunder might be discharged or affected.

3.2 Each of the Guarantors authorizes the Contractor and the Employer to make any addendum, variation or amendment to the Contract or the Works without reference to it or any other Guarantor, and agrees that this Guarantee shall apply to such addendum, variation or amendment.

3.3 The obligations of each of the Guarantors hereunder are primary and not by way of surety and none of the Guarantors shall be entitled as against the Employer to any right of set-off or counterclaim whatsoever and howsoever arising. The Employer shall not be obliged to take any action in any court or arbitral proceedings against the Contractor or any Guarantor, to make any claim against or any demand of the Contractor or any Guarantor, to enforce any bond, security, insurance, surety or guarantee held by it in respect of the obligations of the Contractor under the Contract or to exercise, levy or enforce any distress, diligence or other process of execution against the Contractor or any Guarantor. Without prejudice to the obligations of any of the Guarantors under this Guarantee, in the event that the Employer brings proceedings (including any counterclaims) against the Contractor, each of the Guarantors will be bound absolutely by any findings of fact, interim or final award or judgment made by an arbitrator or arbitrators or court in such proceedings or counterclaims or any decision of the DAB where such decision has become final and binding under the Contract.

3.4 Each of the Guarantors' obligations under this Guarantee are continuing and accordingly shall remain in full force and effect (notwithstanding any intermediate satisfaction by the Contractor, any of the Guarantors or any other person) until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract shall have been satisfied or performed in full and are not revocable and are in addition to and not in substitution for and shall not merge with, otherwise prejudice or affect or be prejudiced by, any other right, remedy, guarantee, indemnity, insurance, surety or security which the Employer may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such right, remedy, guarantee, indemnity or security. Accordingly, this Guarantee may be enforced notwithstanding the existence of all or any of the same and also notwithstanding the Employer at any time releasing or abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of the same.

4. **PAYMENTS**

4.1 In relation to a demand under paragraph 2.1(b) or 2.2 where the relevant obligation, warranty, undertaking or duty is to pay a sum of money or a demand under any other provision of this Guarantee, the Guarantors shall have fourteen (14) days from the date of

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demand to make payment in full to the Employer. The Guarantors shall pay interest on any amount due under this Guarantee from the date of demand to the date of full payment (as well as before any judgment) calculated on a daily basis at the rate of two (2) percent per annum in excess of LIBOR (as defined in paragraph 4.2), or the highest rate allowed by law, whichever is less. All payments to be made by any Guarantor under this Guarantee shall be paid to the Employer in immediately available funds in United States Dollars.

- 4.2 Determinations of interest rate and amounts under this Guarantee shall be made by the Employer, which determinations shall be conclusive and binding hereunder in the absence of manifest error. For purposes of this Guarantee, "LIBOR" shall mean a rate per annum (calculated on the basis of a 360 day year and actual days elapsed) equal to (a) the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the offered rates which appear on Bloomberg Page BBAM1 (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, for purposes of providing quotations of interest rates of leading reference banks in the London interbank market, as designated from time to time by the Employer) as of 11:00 A.M. (London time) for deposits in U.S. dollars for a period equal to the relevant period for calculation of interest hereunder on the day two (2) Business Days prior to the first day of such period, or (b) if fewer than two (2) such offered rates appear which are relevant to the applicable period, the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the rates at which the Employer in its reasonable discretion shall determine at approximately 11:00 A.M. (London time) on the day that is two (2) Business Days preceding such period are the applicable rates offered for U.S. dollar deposits by at least two (2) prime banks in the London interbank market for a period comparable to such period.
- 4.3 If at any time any applicable law, regulation or regulatory requirement or any governmental authority requires any of the Guarantors to make any deduction or withholding in respect of taxes or other governmental levies or duties from any payment due under this Guarantee, the sum due from the Guarantors in respect of such payment shall be increased to the extent necessary to ensure that after the making of such deduction or withholding, the Employer receives on the due date for such payment a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Guarantors, jointly and severally, shall on demand indemnify the Employer against any losses or costs which it has incurred by reason of failure by any of the Guarantors to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. Each of the Guarantors shall promptly deliver to the Employer any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 Each of the Guarantors warrants and undertakes that (a) it is duly incorporated and validly existing under the laws of its respective jurisdiction of incorporation or formation,



as the case may be, (b) it has sufficient and all legal capacity, power and authority (corporate and otherwise) to enter into, exercise the rights and fulfill the obligations arising out of the Guarantee and to carry on its business as presently conducted and (c) this Guarantee is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Guarantee and the transactions contemplated by it have been obtained and are in full force and effect.

- 5.2 Each of the Guarantors warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Guarantee and to implement the provisions of this Guarantee.
- 5.3 Each of the Guarantors warrants and undertakes to the Employer that neither the execution and performance by such Guarantor of the Guarantee nor the assumption of its obligations thereunder (a) violates any law of its jurisdiction of incorporation currently in force, (b) conflicts with the by-laws or constitutional documents of such Guarantor or (c) violates or conflicts with any agreement or undertaking to which such Guarantor is party.
- 5.4 Each of the Guarantors warrants and undertakes to the Employer that no authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of its jurisdictions of incorporation, exemptions, registrations or filings are required by the laws of its jurisdiction for such Guarantor to incur the obligations referred to in this Guarantee and/or to execute and deliver this Guarantee or any other documents and instruments to be delivered by it pursuant thereto.
- 5.5 Each of the Guarantors warrants and undertakes to the Employer that no corporate action has been taken by, or legal proceedings started against it for the declaration of its insolvency (concurso), winding-up (liquidación), dissolution, administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.
- 5.6 Each of the Guarantors warrants and undertakes to the Employer that it has not entered into this Guarantee in reliance upon, nor was it induced to enter into this Guarantee by any representation, warranty or undertaking made by or on behalf of the Employer (whether express or implied and whether pursuant to statute or otherwise).
- 5.7 Each of the Guarantors represents and warrants that its payment obligations under this Guarantee to which it is a party rank at least pari passu with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

6. **ASSIGNMENT**

- 6.1 No party hereto shall assign any or all of its right, title and interest in and to this Guarantee without, in the case of any assignment by the Employer, the Lead Member's,

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or, in the case of any assignment by any of the Guarantors, the Employer's, prior written consent.

7. NOTICES

- 7.1 All documents and notices arising out of or in connection with this Guarantee shall be served upon each of the Guarantors at the address specified in the Schedule attached hereto.
- 7.2 Any Guarantor may change its nominated address for service of documents or notices to another address in the same country as the address stated herein but only by prior written notice to the Employer. All documents and notices served by the Employer shall be in writing and in English.

8. MISCELLANEOUS

- 8.1 The Employer's rights under this Guarantee are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, and the Employer may exercise its rights under this Guarantee from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.
- 8.2 Any waiver by the Employer of the terms of this Guarantee or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 8.3 If at any time any one or more of the provisions of this Guarantee is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Guarantee.
- 8.4 In this Guarantee, "**Dissolution**" of a person includes the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganization, administration, administrative or other receivership or dissolution of that person, and any equivalent or analogous proceedings by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing.
- 8.5 Where applicable, words and expressions used in this Guarantee shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction. For the avoidance of doubt, all references to the Contractor



shall be deemed to mean the Contractor from and after the date of assignment of the Contract.

- 8.6 This Guarantee constitutes the entire agreement between the Employer and each of the Guarantors as to the matters addressed herein. This Guarantee may not be modified except by written agreement of the Employer and each of the Guarantors.
- 8.7 This Guarantee may be executed in any number of counterparts, with the same effect as if the signatures on the counterparts were contained on a single copy of this Guarantee.
- 8.8 Nothing herein shall prejudice the rights (including any step-in rights) of the Employer under any Subcontractor Warranty.

9. **GOVERNING LAW, JURISDICTION AND ENFORCEMENT**

- 9.1 This Guarantee, and any non-contractual obligations arising out of or in connection with it, are governed by, and shall be construed in accordance with, English law.

9.2 Jurisdiction of English Courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any dispute referred to in paragraph 9.2(a) and accordingly no Party will argue to the contrary.
- (c) The Parties agree that the exclusive jurisdiction of the English courts referred to above shall not prevent any enforcement of a judgment obtained pursuant to paragraph 9.2(a) or proceedings arising under paragraphs 10 below in a jurisdiction in which the assets of any Party are located.

9.3 Service of Process

Without prejudice to any other mode of service allowed under any relevant law, each Guarantor:

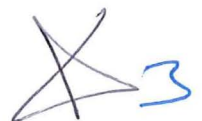
- (a) irrevocably appoints [●] as its agent for service of process in relation to any proceedings before the English courts in connection with this Guarantee;
- (b) agrees that a failure by the process agent to notify such Guarantor of the process will not invalidate the proceedings concerned; and
- (c) agrees that this appointment constitutes a special power of attorney granted in favour of the agent, so that the agent has sufficient authorization and powers to receive service of process and to represent each Guarantor for every procedural matter in relation to any proceedings before the English courts.



10. **EXECUTION**

In Witness whereof the parties hereto have caused this Guarantee to be executed the day and year before written by their duly authorised representatives.¹²

¹² Note: to be executed by each Guarantor in the presence of a Notary Public in such Guarantor's jurisdiction, or if executed abroad, in the presence of a notary accompanied by the requisite powers of attorney or other documents for the notary to ascertain the signatory's power to bind the Guarantor under the law of the jurisdiction of such Guarantor.

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by the number '3' written in blue ink.

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the presence of

for and on behalf of the Guarantors and for and on behalf of SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.), as Guarantor in the presence of

Witness:

Witness:

Name:

Name:

Address: Building ___, Corozal

Address:

Date:

Date:



SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN
JAN DE NUL N.V., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by the number '3' written in blue ink.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

Handwritten signature and initials in blue ink, consisting of a stylized 'X' shape followed by a cursive 'Q'.

SCHEDULE

NOTICE ADDRESSES FOR GUARANTORS

If to **SACYR, S.A.** (formerly Sacyr Vallehermoso, S.A.), at:

Paseo de la Castellana n° 83-85
28046, Madrid, Spain
Attention: Jose Manuel Laureda Lopez
Manuel Manrique

If to **ONDERNEMINGEN JAN DE NUL N.V.**, at:

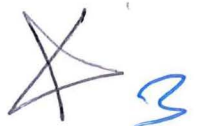
Tragel 60
B-9308 Hofstade (Aalst)
Belgium
Attention: Jan Kop

If to **SALINI IMPREGILO S.p.A.** (formerly Impregilo S.p.A.), at:

Via dei Missaglia n° 97
Milan, 20142, Italy
Attention: Salvatore Fabrizio Andrea Melani

If to **CONSTRUCTORA URBANA, S.A.**, at:

Calle 19 Final Rio Abajo
Panama, Republic of Panama
Attention: Carlos Fabrega

A handwritten signature in black ink, followed by a blue number '3'.

APPENDIX DD

FORM OF OTHER EXISTING ADVANCES PARENT GUARANTEE

Dated _____, 20XX

- (1) SOFIDRA S.A. (JAN DE NUL GROUP)
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

GUARANTEE IN RESPECT OF JOINT AND
SEVERAL GUARANTEE – OTHER EXISTING
ADVANCES SECURITY IN RESPECT OF THE
THIRD SET OF LOCKS CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

Handwritten signature and initials in blue ink, consisting of a large 'X' and a small '2'.

THIS PARENT COMPANY GUARANTEE IN RESPECT OF JOINT AND SEVERAL GUARANTEE – OTHER EXISTING ADVANCES SECURITY, dated _____, 20XX (as amended, modified or supplemented, this "**Guarantee**") is made between:

- (1) **SOFIDRA S.A.**, a company incorporated in the Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg, registered with the *Registre de Commerce et des Sociétés* under number B73723, operating under the commercial name "**JAN DE NUL GROUP**" (the "**Guarantor**"); and
- (2) **AUTORIDAD DEL CANAL DE PANAMÁ**, an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**" and together with the Guarantor, the "**Parties**").

BACKGROUND:

- (A) Ondernemingen Jan De Nul N.V. ("**Relevant Member**"), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.) ("**Impregilo**"), Constructora Urbana, S.A. ("**CUSA**"), Sacyr, S.A. (now Sacyr Vallehermoso, S.A.) ("**Sacyr**" and together with the Relevant Member, Impregilo and CUSA, the "**Shareholder Guarantors**") and the Employer have entered into the Joint and Several Guarantee – Other Existing Advances Security, dated _____, 20XX (the "**OEA J+S Guarantee**"), in respect of the obligations of the Contractor under a contract for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**").
- (B) Pursuant to Sub-Clause 1.7 of the Contract, each of the Shareholder Guarantors requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to and from the date of the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").
- (C) The Relevant Member is a wholly and directly owned subsidiary of the Guarantor.
- (D) Pursuant to Sub-Clause 14.1A of the Contract, in order to permit the Contractor to request the Employer to use a portion of the Further Contract Payment Amount to make payment under the Contract of Interim Payment Certificates up to a further amount equivalent to the Other Existing Advances, the Contractor is required to deliver the Other Existing Advances Security, which at its election, may include this Guarantee.
- (E) Whereas, the delivery of this Guarantee by the Guarantor hereunder is in the best interests of, and desired by, the Guarantor for its own valuable corporate interests and purposes.

- (F) Therefore, the Guarantor has agreed to guarantee the obligations of the Relevant Member under the OEA J+S Guarantee in respect of its obligations under the Contract.

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Guarantee, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein. In addition, wherever used in this Guarantee, "**Guaranteed Amount**" shall mean the Other Existing Advances Outstanding Amount (including the Other Existing Advances Milestone Deductions, if any) less any amount of the Other Existing Advances Outstanding Amount secured by the Other Existing Advances LOC or the Other Existing Advances Bond, if any.
- 1.2 A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Guarantee.
- 1.3 The Guarantor shall be bound by this Guarantee even if any person who was intended to execute it or be bound by it as a Guarantor has not duly executed or become bound by it.

2. GUARANTEE AND INDEMNITY

- 2.1 The Guarantor:
- (a) as primary obligor and not as surety, unconditionally and irrevocably guarantees to the Employer the payment by the Relevant Member of the Guaranteed Amount as and when due pursuant to the OEA J+S Guarantee; and
 - (b) if the Relevant Member is in breach of any of its obligations as set out in subparagraph (a), shall upon demand by the Employer from time to time, forthwith perform the obligations of which the Relevant Member is in breach in the same manner that the Relevant Member is required to perform such obligations according to the terms of the OEA J+S Guarantee.
- 2.2 The Guarantor unconditionally and irrevocably agrees, as a separate and distinct obligation to its obligations set out in paragraph 2.1, to indemnify on demand the Employer against all losses, damages, costs and expenses which the Employer may suffer or incur arising out of or in any way in connection with (a) any breach by the Relevant Member of any of its obligations under the OEA J+S Guarantee, (b) any proceedings taken by the Employer for the enforcement of any claim under this Guarantee or the OEA J+S Guarantee, or (c) any other obligation guaranteed pursuant to this Guarantee that is or becomes unenforceable, invalid or illegal.
- 2.3 The Guarantor shall not have any greater liability to the Employer under this Guarantee than the Guarantor would have had to the Employer had the Guarantor been an original party to the OEA J+S Guarantee in place of the Relevant Member; provided that this paragraph 2.3 shall not limit or otherwise modify the Guarantor's liability to the Employer under paragraph 2.2(b).



3. **PROTECTIVE CLAUSES**

3.1 This Guarantee cannot be revoked without the prior written consent of the Employer, and the Guarantor shall not in any way be released or discharged or otherwise absolved of liability hereunder by reason of, and the Guarantor hereby waives notice of, any of the following:

(a) any suspension of the Works or the Maintenance Services or variation to or amendment of the Works or the Contract;

(b) any extension of time for performance by the Contractor under the Contract or for performance by the Relevant Member under the OEA J+S Guarantee;

(c) any adjustment to the amounts payable to the Contractor under the Contract or under the OEA J+S Guarantee;

(d) the termination of (i) the Contractor's right to complete the Contract, or (ii) the Contract, or (iii) the OEA J+S Guarantee;

(e) any forbearance, variation or waiver of any right or remedy the Employer may have against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) or negligence by the Employer in enforcing any right or remedy afforded under the Contract or the OEA J+S Guarantee or granting of time, indulgence or concession;

(f) any bond, security, insurance, surety or guarantee (other than this Guarantee) held or obtained by the Employer, including any actions taken pursuant to such instruments, in respect of the obligations of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) under the Contract, or any release or waiver thereof;

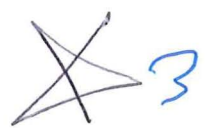
(g) any act or omission of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member) pursuant to any other arrangement with the Guarantor, any change in the relationship between the Guarantor and the Contractor and/or any Shareholder Guarantor (including without limitation the Relevant Member) or dispute or disagreement between them under or in relation to the Contract or otherwise;

(h) any change in status or constitution of the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), the Guarantor or the Employer;

(i) the issuance of the Performance Certificate or any other certificate under the Contract;

(j) any breach of the Contract by or other default of the Employer;

(k) the Contract or the OEA J+S Guarantee or any provision thereof being or becoming illegal, invalid, void, voidable or unenforceable, including without limitation, any liquidated damages under the Contract;



(l) the Dissolution (as defined in paragraph 8.4) of the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), or the Guarantor;

(m) the taking over of the Contract by any other guarantor, surety or any other person;

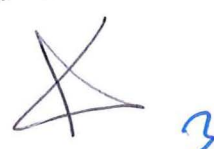
(n) the Employer's step-in rights under any Subcontractor Warranty; and/or

(o) any other matter or thing which may otherwise create a defense, whether legal or equitable, whereby any of the obligations of the Guarantor hereunder might be discharged or affected.

3.2 The Guarantor authorizes (a) the Contractor and the Employer to make any addendum, variation or amendment to the Contract or the Works, and (b) the Relevant Member and the Employer to make any addendum, variation or amendment to the OEA J+S Guarantee, without reference to the Guarantor, and agrees that this Guarantee shall apply to such addendum, variation or amendment.

3.3 The obligations of the Guarantor hereunder are primary and not by way of surety and the Guarantor shall not be entitled as against the Employer to any right of set-off or counterclaim whatsoever and howsoever arising. The Employer shall not be obliged to take any action in any court or arbitral proceedings against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member), to make any claim against or any demand of the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member), to enforce any bond, security, insurance, surety or guarantee (including without limitation the OEA J+S Guarantee) held by it in respect of the obligations of the Contractor under the Contract or the Relevant Member or any other Shareholder Guarantor under the OEA J+S Guarantee, or to exercise, levy or enforce any distress, diligence or other process of execution against the Contractor or any Shareholder Guarantor (including without limitation the Relevant Member). Without prejudice to the obligations of the Guarantor under this Guarantee, in the event that the Employer brings proceedings (including any counterclaims) against the Contractor under the Contract and/or against the Relevant Member or any other Shareholder Guarantor under the OEA J+S Guarantee, the Guarantor will be bound absolutely by any findings of fact, interim or final award or judgment made by an arbitrator or arbitrators or court in such proceedings or counterclaims or any decision of the DAB where such decision has become final and binding under the Contract.


3.4 The Guarantor's obligations under this Guarantee are continuing and accordingly shall remain in full force and effect (notwithstanding any intermediate satisfaction by the Contractor, any Shareholder Guarantor (including without limitation the Relevant Member), the Guarantor or any other person) until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract and by the Shareholder Guarantors (including without limitation the Relevant Member) under the OEA J+S Guarantee shall have been satisfied or performed in full and are not revocable and are in addition to and not in substitution for and shall not merge with, otherwise prejudice or affect or be prejudiced by, any other right, remedy, guarantee, indemnity, insurance, surety or security which the Employer may at any time



hold for the performance of such obligations and may be enforced without first having recourse to any such right, remedy, guarantee, indemnity or security. Accordingly, this Guarantee may be enforced notwithstanding the existence of all or any of the same and also notwithstanding the Employer at any time releasing or abstaining from perfecting or enforcing or otherwise dealing or omitting to deal with all or any of the same.

4. PAYMENTS


- 4.1 In relation to a demand under paragraph 2.1(b) or 2.2 where the relevant obligation, warranty, undertaking or duty is to pay a sum of money or a demand under any other provision of this Guarantee, the Guarantor shall have fourteen (14) days from the date of demand to make payment in full to the Employer. The Guarantor shall pay interest on any amount due under this Guarantee from the date of demand to the date of full payment (as well as before any judgment) calculated on a daily basis at the rate of two (2) percent per annum in excess of LIBOR (as defined in paragraph 4.2), or the highest rate allowed by law, whichever is less. All payments to be made by the Guarantor under this Guarantee shall be paid to the Employer in immediately available funds in United States Dollars.
- 4.2 Determinations of interest rate and amounts under this Guarantee shall be made by the Employer, which determinations shall be conclusive and binding hereunder in the absence of manifest error. For purposes of this Guarantee, "LIBOR" shall mean a rate per annum (calculated on the basis of a 360 day year and actual days elapsed) equal to (a) the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the offered rates which appear on Bloomberg Page BBAM1 (or on any successor or substitute page of such service, or any successor to or substitute for such service, providing rate quotations comparable to those currently provided on such page of such service, for purposes of providing quotations of interest rates of leading reference banks in the London interbank market, as designated from time to time by the Employer) as of 11:00 A.M. (London time) for deposits in U.S. dollars for a period equal to the relevant period for calculation of interest hereunder on the day two (2) Business Days prior to the first day of such period, or (b) if fewer than two (2) such offered rates appear which are relevant to the applicable period, the average (rounded upwards, if necessary, to the nearest 1/16 of 1%) of the rates at which the Employer in its reasonable discretion shall determine at approximately 11:00 A.M. (London time) on the day that is two (2) Business Days preceding such period are the applicable rates offered for U.S. dollar deposits by at least two (2) prime banks in the London interbank market for a period comparable to such period.
- 4.3 If at any time any applicable law, regulation or regulatory requirement or any governmental authority requires the Guarantor to make any deduction or withholding in respect of taxes or other governmental levies or duties from any payment due under this Guarantee, the sum due from the Guarantor in respect of such payment shall be increased to the extent necessary to ensure that after the making of such deduction or withholding, the Employer receives on the due date for such payment a net sum equal to the sum which it would have received had no such deduction or withholding been required to be made and the Guarantor shall on demand indemnify the Employer against any losses or

 3

costs which it has incurred by reason of failure by the Guarantor to make any such deduction or withholding or by reason of any increased payment not being made on the due date for such payment. The Guarantor shall promptly deliver to the Employer any receipts, certificates or other proof evidencing the amounts (if any) paid or payable in respect of any deduction or withholding as aforesaid.

5. REPRESENTATIONS AND WARRANTIES

- 5.1 The Guarantor warrants and undertakes that (a) it is duly incorporated and validly existing under the laws of its jurisdiction of incorporation, (b) it has sufficient and all legal capacity, power and authority (corporate and otherwise) to enter into, exercise the rights and fulfill the obligations arising out of the Guarantee and to carry on its business as presently conducted and (c) this Guarantee is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Guarantee and the transactions contemplated by it have been obtained and are in full force and effect.
- 5.2 The Guarantor warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Guarantee and to implement the provisions of this Guarantee.
- 5.3 The Guarantor warrants and undertakes to the Employer that neither the execution and performance by the Guarantor of the Guarantee nor the assumption of its obligations thereunder (a) violates any law of its jurisdiction of incorporation currently in force, (b) conflicts with its by-laws or constitutional documents or (c) violates or conflicts with any agreement or undertaking to which it is party.
- 5.4 The Guarantor warrants and undertakes to the Employer that no authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of its jurisdiction of incorporation, exemptions, registrations or filings are required by the laws of its jurisdiction for the Guarantor to incur the obligations referred to in this Guarantee and/or to execute and deliver this Guarantee or any other documents and instruments to be delivered by it pursuant thereto.
- 5.5 The Guarantor warrants and undertakes to the Employer that no corporate action has been taken by, or legal proceedings started against it for the declaration of its insolvency (concurso), winding-up (liquidación), dissolution, administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.
- 5.6 The Guarantor warrants and undertakes to the Employer that it has not entered into this Guarantee in reliance upon, nor was it induced to enter into this Guarantee by any representation, warranty or undertaking made by or on behalf of the Employer (whether express or implied and whether pursuant to statute or otherwise).

 3

- 5.7 The Guarantor represents and warrants that its payment obligations under this Guarantee to which it is a party rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

6. ASSIGNMENT

- 6.1 Neither Party hereto shall assign any or all of its right, title and interest in and to this Guarantee without the other Party's prior written consent.

7. NOTICES

- 7.1 All documents and notices arising out of or in connection with this Guarantee shall be served upon the Guarantor at 12, Rue du Cimetière, L-8413 Steinfort, Grand Duchy of Luxembourg, with a copy to Ondernemingen Jan De Nul N.V. at Tragel 60, B-9803 Hofstade (Aalst), Belgium.
- 7.2 The Guarantor may change its nominated address for service of documents or notices to another address in the same country as the address stated herein but only by prior written notice to the Employer. All documents and notices served by the Employer shall be in writing and in English.

8. MISCELLANEOUS

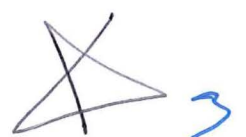
- 8.1 The Employer's rights under this Guarantee are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, including any and all such rights as the Employer may hold under or in relation to the OEA J+S Guarantee, and the Employer may exercise its rights under this Guarantee from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.
- 8.2 Any waiver by the Employer of the terms of this Guarantee or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 8.3 If at any time any one or more of the provisions of this Guarantee is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Guarantee.
- 8.4 In this Guarantee, "**Dissolution**" of a person includes the bankruptcy, insolvency (including '*concordat*' under the laws of the Grand Duchy of Luxembourg), liquidation, amalgamation, reconstruction, reorganization, administration (including '*gestion contrôlée*' under the laws of the Grand Duchy of Luxembourg), administrative or other receivership or dissolution of that person, and any equivalent or analogous proceedings

by whatever name known and in whatever jurisdiction, and any step taken (including, without limitation, the presentation of a petition or the passing of a resolution) for or with a view to any of the foregoing.

- 8.5 Where applicable, words and expressions used in this Guarantee shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract and the OEA J+S Guarantee shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction. For the avoidance of doubt, all references to the Contractor shall be deemed to mean the Contractor from and after the date of assignment of the Contract.
- 8.6 This Guarantee constitutes the entire agreement between the Employer and the Guarantor as to the matters addressed herein. This Guarantee may not be modified except by written agreement of the Employer and the Guarantor.
- 8.7 This Guarantee may be executed in any number of counterparts, with the same effect as if the signatures on the counterparts were contained on a single copy of this Guarantee.
- 8.8 Nothing herein shall prejudice the rights (including any step-in rights) of the Employer under any Subcontractor Warranty.

9. **GOVERNING LAW, JURISDICTION AND ENFORCEMENT**

- 9.1 This Guarantee, and any non-contractual obligations arising out of or in connection with it, are governed by, and shall be construed in accordance with, English law.
- 9.2 Jurisdiction of English Courts
- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee (including a dispute regarding the existence, validity or termination of this Guarantee).
 - (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle any dispute referred to in paragraph 9.2(a) and accordingly neither Party will argue to the contrary.
 - (c) The Parties agree that the exclusive jurisdiction of the English courts referred to above shall not prevent any enforcement of a judgment obtained pursuant to paragraph 9.2(a) in a jurisdiction in which the assets of any Party are located.



9.3 Service of Process

Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:

- (a) irrevocably appoints [●] as its agent for service of process in relation to any proceedings before the English courts in connection with this Guarantee;
- (b) agrees that a failure by the process agent to notify it of the process will not invalidate the proceedings concerned; and
- (c) agrees that this appointment constitutes a special power of attorney granted in favour of the agent, so that the agent has sufficient authorization and powers to receive service of process and to represent each Guarantor for every procedural matter in relation to any proceedings before the English courts.

10. EXECUTION

In Witness whereof the parties hereto have caused this Guarantee to be executed the day and year before written by their duly authorised representatives.¹³

SIGNED by:

Name: Jorge de la Guardia
Position: Employer's Representative
Date:

for and on behalf of the Employer in the presence of

Witness:

Name:
Address: Building ____, Corozal
Date:

SIGNED by:

Name:
Position:
Date:

for and on behalf of the Guarantor and for and on behalf of SOFIDRA S.A. (JAN DE NUL GROUP), as Guarantor in the presence of

Witness:
Name:
Address:
Date:

¹³ Note: to be executed by the Guarantor in the presence of a Notary Public in Luxembourg, or if executed abroad, in the presence of a notary accompanied by the requisite powers of attorney or other documents for the notary to ascertain the signatory's power to bind the Guarantor under Luxembourg law.



APPENDIX EE

FORM OF OTHER EXISTING ADVANCES LOC – BASE

Date: Panama, _____, 20XX

Letter of Credit: XXXXXXXXXXXX

Beneficiary: **Autoridad del Canal de Panama**
Altos de Balboa, Balboa
Panama, Republica de Panama
as the Employer under the Contract referred to below

Applicant: **Grupo Unidos por el Canal, S.A.**
Corozal Oeste, Edificio 732, Ancon,
Panama, Republica de Panama

Maximum Stated Amount: \$ _____¹⁴ (_____ U.S. Dollars)

Expiration Date: _____, 20__

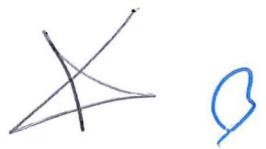
At the request and for the account of Grupo Unidos por el Canal, S.A. (the "Applicant") the undersigned [Issuing Bank] (the "Bank") hereby establishes this clean, irrevocable Letter of Credit (this "Letter of Credit") in your favor as beneficiary ("Beneficiary") for drawing up to the maximum stated amount set forth above, effective _____, 20XX. As used in this Letter of Credit, "Dollars" and "\$" means the lawful currency of the United States of America.

This Letter of Credit is issued, presentable and payable at the Bank's office at [address] Panama, Attention: _____ and expires with the Bank's close of business on _____, 20XX. This Letter of Credit cannot be modified or revoked without your written consent.

This Letter of Credit is issued in connection with the Contract dated August 11, 2009, between you, as Employer (the "Employer") and Grupo Unidos por el Canal, S.A., as Contractor (the "Contractor"), with respect to the design and construction of the third set of locks (as amended, supplemented or otherwise modified, the "Contract"), entered into by the Employer and the Contractor pursuant to your request for proposal for design and construction of the third set of locks, number 76161.

This Letter of Credit is valid and effective immediately and, on and after the date hereof, drawings hereunder may be made by you from time to time by presentation of your demand for payment at our office specified above on or before the expiry date hereof in the form of Annex I hereto (each, a "Notice of Claim"), in each case appropriately completed and purportedly signed by one of your authorized officers. We shall not be obligated to check the authenticity of such signature. Our only obligations with regards to a drawing under this Letter of Credit shall be to

¹⁴ Up to the Other Existing Advances Outstanding Amount.

Handwritten signature and initials in blue ink at the bottom right of the page.

examine the Notice of Claim presented and to pay in accordance therewith, and we shall not be obligated to make any inquiry in connection with the presentation of such Notice of Claim. Multiple and partial draws are allowed.

Drawings hereunder may be made by you prior to the expiration hereof at any time during our business hours at the aforementioned address in Panama, on any "Business Day" (as defined below). We hereby agree to honor each such drawing within three (3) Business Days after receipt thereof, provided that the drawing conforms to the terms and conditions of this Letter of Credit. "Business Day" means a day on which we are open at the aforesaid address for the purpose of conducting commercial banking business.

If a demand for payment made by you hereunder does not, in any instance, conform to the terms and conditions of this Letter of Credit, we shall give you notice promptly (but in any case no later than one (1) Business Day after presentation of such demand) that the demand for payment was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefore and that we will upon your instructions hold any documents at your disposal or return the same to you. Upon being notified that the demand for payment was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand prior to 11:00 am Panama City time on the expiration date stated above.

All amounts paid by the Bank under the Letter of Credit shall be paid in immediately available funds, by wire transfer to the account specified by you in the Notice of Claim, free and clear of, and without deduction for, any taxes, duties, fees, liens, set-offs or other deductions of any kind and regardless of any objection of any third party.

This Letter of Credit sets forth in full the terms of our undertaking, and this undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to or to which this Letter of Credit relates, except for the Annex attached hereto. The obligation of the Bank under this Letter of Credit is the individual obligation of the Bank and is not contingent or conditioned upon reimbursement by the applicant or any other party with respect thereto, or upon the Bank's ability to obtain, perfect or realize upon any lien or security interest in any collateral, or any other reimbursement.

This Letter of Credit is subject to and governed by the laws of the Republic of Panama and the International Standby Practices ISP98 of the International Chamber of Commerce (Publication No. 590) and in the event of any conflict the laws of the Republic of Panama will control.

By: [Issuing Bank]

Name:
Title:

Name:
Title:

A handwritten signature, possibly 'X' or 'A', followed by the number '3' in blue ink.

NOTICE OF CLAIM

_____, 20 ____

(Name of Issuing Bank)
(Address)

All terms used herein which are defined in the Letter of Credit No. XXXXXXXXXXXX, dated as of _____, 20XX ("Letter of Credit") issued by you have the same meanings when used herein. All capitalized terms used in this Notice of Claim which are defined in the Contract shall have the meanings given them therein.

The undersigned hereby certifies and states that: [Choose Applicable Paragraph]

1. The Contractor has failed to pay in full the Other Existing Advances on the date due as set forth in Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

2. The Contractor has failed to pay in full the Other Existing Advances prior to a termination under Clause 15, Clause 16 or Clause 19 (as the case may be) of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

3. The Contractor has failed to pay in full the Other Existing Advances as stated in Sub-Clause 14.2J of the conditions of Contract 45 days prior to the specified expiry date of the Letter of Credit, and the Contractor has failed to extend the validity of Letter of Credit in accordance with sub-paragraph (i) of Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

4. The Employer is entitled to terminate the Contractor's right to complete the Contract under Sub-Clause 15.2 of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit, which is \$ _____ (the "Demand Amount").

[or]

5. The Contractor has failed to provide the Replacement Performance Security by the date required by Sub-Clause 4.2F of the Conditions of Contract. Accordingly, the undersigned hereby makes demand for payment in the total outstanding amount of the Letter of Credit,

which is \$_____ (the "Demand Amount").

[or]

6. The Contractor has failed to pay in full the Other Existing Advances Milestone Deductions on the Other Existing Advances Milestone Deduction Payment Date as set forth in Sub-Clause 14.2J of the conditions of Contract. Accordingly, the undersigned hereby makes demand for payment of such amount, which is \$_____ (the "Demand Amount").

The Beneficiary is making a drawing under the Letter of Credit in the amount of the Demand Amount stated above. You are hereby directed to make payment of the requested drawing to Autoridad del Canal de Panama; [Account Details].

AUTORIDAD DEL CANAL DE PANAMA

By:
Name:
Title:

Handwritten signature and initials in blue ink, consisting of a stylized 'A' and a circled 'B'.

APPENDIX FF

FORM OF OTHER EXISTING ADVANCES LOC – EXTENSION

[Issuing Bank Letterhead]

Date: _____, 201[]

Our Letter of Credit Number XXXXXXXXXXXX dated _____, 20XX.

Beneficiary:

Autoridad del Canal de Panama
Altos de Balboa, Balboa
Panama, Republica de Panama,
as the Employer under the Contract referred to below

Applicant:

Grupo Unidos por el Canal, S.A.
Corozal Oeste, Edificio 732, Ancon,
Panama, Republica de Panama

Maximum Stated Amount: \$ _____¹⁵ (_____ U.S. Dollars)

Expiration Date: _____, 20__¹⁶

Amendment Number []

The above mentioned Letter of Credit is amended as follows:

1. The Expiration Date of the Letter of Credit is amended to be _____, 20__.

[2. The Maximum Stated Amount is amended to be \$ _____ (_____ U.S. Dollars).]¹⁷


All other terms and conditions of the above mentioned Letter of Credit remain unchanged and in effect.

This Amendment is to be considered as an integral part of the above Letter of Credit and must be attached thereto.

¹⁵ Amount entered to be the Maximum Stated Amount of the Other Existing Advances LOC – Base.

¹⁶ Date entered to be the expiration date of the Other Existing Advances LOC – Base.

¹⁷ If applicable owing to revised Other Existing Advances Outstanding Amount.



Please advise your consent to this Amendment No. [], in writing on your letterhead signed by an authorized signatory of your company under his/her name and title.

[Issuing Bank]
Republic of Panama

[NAME]
[TITLE]

[NAME]
[TITLE]

 3

APPENDIX GG

FORM OF VO. NO 108 BOND ISSUER CONFIRMATION

[Letterhead of Zurich]

_____, 2014

Autoridad del Canal de Panamá
Edificio 740, Corozal West
Panamá, Republica of Panamá

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of Locks, Panama Canal

Confirmation regarding Variation Agreement No. 0XX (as defined below)

Dear Sirs:

We refer to (i) the Design and Build Contract for the Third Set of Locks on the Panama Canal (as amended, modified, varied or supplemented, the "Contract") tendered under RFP #7616 between you, as owner and Employer thereunder (the "Owner") and Grupo Unidos por el Canal, S.A., as contractor (the "Contractor"); (ii) the performance bond, Bond no. 08960193, dated August 7, 2009, in an amount of USD 400,000,000.00, issued in the Owner's favor in respect of the Contract (as amended, supplemented or otherwise modified from time to time, the "Performance Bond"); (iii) the payment bond, Bond no. 08960194, dated August 7, 2009, in an amount of USD 50,000,000.00, issued in the Owner's favor in respect of the Contract (as amended, supplemented or otherwise modified from time to time, the "Payment Bond"); and (iv) the advance payment bond in respect of Plant and Material Security, Bond no. 09098907, dated December 20, 2012, in an amount of USD 150,000,000.00, issued in the Owner's favor in respect of the Contract (as amended, supplemented or otherwise modified from time to time, the "P&M Bond" and, together with the Performance Bond and the Payment Bond, the "Bonds"). Unless otherwise specified, capitalized terms used herein have the respective meanings specified in the Contract.

We have been provided with a copy of Variation Agreement No. 108, dated August 1, 2014 ("Variation Agreement No. 108") to the Contract, executed by the Owner and the Contractor, which, subject to the Contractor's compliance with certain preconditions, provides for various amendments to the Contract in order to implement the terms of the transaction set forth in Annex A to the Memorandum of Understanding, dated March 13, 2014, among the Employer, the Contractor and the Surety.

Handwritten signature and initials in blue ink, consisting of a large 'X' and a stylized 'Q' or '9'.

The undersigned, as Surety under and as defined in the Bonds, hereby consents to the amendments set forth in Variation Agreement No. 108 and confirms to you, as Owner and beneficiary under the Bonds, the continued validity of the Bonds in the respective amounts originally stated therein, notwithstanding the terms of Variation Agreement No. 108.

Nothing in this confirmation letter is intended to or shall waive, alter, amend or otherwise affect any of the terms or conditions of the Bonds.

ZURICH AMERICAN INSURANCE
COMPANY, as Surety under the Bonds

By: _____

Name:

Title:

ACCEPTED:

AUTORIDAD DEL CANAL DE PANAMA,
as Owner under the Contract and beneficiary under the Bonds referred to above

By: _____

Name:

Title:

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APPENDIX HH

FORM OF GUARANTOR ARBITRATION AGREEMENT

Dated [●] 2014

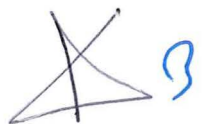
- (1) **THE GUARANTORS NAMED HEREIN**
- (2) **AUTORIDAD DEL CANAL DE PANAMÁ**

GUARANTOR ARBITRATION AGREEMENT
relating to Contract CMC-221427 for the Design and
Construction of the Third Set of Locks, dated August 11,
2009

A handwritten signature in black ink, followed by a blue number '3'.

CONTENTS

Clause	Page
1. Definitions and interpretation.....	4
2. Agreements regarding Awards.....	5
3. Assignment.....	6
4. Notices.....	6
5. Miscellaneous.....	6
6. Governing Law and Jurisdiction.....	7
7. Execution.....	8



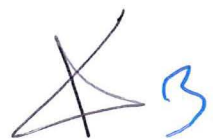
THIS AGREEMENT is dated [●] (as amended, modified or supplemented, this "**Agreement**") and is made between:

- (1) **SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.)**, a company incorporated in Spain, having its registered office at Paseo de la Castellana N° 83-85, Madrid, 28046, Spain, duly registered at the Commercial Registry of Madrid at Volume 1884, Page M-33841, Sheet 61, and with Tax Identification Number (C.I.F.) A-28013811 ("**Sacyr**");
- (2) **ONDERNEMINGEN JAN DE NUL N.V.**, a company incorporated in Belgium, having its registered office at Tragel 60, 9308 Hofstade (Aalst), Belgium ("**JDN**");
- (3) **SALINI IMPREGILO S.p.A. (formerly Impregilo S.p.A.)**, a company incorporated in Italy, having its registered office at via dei Missaglia 97, 20142 Milan, Italy ("**Impregilo**");
- (4) **CONSTRUCTORA URBANA, S.A.**, a *sociedad anónima* organized and existing under the laws of the Republic of Panama, registered under microjacket number 20812 of the Mercantile Section of the Public Registry Office of the Republic of Panama, having its registered office at Calle 19, Río Abajo, Panama ("**CUSA**"); and
- (5) **SOFIDRA S.A.** a company incorporated in Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg, registered with the *Registre de Commerce et des Sociétés* under number B73723, operating under the commercial name "**JAN DE NUL GROUP**" ("**Sofidra**"),

(each of the parties (1) to (5) a "**Guarantor**" and collectively the "**Guarantors**"); and
- (6) **AUTORIDAD DEL CANAL DE PANAMÁ** an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panama ("**Employer**").

BACKGROUND:

- (A) Sacyr (as Lead Member of the consortium), JDN, Impregilo and CUSA (on a joint and several basis) and the Employer entered into contract CMC-221427 for the Design and Construction of the Third Set of Locks, dated August 11th, 2009 in relation to the Panama Canal expansion project (as amended, modified or supplemented, "**Contract**").
- (B) Pursuant to Sub-Clause 1.7 of the Contract, each of Sacyr, JDN, Impregilo and CUSA requested, and the Employer consented to, the assignment of the whole of the Contract to Grupo Unidos por el Canal, S.A., as the New Contractor, which, pursuant to the Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor under the Contract (the "**Contractor**").
- (C) Sacyr, JDN, Impregilo and CUSA are the Shareholders in and collectively own directly one hundred percent (100%) of the Share Capital of the Contractor. JDN is a wholly and directly owned subsidiary of Sofidra.



- (D) In accordance with the Contract between the Employer and the Contractor, the Guarantors, have entered into the Guarantees in order to guarantee the obligations of the Contractor.
- (E) In furtherance of completion of the Works under the Contract, the Employer, the Contractor and the Surety agreed to a Memorandum of Understanding, dated March 13, 2014, specifying on Annex A thereto the terms of a transaction to be implemented thereto (the "**Annex A Transaction**").
- (F) In connection with the implementation of such Annex A Transaction, the Employer and the Contractor have entered into Variation Agreement Number 108, dated as of August 1, 2014 ("**Variation No. 108**"), and an express condition precedent to the Effective Date under (and as defined in) such Variation No. 108 is the execution and delivery by the Guarantors of this Agreement.
- (G) Therefore, pursuant to paragraph 9 of such Annex A, the Guarantors have agreed to the terms set out in this Agreement.

IT IS AGREED that:

1. DEFINITIONS AND INTERPRETATION

1.1 Defined terms

In this Agreement and the Recitals:

"**Award**" means

- (a) any award (final or interim) and/or order in favour of the Employer arising out of arbitral proceedings under the Contract; and/or
- (b) any award (final or interim) and/or order in favour of the Employer arising out of arbitral proceedings under the Guarantees.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in Panama; and

"**Guarantees**" means the Joint and Several Guarantee, the Parent Company Guarantee for the Joint and Several Guarantee, the Advance Payment Joint and Several Guarantee and the Advance Payment Parent Guarantee (each as amended, supplemented, modified or confirmed prior to or on the date of this Agreement).

1.2 Meaning of references

In this Agreement, unless the context requires otherwise, any reference to:

- (a) this **Agreement** includes the Recitals and Schedule, which form part of this Agreement for all purposes;



- (b) a **Clause** is to a clause of this Agreement;
- (c) a **document** is to that document as supplemented, otherwise amended, replaced or novated from time to time;
- (d) the masculine, feminine or neuter **gender** respectively includes the other genders and any reference to the singular includes the plural (and vice versa);
- (e) **including** means "including without limitation" (with related words being construed accordingly), **in particular** means "in particular but without limitation" and other **general words** shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things;
- (f) a **party** or **parties** is to a party or parties to this Agreement and shall include any permitted assignees of a party or parties;
- (g) a **person** includes any individual, firm, company, corporation, government, state or agency of state or any association, trust or partnership (whether or not having a separate legal personality); and
- (h) the Contract shall be deemed to include any amendment, variation or supplemental agreement thereto.

1.3 **Headings and table of contents**

In this Agreement, the headings are included for convenience only and shall not affect the interpretation or construction of this Agreement.

1.4 **Definitions in the Contract**

Unless the context requires otherwise, words and expressions used but not defined in this Agreement shall have the meanings given to them in the Contract.

2. **AGREEMENTS REGARDING AWARDS**

2.1 In the event of any Award, the Guarantors agree jointly and severally that, notwithstanding any right (howsoever arising) to subsequently challenge or otherwise appeal or dispute any such Award, or to resist or dispute enforcement thereof, and regardless of whether the Guarantors, or any of them, are or were parties to the arbitral proceedings which resulted in the Award, they will immediately:

- (a) pay on first demand any sum ordered in any Award in favour of the Employer including any and all, losses, costs (including legal costs), damages, interest, fees and expenses without any deduction, withholding, set-off or counterclaim; and
- (b) give full effect, or cause the Contractor to give full effect, to the terms of any Award.

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2.2 For the avoidance of doubt, payment by the Guarantors of any Award in accordance with Clause 2.1 shall not restrict or limit any rights the Guarantors may have to subsequently challenge or otherwise appeal or dispute any Award or to resist or dispute enforcement thereof.

2.3 All payments to be made by any Guarantor under this Agreement shall be paid to the Employer in immediately available funds in United States Dollars.

3. **ASSIGNMENT**

No party hereto shall assign any or all of its right, title and interest in and to this Agreement without, in the case of any assignment by the Employer, the Lead Member's, or, in the case of any assignment by any of the Guarantors, the Employer's, prior written consent.

4. **NOTICES**

4.1 All documents and notices arising out of or in connection with this Agreement shall be served upon each of the Guarantors at the address specified in the Schedule attached hereto.

4.2 Any Guarantor may change its nominated address for service of documents or notices to another address in the same country as the address stated herein but only by prior written notice to the Employer. All documents and notices served by the Employer shall be in writing and in English.

5. **MISCELLANEOUS**

5.1 Each party shall from time to time (at its own cost) do, perform, sign, execute and deliver all such acts, deeds, documents and things (or procure the doing, performance, signing, execution or delivery of them) as shall be necessary for giving full effect to this Agreement and securing to the other parties the full benefit of the rights, powers and remedies conferred upon each of them respectively in this Agreement.

5.2 If at any time any one or more of the provisions of this Agreement is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Agreement.

5.3 This Clause 5.3 and the following clauses shall each survive termination of this Agreement for whatever reason: Clause 4 (*Notices*), and Clause 6 (*Governing Law and Jurisdiction*).

5.4 Without prejudice to the Guarantees, this Agreement constitutes the entire agreement between the Employer and each of the Guarantors as to the matters addressed herein. This Agreement may not be modified except by written agreement of the Employer and each of the Guarantors.



- 5.5 No amendment or variation of the terms of this Agreement shall be effective unless it is made or confirmed in a written document signed by all of the parties and expressly refers to this Agreement.
- 5.6 No delay in exercising or non-exercise of any right, power or remedy provided by law or under this Agreement shall impair, or otherwise operate as a waiver or release of, that right, power or remedy. Any single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
- 5.7 This Agreement may be executed in any number of counterparts, with the same effect as if the signatures on the counterparts were contained on a single copy of this Agreement.
- 5.8 The Employer's rights under this Agreement are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract, the Guarantees or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, and the Employer may exercise its rights under this Agreement from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.
- 5.9 Any waiver by the Employer of the terms of this Agreement or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.

6. **GOVERNING LAW AND JURISDICTION**

- 6.1 This Agreement shall be governed by and construed in accordance with the laws of the Republic of Panama.
- 6.2 Any and all disputes or controversy arising out of or related to this Agreement, including its interpretation, application and enforcement, shall be resolved by international arbitration in law (within the meaning of Panamanian law).
- 6.3 Unless otherwise agreed by both Parties:
- (a) the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "**Rules**");
 - (b) in addition to the Rules, the arbitrators shall be guided, but will not be bound, by the International Bar Association Rules on the Taking of Evidence in International Commercial Arbitration;
 - (c) the dispute shall be settled by three arbitrators who shall all be licensed lawyers appointed in accordance with the Rules, provided that the two arbitrators nominated by the Parties shall nominate by mutual agreement the presiding arbitrator;
 - (d) the arbitration shall be decided in law (within the meaning of Panamanian law) and shall be conducted in the English language;



(e) the seat, or legal place, of the arbitration shall be Miami, Florida - United States of America; and

(f) the arbitration agreement and the arbitration shall be governed by the United States Federal Arbitration Act, 9 U.S.C. §§ 1 et seq. except as modified herein or by the Rules.

7. **EXECUTION:**

In witness whereof the parties hereto have caused this Agreement to be executed the day and year before written by their duly authorised representatives.

Handwritten signature and initials in blue ink, located in the bottom right corner of the page. The signature appears to be a stylized 'X' followed by a blue 'B'.

SIGNED by:

Name: Jorge de la Guardia

Position: Employer's Representative

Date:

for and on behalf of the Employer in the presence of

Witness:

Name:

Address: Building ___, Corozal

Date:

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for and on behalf of SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.), as Guarantor in the presence of

Witness:

Name:

Address:

Date:

Handwritten signature and initials in blue ink at the bottom right of the page.

SIGNED by:

Name:

Position:

Date:

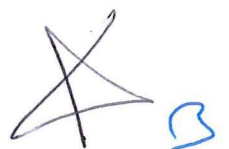
for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN JAN
DE NUL N.V., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

Name:

Address:

Date:

A handwritten signature, possibly 'X', followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

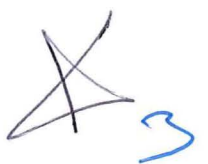
for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SOFIDRA S.A. (JAN DE
NUL GROUP), as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

SCHEDULE

NOTICE ADDRESSES FOR GUARANTORS

If to **SACYR, S.A.** (formerly Sacyr Vallehermoso, S.A.), at:

Paseo de la Castellana n° 83-85
28046, Madrid, Spain
Attention: Jose Manuel Laureda Lopez
Manuel Manrique

If to **ONDERNEMINGEN JAN DE NUL N.V.**, at:

Tragel 60
B-9308 Hofstade (Aalst)
Belgium
Attention: Jan Kop

If to **SALINI IMPREGILO S.p.A.** (formerly Impregilo S.p.A.), at:

Via dei Missaglia n° 97
Milan, 20142, Italy
Attention: Salvatore Fabrizio Andrea Melani

If to **CONSTRUCTORA URBANA, S.A.**, at:

Calle 19 Final Rio Abajo
Panama, Republic of Panama
Attention: Carlos Fabrega

If to **SOFIDRA S.A. (JAN DE NUL GROUP)**, at

5, Rue Guillaume Kroll
L-1882 Luxembourg
Grand Duchy of Luxembourg
Attention: [●]

A handwritten signature in black ink, followed by a blue number '3'.

APPENDIX II-1

**FORM OF SECOND AMENDMENT TO ADVANCE PAYMENT JOINT AND
SEVERAL GUARANTEE**

Dated _____¹⁸

- (1) THE GUARANTORS NAMED HEREIN
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

SECOND AMENDMENT TO ADVANCE PAYMENT
JOINT AND SEVERAL GUARANTEE IN RESPECT
OF THE THIRD SET OF LOCKS CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

¹⁸ Per VO 108, to be provided no later than January 14, 2015.



THIS SECOND AMENDMENT TO ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE, dated _____¹⁹ (this "**Amendment**") to the **ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE**, dated December 24, 2012, as amended by **AMENDMENT TO ADVANCE PAYMENT JOINT AND SEVERAL GUARANTEE**, dated March 18, 2014 (as amended, modified or supplemented, the "**Guarantee**") and made between:

- (1) **SACYR, S.A. (formerly Sacyr Vallehermoso, S.A.)**, a company incorporated in Spain, having its registered office at Paseo de la Castellana N° 83-85, Madrid, 28046, Spain,
 - (2) **ONDERNEMINGEN JAN DE NUL N.V.**, a company incorporated in Belgium, having its registered office at Tragel 60, 9308 Hofstade-Aalst, Belgium,
 - (3) **SALINI IMPREGILO S.p.A. (formerly Impregilo S.p.A.)**, a company incorporated in Italy, having its registered office at via dei Missaglia 97, 20142 Milan, Italy, and
 - (4) **CONSTRUCTORA URBANA, S.A.**, a company incorporated in Panamá, having its registered office at Calle 19, Río Abajo, Panamá, Panamá
- (each, a "**Guarantor**" and, collectively, the "**Guarantors**"); and
- (5) **AUTORIDAD DEL CANAL DE PANAMÁ** an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**").

BACKGROUND:

- (A) The Guarantors (including Sacyr, S.A., as Lead Member of the consortium) and the Employer entered into a contract, on a joint and several basis, for the design and construction of a third set of locks dated August 11th, 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**"). In this Amendment, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein.
- (B) Pursuant to Sub-Clause 1.7 of the Contract, the Guarantors requested, and the Employer consented, to the assignment of the whole of the Contract to Grupo Unidos por el Canal SA, who, pursuant to an Assignment and Acceptance Agreement, dated as of May 31, 2010, became the Contractor pursuant to the terms of the Contract (the "**Contractor**").
- (C) The Guarantors are the Shareholders in and collectively own directly one hundred percent (100%) of the Share Capital of the Contractor.
- (D) The Guarantors provided the Advance Payment Joint and Several Guarantee, dated December 24, 2012, and the Amendment to Advance Payment Joint and Several Guarantee, dated March 18, 2014.

¹⁹ Per VO 108, to be provided no later than January 14, 2015.

A handwritten signature in blue ink, consisting of a stylized 'X' shape followed by a cursive 'S' or similar mark.

- (E) Pursuant to Variation Agreement Number 108, dated August 1, 2014 ("**Variation Agreement No. 108**"), the Employer and the Contractor agreed, for the reasons and on the terms specified therein, to include the Advance Payment for Lock Gates in the Guarantee by execution of this Amendment from and after the expiration date of the Plant and Material Security.
- (F) Therefore, each of the Guarantors, for purposes of facilitating the completion of the Works under the Contract, has, jointly and severally, agreed to guarantee the obligations of the Contractor under the Contract in respect of the Advance Payment for Lock Gates on the terms set out in the Guarantee.

1. **AMENDMENT**

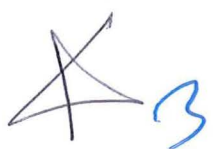
- 1.1 Paragraph 1.1(a) of the Guarantee is hereby amended by replacing each instance of "and Advance Payment for Specified Expenditures" with ", Advance Payment for Specified Expenditures and Advance Payment for Lock Gates" in such Clause.
- 1.2 Each of the Guarantors expressly confirms that the terms of paragraphs 1.1(b) and 1.2 of the Guarantee apply to the Guarantee as so amended by the terms of paragraph 1.1 above.

2. **PROTECTIVE AND OTHER CLAUSES**

- 2.1 Each of the Guarantors expressly confirms and agrees that the Guarantee, as amended by this Amendment is valid, binding and enforceable in accordance with its terms and remains in full force and effect notwithstanding this Amendment.
- 2.2 Paragraphs 2.1, 2.2, 2.3 and 2.4 inclusive of the Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.
- 2.3 Paragraphs 3.1, 3.2 and 3.3 of the Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

3. **REPRESENTATIONS AND WARRANTIES**

- 3.1 Each of the Guarantors warrants and undertakes that it is duly incorporated and validly existing under the laws of its respective jurisdiction of incorporation or formation, as the case may be, and that this Amendment is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Amendment and the transactions contemplated by it have been obtained and are in full force and effect.
- 3.2 Until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract shall have been satisfied or performed in full, if (notwithstanding the provisions of sub-paragraphs 4.1(a) and 4.1(b) of the Guarantee) any of the Guarantors has any rights of subrogation against the Contractor or any rights to prove in a Dissolution (as defined in paragraph 8.4 of the



Guarantee) of the Contractor, such Guarantor agrees to exercise such rights in accordance with the directions of the Employer.

- 3.3 Each of the Guarantors warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Amendment and to implement the provisions of this Amendment.
- 3.4 Paragraphs 4.1(a), 4.1(b) and 5(c) of the Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

4 **ASSIGNMENT**

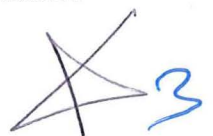
- 4.1 No party hereto shall assign any or all of its right, title and interest in and to this Amendment without, in the case of any assignment by the Employer, the Lead Member's, or, in the case of any assignment by any of the Guarantors, the Employer's, prior written consent.

5. **NOTICES**

- 5.1 All documents and notices arising out of or in connection with this Amendment shall be served upon each of the Guarantors under and pursuant to the terms of the Guarantee.

6. **MISCELLANEOUS**

- 6.1 The Employer's rights under this Amendment are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, and the Employer may exercise its rights under this Amendment from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.
- 6.2 Any waiver by the Employer of the terms of this Amendment or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 6.3 If at any time any one or more of the provisions of this Amendment is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Amendment.
- 6.4 Where applicable, words and expressions used in this Amendment shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction. For the avoidance of doubt, all references to the Contractor



shall be deemed to mean the Contractor from and after the date of assignment of the Contract.

- 6.5 This Amendment constitutes the entire agreement between the Employer and each of the Guarantors as to the matters addressed in this Amendment. This Amendment may not be modified except by written agreement of the Employer and each of the Guarantors.
- 6.6 Paragraphs 8.4 and 8.7 of the Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

7. DISPUTE RESOLUTION

- 7.1 This Amendment shall be governed by and construed in accordance with the laws of the Republic of Panamá.
- 7.2 Any dispute arising out of, under or in connection with this Amendment shall be finally settled under and pursuant to the terms of the Guarantee *mutatis mutandis*.

8. EXECUTION

In Witness whereof the parties hereto have caused this Amendment to be executed the day and year before written by their duly authorised representatives.

A handwritten signature in blue ink, consisting of a stylized 'X' shape, followed by the number '3'.

SIGNED by:

Name: Jorge de la Guardia

Position: Employer's Representative

Date:

for and on behalf of the Employer in the
presence of

Witness:

Name:

Address: Building ___, Corozal

Date:

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SACYR, S.A. (formerly
Sacyr Vallehermoso, S.A.) as Guarantor in
the presence of

Witness:

Name:

Address:

Date:

SIGNED by:

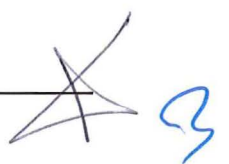
Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of ONDERNEMINGEN
JAN DE NUL N.V., as Guarantor in the
presence of

Witness:

Handwritten signature and initials in blue ink, consisting of a large 'X' and a stylized '3'.

Name:

Address:

Date:

SIGNED by:

Name:

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of SALINI IMPREGILO
S.p.A. (formerly Impregilo S.p.A.), as
Guarantor in the presence of

Witness:

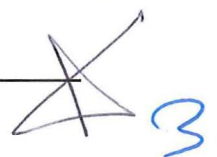
Name:

Address:

Date:

SIGNED by:

Name:

A handwritten signature in black ink, consisting of a stylized 'X' shape, is written over a horizontal line. To the right of the signature is a blue handwritten number '3'.

Position:

Date:

for and on behalf of the Guarantors and for
and on behalf of CONSTRUCTORA
URBANA, S.A., as Guarantor in the
presence of

Witness:

Name:

Address:

Date:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by a blue handwritten number '3'.

APPENDIX II-2

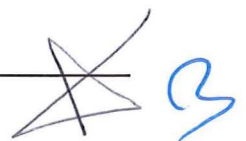
**FORM OF SECOND AMENDMENT TO ADVANCE PAYMENT PARENT
GUARANTEE**

Dated _____²⁰

- (1) SOFIDRA S.A.
- (2) AUTORIDAD DEL CANAL DE PANAMÁ

SECOND AMENDMENT TO GUARANTEE IN
RESPECT OF THE THIRD SET OF LOCKS
CONTRACT
relating to the realization of the Panamá Canal
Expansion Program

²⁰ Per VO 108, to be provided no later than January 14, 2015.

A handwritten signature in black ink, followed by a blue handwritten number '3'.

THIS SECOND AMENDMENT TO ADVANCE PAYMENT PARENT COMPANY GUARANTEE, dated _____²¹ (this "**Amendment**") to the **ADVANCE PAYMENT PARENT COMPANY GUARANTEE**, dated December 26, 2012, as amended by **AMENDMENT TO ADVANCE PAYMENT PARENT COMPANY GUARANTEE**, March 18, 2014 (as amended, modified or supplemented, the "Parent Guarantee") and made between:

- (1) **SOFIDRA S.A.**, a company incorporated in Grand Duchy of Luxembourg, having its registered office at 5, Rue Guillaume Kroll, L-1882 Luxembourg, Grand Duchy of Luxembourg, operating under its commercial name "Jan De Nul Group" ("**Guarantor**"); and
- (2) **AUTORIDAD DEL CANAL DE PANAMÁ** an autonomous entity of the Panamanian Government established under Title XIV of the Panamanian National Constitution whose principal place of business is at Edificio de la Administración, Altos de Balboa, Balboa, Republic of Panamá (which term shall include permitted assigns) ("**Employer**").

BACKGROUND:

- (A) Ondernemingen Jan De Nul N.V. ("**Relevant Member**"), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), Constructora Urbana, S.A., Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.) and the Employer have entered into the Advance Payment Joint and Several Guarantee, dated December 26, 2012, (as amended from time to time, the "**Advance Payment JS Guarantee**"), in respect of the obligations of the Contractor under a contract for the design and construction of a third set of locks dated 11 August 2009 in relation to the Panamá Canal expansion project (as amended, modified or supplemented, "**Contract**"). In this Amendment, the words and expressions shall have the same meanings as are respectively assigned to them in the Contract, save as amended or as expressly stated herein.
- (B) The Relevant Member is a wholly and directly owned subsidiary of the Guarantor.
- (C) The Guarantor provided the Advance Payment Parent Company Guarantee, dated December 24, 2012, and the Amendment to Advance Payment Parent Company Guarantee, dated March 18, 2014.
- (D) Pursuant to Variation Agreement Number 108, dated August 1, 2014 ("**Variation Agreement No. 108**"), the Employer and the Contractor agreed, for the reasons and on the terms specified therein, to include the Advance Payment for Lock Gates in the Advance Payment JS Guarantee by execution of the Second Amendment to Advance Payment Joint and Several Guarantee ("**JS Guarantee Second Amendment**").
- (E) Therefore, the Guarantor, for purposes of facilitating the completion of the Works under the Contract, has agreed to guarantee the obligations of the Relevant Member under the JS Guarantee Second Amendment in respect of the Advance Payment for Lock Gates on the terms set out in this Amendment.

²¹ Per VO 108, to be provided no later than January 14, 2015.



1. **AMENDMENT**

- 1.1 Paragraphs 1.1 and 1.2 of the Parent Guarantee are hereby amended by inserting "and the JS Guarantee Second Amendment" immediately after each instance of "JS Guarantee Amendment" in such paragraphs.

2. **PROTECTIVE AND OTHER CLAUSES**

- 2.1 The Guarantor expressly confirms and agrees that the Parent Guarantee, as amended by this Amendment is valid, binding and enforceable in accordance with its terms and remains in full force and effect notwithstanding this Amendment.
- 2.2 Paragraphs 2.1, 2.2, 2.3, 2.4 and 2.5 of the Parent Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.
- 2.3 Paragraphs 3.1, 3.2 and 3.3 of the Parent Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

3. **REPRESENTATIONS AND WARRANTIES**

- 3.1 The Guarantor warrants and undertakes that it is duly incorporated and validly existing under the laws of Grand Duchy of Luxembourg and that this Amendment is its legally binding obligation, enforceable in accordance with its terms, and that all necessary corporate, governmental and other consents and authorizations for the giving, validity, enforceability and implementation of this Amendment and the transactions contemplated by it have been obtained and are in full force and effect.
- 3.2 Until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract and by the Members (including without limitation the Relevant Member) under the Advance Payment JS Guarantee, as amended by the JS Guarantee Amendment, shall have been satisfied or performed in full, if (notwithstanding the provisions of sub-paragraphs 4.1(a) and 4.1(b) of the Parent Guarantee) the Guarantor has any rights of subrogation against any Member (including without limitation the Relevant Member) or the Contractor or any rights to prove in a Dissolution (as defined in paragraph 8.4 of the Parent Guarantee) of the Relevant Member or the Contractor, the Guarantor agrees to exercise such rights in accordance with the directions of the Employer.
- 3.3 The Guarantor warrants and undertakes to the Employer that it shall take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this Amendment and to implement the provisions of this Amendment.
- 3.4 Paragraphs 4.1(a), 4.1(b) and 5(c) of the Parent Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

4. **ASSIGNMENT**



- 4.1 Neither party shall assign any or all of its right, title and interest in and to this Amendment without the other party's prior written consent.

5. **NOTICES**

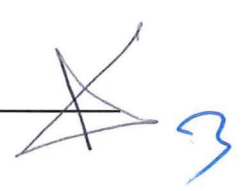
- 5.1 All documents and notices arising out of or in connection with this Amendment shall be served upon the Guarantor under and pursuant to the terms of the Parent Guarantee.

6. **MISCELLANEOUS**

- 6.1 The Employer's rights under this Amendment are cumulative and are in addition to and not in substitution for any rights provided by law or the Contract or any other guarantee, surety, bond, insurance or security that the Employer may have or hold in relation to the Contract, including any and all such rights as the Employer may hold under or in relation to the Advance Payment JS Guarantee, as amended by the JS Guarantee Amendment, and the Employer may exercise its rights under this Amendment from time to time without first having recourse to any such right, guarantee, surety, bond, insurance or security.
- 6.2 Any waiver by the Employer of the terms of this Amendment or any consent or approval given by the Employer shall only be effective if given in writing and then only for the purpose and upon the terms and conditions if any on which it is given.
- 6.3 If at any time any one or more of the provisions of this Amendment is or becomes illegal, invalid or otherwise unenforceable in any respect, such provision or provisions will be ineffective to the extent only of such illegality, invalidity or unenforceability and such illegality, invalidity or unenforceability will not invalidate any other provision of this Amendment.
- 6.4 Where applicable, words and expressions used in this Amendment shall have the meaning assigned to them in the Contract, as the case may be. The singular will include the plural and vice versa unless the context otherwise clearly requires. All references to the Contract and the Advance Payment JS Guarantee shall be deemed to include any amendment, variation or supplemental agreement thereto. Headings are inserted for convenience only and are to be ignored for the purposes of construction.
- 6.5 This Amendment constitutes the entire agreement between the Employer and the Guarantor as to the matters addressed in this Amendment. This Amendment may not be modified except by written agreement of the Employer and the Guarantor.
- 6.6 Paragraphs 8.4 and 8.7 of the Parent Guarantee are hereby incorporated into and shall apply to this Amendment as if fully set forth herein.

7. **DISPUTE RESOLUTION**

- 7.1 This Amendment shall be governed by and construed in accordance with the laws of the Republic of Panamá.



7.2 Any dispute arising out of, under or in connection with this Amendment shall be finally settled under and pursuant to the terms of the Parent Guarantee *mutatis mutandis*.

8. **EXECUTION**

In Witness whereof the parties hereto have caused this Amendment to be executed the day and year before written by their duly authorised representatives.



3

SIGNED by:

SIGNED by:

Name: Jorge de la Guardia

Name:

Position: Employer's Representative

Position:

Date:

Date:

for and on behalf of the Employer in the
presence of

for and on behalf of the Guarantor in the presence
of

Witness:

Witness:

Name:

Name:

Address: Building ____, Corozal

Address:

Date:

Date:

A handwritten signature, possibly 'X' or 'K', followed by the number '3' in blue ink.

APPENDIX JJ

FORM OF PERFORMANCE BOND CONFIRMATION


Date: [____], 20[____]

This Confirmation related to Performance Bond ("Confirmation") is delivered pursuant to Variation Agreement 108, dated as of August 1, 2014 ("Variation No. 108"), by and between (i) Grupo Unidos por El Canal, S.A., a *sociedad anónima* organized and existing under the laws of the Republic of Panama, registered under microjacket number 682266 and document number 1683284 of the Mercantile Section of the Public Registry Office of the Republic of Panama, with principal place of business at Building 22B, Brujas Road, Cocoli, Panama, Republic of Panama (the "Contractor"), and (ii) Autoridad del Canal de Panamá, with its principal place of business at Building 740, Corozal, Panama, Republic of Panama (the "Employer"). Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Contract CMC-221427 for the Design and Construction of the Third Set of Locks, dated August 11, 2009 (as the same has been or may be varied, amended, supplemented or otherwise modified, the "Contract").

1. The Surety confirms that it has directed the deposit of the Surety Deposit (as defined in the Project Completion Account Trust Agreement) into the Surety Deposit Account (as defined in the Project Completion Account Trust Agreement).

2. Each of the Surety, the Employer and the Contractor confirms and agrees that immediately upon the deposit of the Surety Deposit into the Surety Deposit Account, automatically, and without the need for further notice or action by any party, (a) the Performance Bond is deemed delivered to and received by the Surety, (b) the Surety's obligations under the Performance Bond are completely and irrevocably extinguished (including any and all past, present and future claims thereunder); (c) neither the Employer nor the Contractor shall have any further rights under or in relation to the Performance Bond; and (d) the Performance Bond is deemed cancelled.

3. (a) The Employer hereby confirms that it shall promptly, and in any event no later than five Business Days from the date of the deposit of the Surety Deposit into the Surety Deposit Account, return the Performance Bond in its original form to the Surety; and (b) the Surety confirms that, upon receipt of the Performance Bond from the Employer, it shall issue a written confirmation of its receipt thereof to the Employer in the form of Annex A hereto no later than two Business Days after its receipt thereof.

A handwritten signature in blue ink, consisting of a stylized 'X' shape followed by a small mark resembling a '7' or a checkmark.

IN WITNESS WHEREOF, the undersigned has executed this Confirmation as of the date first above written.

ZURICH AMERICAN INSURANCE COMPANY,
as Surety

By: _____
Name:
Title:

AUTORIDAD DEL CANAL DE PANAMA,
as Employer

By: _____
Name:
Title:

GRUPO UNIDOS POR EL CANAL, S.A.,
as Contractor

By: _____
Name:
Title:

A handwritten signature in black ink, followed by a blue handwritten number '3'.

Annex A

[FORM OF PERFORMANCE BOND RECEIPT]

PERFORMANCE BOND RECEIPT

Date: [____], 20[__]

AUTORIDAD DEL CANAL DE PANAMÁ
Building 740, Corozal,
Panama, Republic of Panama
Attn: Mr. Jorge de la Guardia
Employer's Representative

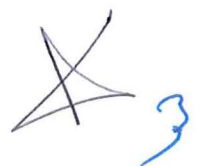
Ladies and Gentlemen:

We refer to Contract CMC-221427 for the Design and Construction of the Third Set of Locks, dated August 11, 2009 (as the same has been or may be varied, amended, supplemented or otherwise modified, by and between the Contractor and the Employer (the "Contract")). Capitalized terms used but not defined herein shall have the meanings specified in the Contract.

The undersigned, as Surety, hereby confirms that it has received the Performance Bond from the Employer.

ZURICH AMERICAN INSURANCE COMPANY,
as Surety

By: _____
Name:
Title:

A handwritten signature in black ink, followed by a blue handwritten number '3'.

APPENDIX KK

FORM OF OPINION OF PANAMANIAN COUNSEL TO THE CONTRACTOR,
SACYR, IMPREGILO, JDN AND SOFIDRA

[LETTERHEAD OF ALEMAN, CORDERO, GALINDO & LEE]

[____], 2014

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

In re: Legal opinion of Panamanian counsel to Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini Impregilo S.p.A., Ondernemingen Jan De Nul N.V. and Sofidra S.A.

Dear Mr. de la Guardia,

We have acted as special Panamanian counsel to (1) GRUPO UNIDOS POR EL CANAL, S.A., a company organized under the laws of Panama ("**GUPCSA**"), (2) SACYR, S.A. (formerly SACYR VALLEHERMOSO, S.A.), a company incorporated in Spain ("**Sacyr**"), (3) ONDERNEMINGEN JAN DE NUL N.V., a company incorporated in Belgium ("**Jan De Nul**"), (4) SALINI IMPREGILO S.p.A. (formerly IMPREGILO S.p.A.), a company incorporated in Italy ("**Salini Impregilo**"), and (5) SOFIDRA S.A., a company incorporated in Grand Duchy of Luxembourg, operating under the commercial name "Jan De Nul Group" ("**Sofidra**" and, together with GUPCSA, Sacyr, Jan De Nul and Impregilo, each a "**Contractor Entity**" and, collectively the "**Contractor Entities**"), in connection with the execution, delivery and performance of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which each such Contractor Entity is party. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 108, dated as of August 1, 2014 (the "**VO No. 108**"), by and between GUPCSA, as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

In rendering the legal opinion set forth below, we have examined executed reproduction copies of the execution counterparts of the minutes of a meeting of the Shareholders of

Handwritten signature and initials in blue ink, located at the bottom right of the page.

GUPCSA, dated [____], 2014, by which the execution, delivery and performance by GUPCSA of each of the Opinion Documents to which it is party is authorized, and by which [____]²² is authorized to represent GUPCSA in the execution and delivery of each of the Opinion Documents to which it is party and any other related documents that may be necessary in relation therewith.

We have also examined the opinion of the law firm of (i) Cortes Abogados, dated [____], 2014, counsel to Sacyr in its jurisdiction of formation as to, in each case under the laws of such jurisdiction, (a) the due authorization of the Opinion Documents to which Sacyr is party and (b) the valid execution and delivery of the Opinion Documents to which Sacyr is party; (ii) Bonelli Erede Pappalardo, dated [____], 2014, counsel to Salini Impregilo in its jurisdiction of formation as to, in each case under the laws of such jurisdiction, (a) the due authorization of the Opinion Documents to which Salini Impregilo is party and (b) the valid execution and delivery of the Opinion Documents to which Salini Impregilo is party; (iii) [____], dated [____], 2014, counsel to Jan De Nul in its jurisdiction of formation as to, in each case under the laws of such jurisdiction, (a) the due authorization of the Opinion Documents to which Jan De Nul is party and (b) the valid execution and delivery of the Opinion Documents to which Jan De Nul is party; and (iv) DMS Di Stefano Moyse Avocats a la Cour, dated [____], 2014, counsel to Sofidra in its jurisdiction of formation as to, in each case under the laws of such jurisdiction, (a) the due authorization of the Opinion Documents to which Sofidra is party and (b) the valid execution and delivery of the Opinion Documents to which Sofidra is party.

We have also examined each of the Opinion Documents as executed by the parties thereto.

We have also examined reproduction copies of (i) a certificate of good standing of GUPCSA issued by the Public Registry of the Republic of Panama on [____], (ii) a certified copy of the share register of GUPCSA, and (iii) all other relevant corporate constitutive documents of GUPCSA, as well as any and all amendments thereto, and of all other records and documents as we have deemed relevant or necessary as the basis for the opinions hereinafter expressed.

In rendering the opinions contained herein, we have considered the laws of Panama as of the date hereof.

In stating our opinion, we have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to us.

Based upon the foregoing, we are of the opinion that:

1. GUPCSA is a *sociedad anónima* duly incorporated, organized and validly existing under the laws of the Republic of Panama.

²² Note: GUPC to confirm.



2. GUPCSA has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Opinion Documents to which it is party, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents to which it is party.

3. GUPCSA has taken all necessary corporate actions in compliance with its articles of incorporation (*pacto social*) and Panamanian law to (a) authorize the entry into and validly execute the Opinion Documents to which it is party, and (b) assume and perform the obligations contained in each of the Opinion Documents to which it is party.

4. GUPCSA has duly authorized and validly executed and delivered each of the Opinion Documents to which it is party in compliance with its articles of incorporation (*pacto social*) and Panamanian law.

5. Each of the Opinion Documents is legally valid, binding and enforceable under Panamanian law on each of the Contractor Entities party thereto.

6. The attorney-in-fact of GUPCSA appointed under the aforementioned corporate documents has all powers and authority necessary for the execution, on behalf of GUPCSA, of the Opinion Documents to which it is party.

7. The execution and performance by GUPCSA of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Panama currently in force or conflict with the articles of incorporation (*pacto social*) of GUPCSA.

8. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Panama, exemptions, registrations or filings other than those from the board of directors or the general shareholders meeting of the Company, as the case may be in accordance with its articles of incorporation (*pacto social*) and other applicable corporate resolutions are required under the laws of Panama or, to the best of our knowledge after due inquiry, under any other agreement and/or undertaking assumed by the Company in order for GUPCSA to incur the obligations referred to in the Opinion Documents to which it is party and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.

9. According to information obtained from corporate searches in the Public Registry Office and from limited on-line corporate searches as obtained through the Internet, no corporate action has been taken by, or legal proceedings commenced against, GUPCSA for the declaration of its insolvency (*concurso de acreedores*), winding-up (*liquidación*), dissolution, administration or reorganisation or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (*liquidador*), administrative receiver, trustee or similar officer.

We are licensed to practice law in Panama and we do not hold ourselves out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Panama. This opinion is effective as of the date hereof.

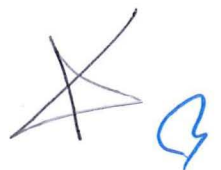
The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that



they may be relied upon by counsel to ACP in connection with the Opinion Documents and the transactions contemplated therein).

Very truly yours,

ALEMAN, CORDERO, GALINDO & LEE

Handwritten signature and initials in blue ink, located in the bottom right corner of the page. The signature appears to be a stylized 'X' or 'A' followed by a blue 'G'.

Schedule I

1. VO No. 108.
2. Project Completion Account Trust Agreement, dated as of [____], 2014, by and between GUPCSA, ACP and Citibank, N.A. Panama Branch, as Project Completion Account Trustee.
3. Second Confirmation of Joint and Several Guarantee, dated [____], 2014, by Sacyr, Salini Impregilo, Jan De Nul and Constructora Urbana, S.A. (collectively, the "**Shareholders**") in favor of ACP.
4. Confirmation of Advance Payment Joint and Several Guarantee, dated [____], 2014, by each of the Shareholders in favor of ACP.
5. Second Confirmation of Parent Company Guarantee, dated [____], 2014, by Sofidra in favor of ACP.
6. Confirmation of Advance Payment Parent Company Guarantee, dated [____], 2014, by Sofidra in favor of ACP.
7. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among each of the Shareholders, Sofidra and ACP (the "**Guarantor Arbitration Agreement**").

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a 'B'.

APPENDIX LL

FORM OF OPINION OF SPANISH COUNSEL TO SACYR

[LETTERHEAD OF CORTES ABOGADOS]

[____], 2014

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, República de Panama


In re: Legal opinion of Spanish counsel Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.)

Dear Mr. de la Guardia,

We have acted as special Spanish counsel to Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.), having its registered address at Paseo de la Castellana, n° 83-85, Madrid, 28046, Spain (the "**Company**") with CIF-A28013811, registered y Madrid Comercial Registry volume 1884, folio 165, page: M-33841, in connection with the execution, delivery and performance of each of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which the Company is a party. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement 108, dated August 1, 2014 (the "**VO No. 108**"), by and between Grupo Unidos por el Canal, S.A. ("**GUPCSA**"), as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

In rendering the opinions set forth below, we have examined executed reproduction copies of the execution counterparts of the following documents:

- (A) The deed granted by the notary of Madrid, don José Aristónico García-Sánchez, on May 30th, 2003 with proceedings number 1.230 and registered in Commercial Registry of Madrid, volume 1884, folio 165, sheet M-33841, registration 677, of merger



by absorption of the companies "Vallehermoso, S.A." as acquiring company, and "Grupo Sacyr, S.A." as acquired company.²³

The deed of the company partial bylaws' modification, authorized by the notary of Madrid, don Francisco Aguilar González, on July 15th, 2013 with proceeding number 1.398, by which the company changed its name to "SACYR, SA."

Certification of the Commercial Registry of Madrid, containing, the encoded and updated by-laws of the company.

(B) The deed granted by the Spanish public notary Mr. Francisco Javier Piera Rodríguez on November 30th, 2011, number 3,621 of his Protocol, by which the resolutions of Board of Directors adopted in its meeting held on November 10th, 2011 (which caused recording in the commercial registry: tomo 20.512, folio 149, sección: 8, hoja M-33841, inscripción: 888) were notarised. These resolutions delegate to the Chief Executive Officer of the Company, Mr. Manuel Manrique Cecilia, each and every one of the powers of the Board of Directors that may be legally and statutorily delegated by which Mr. Manuel Manrique Cecilia, on behalf of the Company, is entitled to sign, to execute and deliver each of the Opinion Documents as well as any other related documents as may be necessary in connection therewith; and

(C) the Opinion Documents.

We have also examined reproduction copies of the relevant corporate constitutive documents of the Company, as well as any and all amendments thereto, and of all other records and documents as we have deemed relevant or necessary as the basis for the opinions hereinafter expressed.

In rendering the opinion contained herein, we have considered the laws of Spain as of the date hereof.

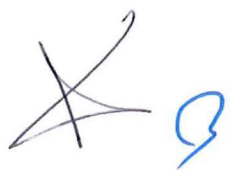
In stating our opinion, we have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to us.

Based upon the foregoing, we are of the opinion that:

1. The Company is a public limited liability company (sociedad anónima cotizada) with separate legal identity, validly incorporated and in existence under Spanish law. In particular, the Company is duly incorporated and registered at the Commercial Registry of Madrid at volume (tomo) 1.884, sheet (folio) 165, page (hoja) M-33841, with tax identification number (CIF) A28013811.

2. The Company has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the

²³ Please provide a copy.

Handwritten signature in black ink and blue initials in blue ink.

Opinion Documents, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents.

3. The Company has taken all necessary corporate actions in compliance with its by-laws and the laws of Spain to (a) authorize the entry into and validly execute the Opinion Documents, and (b) assume and perform the obligations contained in each of the Opinion Documents.

4. Each of the Opinion Documents has been duly authorized by the Company in compliance with its by-laws and the laws of Spain.

5. Each of the Opinion Documents has been validly executed and delivered by the Company, and is legally valid, binding and enforceable on the Company under the laws of Spain.

6. The choice of Panamanian law as the governing law of the Opinion Documents is binding and enforceable on the Company under the laws of Spain.

7. The Chief Executive Officer of the Company appointed under the aforementioned corporate documents has all powers and authority necessary for the execution of the Opinion Documents on behalf of the Company.

8. The execution and performance by the Company of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Spain currently in force or conflict with the by-laws or constitutional documents of the Company.

9. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Spain, exemptions, registrations or filings are required under the laws of Spain or under any other agreement and/or undertaking assumed by the Company in order for the Company to incur the obligations referred to in the Opinion Documents and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.

10. According to the information obtained from limited on-line corporate searches as obtained through the Internet, no corporate action has been taken by, or legal proceedings commenced against, the Company for the declaration of its insolvency (concurso), winding-up (liquidación), dissolution, administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.

We are licensed to practice law in Spain and we do not hold ourselves out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Spain. This opinion is effective as of the date hereof.

The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that they may be relied upon by counsel to ACP in connection with the Opinion Documents and the transactions contemplated therein).

A handwritten signature in blue ink, consisting of a stylized 'X' followed by a cursive 'S'.

Very truly yours,

[]

X B

Schedule I

1. Second Confirmation of Joint and Several Guarantee, dated as of [____], by Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), Ondernemingen Jan De Nul N.V., Constructora Urbana, S.A. and the Company (collectively, the “*Shareholders*”) in favor of ACP.

2. Confirmation of Advance Payment Joint and Several Guarantee, dated [____], 2014, by each of the Shareholders in favor of ACP.

3. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among each of the Shareholders, Sofidra S.A. and ACP (the “*Guarantor Arbitration Agreement*”).

A handwritten signature in blue ink, consisting of a stylized 'X' shape, followed by the number '3'.

APPENDIX MM

FORM OF OPINION OF ITALIAN COUNSEL TO IMPREGILO

[LETTERHEAD OF _____]

[____], 2014

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, República de Panama

In re: Legal opinion of Italian counsel to Salini Impregilo S.p.A.

Dear Mr. de la Guardia,

We have acted as special Italian counsel to Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), having its registered address at Via dei Missaglia, n° 97, Milan, 20142, Italy (the "**Company**") in connection with the execution and delivery of each of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which the Company is a party. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 108, dated August 1, 2014 (the "**VO No. 108**"), by and between Grupo Unidos por el Canal, S.A. ("**GUPCSA**"), as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

In rendering the opinions set forth below, we have examined executed reproduction copies of the execution counterparts of the following documents:

(A) [insert details of Power of Attorney]²⁴ on behalf of the Company, is entitled to sign, execute and deliver each of the Opinion Documents in favor of ACP as well as any other related documents as may be necessary in connection therewith; and

(B) the Opinion Documents.

²⁴ Note: BEP to confirm.



We have also examined reproduction copies of the relevant corporate constitutive documents of the Company, as well as any and all amendments thereto, listed in Schedule II and any other document relevant or necessary for the opinions hereinafter expressed.

In rendering the opinion contained herein, we have considered the laws of Italy as of the date hereof.

In stating our opinion, we have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to us.

Based upon the foregoing, we are of the opinion that:

1. The Company is a Corporation (Società per Azioni) duly organized and validly existing under the laws of Italy.

2. The Company has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Opinion Documents, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents.

3. The Company has taken all necessary corporate actions in compliance with its by-laws and Italian law to (a) authorize the entry into and validly execute the Opinion Documents and (b) assume and perform the obligations contained in each of the Opinion Documents.

4. Each of the Opinion Documents has been duly authorized by the Company in compliance with its by-laws and Italian law.

5. Each of the Opinion Documents has been validly executed and delivered by the Company, and is legally valid, binding and enforceable on the Company under the laws of Italy.

6. The choice of Panamanian law as the governing law of the Opinion Documents is binding and enforceable on the Company under the laws of Italy, with the exception of the application of overriding mandatory provisions and public policy principles provided for by the laws of Italy.

7. Each of Mr. [•] (*[insert relevant details]*)²⁵ and Mr. [•] (*[insert relevant details]*)²⁶ appointed under the aforementioned corporate documents has all powers and authority necessary for the execution of the Opinion Documents on behalf of the Company.

8. The execution and performance by the Company of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Italy currently in force or conflict with the by-laws or constitutional documents of the Company.

²⁵ BEP to provide.

²⁶ BEP to provide.



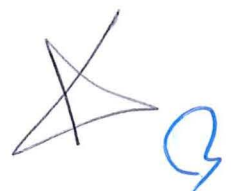
9. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Italy, exemptions, registrations or filings other than those from the board of directors of the Company, as the case may be in accordance with its by-laws and other applicable corporate resolutions are required under the laws of Italy in order for the Company to incur the obligations referred to in the Opinion Documents and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.

10. According to the information obtained from the Registry of Enterprises and from the Company itself after our due inquiry, as of the date hereof no corporate action has been taken by, or, to the best of the Company's knowledge, legal proceedings commenced against, the Company for its dissolution and/or in connection with any insolvency procedure under Italian law, including but not limited to, the declaration of its bankruptcy (fallimento), composition with creditors (concordato preventivo), voluntary and/or compulsory winding-up (liquidazione), administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidatore), administrative receiver, trustee or similar officer.

We are licensed to practice law in Italy and we do not hold ourselves out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Italy. This opinion is effective as of the date hereof.

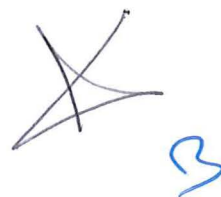
The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that they may be relied upon by counsel to ACP in connection with the Opinion Documents and the transactions contemplated therein).

Very truly yours,

A handwritten signature in blue ink, consisting of a stylized 'X' shape followed by a blue circular mark with a tail, resembling a stylized 'Q' or a flourish.

Schedule I

1. Second Confirmation of Joint and Several Guarantee, dated as of [____], 2014, by each of Sacyr, S.A. (now Sacyr Vallehermoso, S.A.), Ondernemingen Jan De Nul N.V., Constructora Urbana, S.A. and the Company (collectively, the "**Shareholders**") in favor of ACP.
2. Confirmation of Advance Payment Joint and Several Guarantee, dated [____], 2014, by each of the Shareholders in favor of ACP.
3. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among each of the Shareholders, Sofidra S.A. and ACP (the "**Guarantor Arbitration Agreement**").

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by the number '3' written in blue ink.

APPENDIX NN

FORM OF OPINION OF BELGIAN COUNSEL TO JDN

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

[____], 2014

In re: Legal opinion of Belgian legal adviser to Ondernemingen Jan De Nul NV

Dear Mr. de la Guardia,

For rendering this Opinion we have acted as Belgian legal advisers to the limited liability company incorporated under the laws of Belgium Ondernemingen Jan De Nul NV, having its registered address at Tragel 60, 9308 Hofstade-Aalst, Belgium with registration number 0406.041.406 (the "**Company**") in connection with the execution, delivery and performance of each of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which the Company is a party. This Opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 0XX, dated as of August 1, 2014 (the "**Variation Agreement No. 108**"), by and between Grupo Unidos por el Canal, S.A. ("**GUPCSA**"), as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

1. Belgian law

This Opinion is limited to Belgian law as applied by the Belgian courts and published and in effect on the date of this Opinion. This Opinion is given on the basis that all matters relating to it will be governed by Belgian law and that it (including all terms used in it) will be construed in accordance with Belgian law. We have made no investigation other than under Belgian law and we assume without any responsibility on our part that any referenced document is in all respect lawful and effective under any applicable law.

2. Scope of Inquiry

In rendering the opinions set forth below, we have only examined executed reproduction copies of the execution counterparts of the following documents:

A handwritten signature in black ink, consisting of a stylized 'X' shape, followed by blue initials 'B'.

- (A) an executed copy of the Board Resolutions dated [____], 2014 by which the Company is authorized to execute, deliver and perform each of the Opinion Documents and such other related corporate matters as may be necessary in connection therewith, and by which Mr. Johannes Kop is authorized to sign and execute each of the Opinion Documents on behalf of the Company, as well as any other related documents as may be necessary in connection therewith;
- (B) an executed copy of each of the Opinion Documents made by the Company;
- (C) all publications in the Annexes to the Belgian State Gazette (*Moniteur Belge / Belgisch Staatsblad*) in the period from 1 January 2009 until the date of this Opinion (included);
- (D) a copy of the consolidated Articles of Incorporation of the Company, as transmitted to us by the Company on [____], 2014; and
- (E) an official certificate dated [____] 2014 issued by the Clerk of the Commercial Court of Ghent – division Dendermonde stating that the Company has not been declared bankrupt, has not filed any request for judicial composition (*concordat judiciaire/gerechtigd akkoord*) or for the opening of a procedure of judicial restructuring (*réorganisation judiciaire/gerechtigd reorganisatie*) and/or has not been placed under controlled management (*administration provisoire/voorlopige bewindvoering*).

3. Assumptions

For the purpose of this Opinion, we have made the following assumptions:

- 3.1 All copy documents conform to the originals and all originals are genuine and complete.
- 3.2 Both the Articles of Incorporation referred to above under 3 (D) and the certificate referred to above under 3 (E) are complete, accurate and up-to-date as of the date of this Opinion.
- 3.3 The Opinion Documents, Variation Agreement No. 108 and the Contract are valid, binding and enforceable on each party under the laws of Panama, by which we understand it is governed.
- 3.4 The Opinion Documents have the same meaning and effect under the laws of Panama as they would have if they were to be interpreted under Belgian law by a Belgian court and there are no provisions of any law other than Belgian law that would affect this Opinion.
- 3.5 There are no dealings between the parties that will affect the Opinion Documents, Variation Agreement No. 108 and/or Contract.

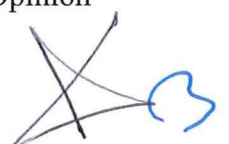
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- 3.6 The parties to the Opinion Documents comply with the requirement of good faith and fair dealing, their conduct does not contravene public order or moral standards and there is no material error on the part of any of them.

4. Opinion

Based on the documents referred to and the assumptions made in, respectively, paragraph 2 and paragraph 3 above, and subject to the qualifications in paragraph 5 below and to any matters not disclosed to us, we are of the following opinion:

1. The Company is a limited liability company (*société anonyme*) duly organized and validly existing under the laws of Belgium.
2. The Company has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Opinion Documents, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents.
3. The Company has taken all necessary corporate actions in compliance with its by-laws and the laws of Belgium to (a) authorize the entry into and validly execute the Opinion Documents, and (b) assume and perform the obligations contained in each of the Opinion Documents.
4. Each of the Opinion Documents has been duly authorized by the Company in compliance with its by-laws and the laws of Belgium.
5. Each of the Opinion Documents has been validly executed and delivered by the Company, and is legally valid, binding and enforceable on the Company under the laws of Belgium.
6. The choice of Panamanian law as the governing law of the Opinion Documents is binding and enforceable on the Company under the laws of Belgium.
7. Mr. Johannes Kop, acting as proxy holder under the aforementioned Board Resolutions dated [...], 2014 has all powers and authority necessary for the execution of the Opinion Documents on behalf of the Company.
8. The execution and performance by the Company of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Belgium currently in force or conflict with the by-laws or constitutional documents of the Company.
9. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Belgium, exemptions, registrations or filings other than those from the board of directors of the Company referred to in this Opinion are required under the laws of Belgium or under any other agreement and/or undertaking assumed by the Company in order for the Company to incur the obligations referred to in the Opinion



Documents and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.


10. No corporate action has been taken by, or legal proceedings commenced against, the Company for the declaration of its insolvency, bankruptcy (*faillite*), judicial composition or moratorium (*réorganisation judiciaire*), winding-up or dissolution (*liquidation*), administration or reorganization or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (*liquidateur*), administrative receiver, trustee or similar officer.

5. Reliance

The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that they may be relied upon by counsel to ACP in connection with the transactions contemplated by the Opinion Documents).

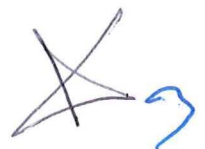
Very truly yours,

[]

 3

Schedule I

1. Second Confirmation of Joint and Several Guarantee, dated [____], 2014, by Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), Constructora Urbana, S.A. and the Company (collectively, the "**Shareholders**") in favor of ACP.
2. Confirmation of Advance Payment Joint and Several Guarantee, dated [____], 2014, by each of the Members in favor of ACP.
3. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among each of the Shareholders, Sofidra S.A. and ACP (the "**Guarantor Arbitration Agreement**").

A handwritten signature in black ink, followed by a blue checkmark or similar mark.

APPENDIX OO

FORM OF OPINION OF LUXEMBOURG COUNSEL TO SOFIDRA

[LETTERHEAD OF DSM DI STEFANO MOYSE]

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

Luxembourg, [____], 2014

Concerns: Luxembourg legal capacity opinion

Dear Mr. de la Guardia,

I have acted as special Luxembourg counsel to Sofidra S.A., having its registered seat at 34-36, Parc d'Activités capellen, L-8308 Capellen, Grand-Duchy of Luxembourg, registered with the Luxembourg register of commerce and companies (*Registre de Commerce et des Sociétés* Luxembourg – *RCSL*) under the number B 73723 (the "**Company**") in connection with the execution, delivery and performance of each of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which the Company is a party. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 108, dated August 1, 2014 (the "**VO No. 108**"), by and between Grupo Unidos por el Canal, S.A. ("**GUPCSA**"), as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

In rendering the opinions set forth below, I have examined executed reproduction copies of the execution counterparts of the following documents:

- (A) The minutes of the Company's board of directors meeting dated 3rd June 2014 containing a resolution granting Mr. Johannes Kop authority to sign, execute and deliver on behalf of the Company each of the Opinion Documents and to take such other actionss as he deems necessary, appropriate or advisable to carry out the intent or purpose of the foregoing; and
- (B) the Opinion Documents listed in Schedule I.



I have also examined reproduction copies of the relevant corporate constitutive documents of the Company made publicly available, for the opinions hereinafter expressed listed in Schedule II.

In rendering the opinions contained herein, I have considered the laws of Luxembourg as of the date hereof.

In stating my opinions, I have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to me.

Based upon the foregoing, I am of the opinion that:

1. The Company is a public share company (*Société Anonyme*) duly organized and validly existing under the laws of Luxembourg.
2. The Company has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Opinion Documents, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents.

The capacity of the Company to enter into the Opinion Documents may be subject to limitations imposed by any applicable suspension of payments, bankruptcy, controlled management, fraudulent transfer, fraudulent conveyance, insolvency, reorganization, moratorium, voluntary or judicial winding-up or similar laws affecting creditors' rights generally or by equitable principles of general application from time to time in effect, regardless of whether such enforceability is considered in a proceeding in equity or at law.

3. The Company has taken all necessary corporate actions in compliance with its by-laws and Luxembourg law to (a) authorize the entry into and validly execute the Opinion Documents and (b) assume and perform the obligations contained in each of the Opinion Documents.
4. Each of the Opinion Documents has been duly authorized by the Company in compliance with its by-laws and Luxembourg law.
5. Each of the Opinion Documents has been validly executed and delivered by the Company, and is legally valid and binding on the Company under the laws of Luxembourg.

The terms "valid", "legal" and "binding" (or any combination thereof) where used above, mean that the obligations assumed by the relevant party under the relevant document are of a type which Luxembourg law generally recognises and enforces; it does not mean that these obligations will necessarily be enforced in all circumstances in accordance with their terms; in particular, enforcement before the courts of Luxembourg will in any case be subject to (i) the nature of remedies available before Luxembourg courts (and nothing in this Opinion must be taken as indicating that specific performance or injunctive relief would be available as remedies for the enforcement of such obligations); (ii) the acceptance by such courts of internal jurisdiction; (iii) prescription or limitation periods (within which suits, actions or proceedings may be brought); and (iv) the availability of defences such as, without



limitation, set-off (unless validly waived), fraud, misrepresentation, unforeseen circumstances, undue influence, duress, error and counter-claim.

6. The choice of Panamanian law as the governing law of the Opinion Documents is binding on the Company under the laws of Luxembourg, with the exception of the application of the overriding mandatory provisions and the public policy principles provided for by the Luxembourg law.

A Luxembourg court may refuse to apply the governing law of the Opinion Documents if a party to the Opinion Documents would be subject to insolvency proceedings, in which case it could apply the insolvency laws of the jurisdiction in which such insolvency proceedings have been opened. Luxembourg courts would not apply a chosen foreign law if the choice were not made bona fide and/or if (i) the foreign law were not pleaded and proved or (ii) if pleaded and proved, such foreign law would be contrary to the mandatory rules of Luxembourg.

7. Mr. Johannes Kop, proxy holder of the Company, appointed under the aforementioned resolution adopted by the board of directors of the Company on 3rd June 2014 has all powers and authority necessary for the execution of the Opinion Documents on behalf of the Company.
8. The execution and performance by the Company of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Luxembourg currently in force or conflict with the by-laws or constitutional documents of the Company.

Any power of attorney and mandate, as well as any other agency provisions (including, but not limited to, powers of attorney and mandates expressed to be irrevocable) granted and all appointments of agents made by the Company (i) will in principle terminate by law and without notice upon the Company's bankruptcy (*faillite*) or judicial winding-up (*liquidation judiciaire*), and become ineffective in case of controlled management and suspension of payments (*gestion contrôlée et sursis de paiement*) and (ii) may be revoked by the Company despite the fact that they are expressed to be irrevocable.

9. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Luxembourg, exemptions, registrations or filings are required under the laws of Luxembourg in order for the Company to incur the obligations referred to in the Opinion Documents and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.
10. According to the information obtained from the register of commerce and companies of Luxembourg (Registre de commerce et des sociétés Luxembourg – RCSL), as of the date hereof no judicial decision has been filed with the RCSL by which the Company is declared in a state of bankruptcy (*faillite*), controlled management (*gestion contrôlée*), suspension of payments (*sursis de paiement*), or has entered into a composition with creditors (*concordat préventif de la faillite*), court-ordered liquidation (*liquidation judiciaire*) or reorganisation or any similar procedure affecting the rights of creditors generally.



I am licensed to practice law in Luxembourg and I do not hold myself out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Luxembourg. This opinion is effective as of the date hereof.

The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without my prior written consent (except that they may be relied upon by counsel to ACP in connection with the Opinion Documents and the transactions contemplated therein).

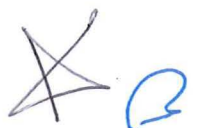
Very truly yours,

Marc Glodt
Avocat à la Cour

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Schedule I

1. Second Confirmation of Parent Company Guarantee, dated [____], 2014, by the Company in favor of ACP (the "**Second Confirmation of Parent Company Guarantee**").
2. Confirmation of Advance Payment Parent Company Guarantee, dated [____], 2014, by the Company in favor of ACP ("**Confirmation of Advance Payment Parent Company Guarantee**").
3. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among Sacyr, S.A. (formerly Sacyr Vallehermoso, S.A.), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), Ondernemingen Jan De Nul N.V., Constructora Urbana, S.A., the Company and ACP ("**Guarantor Arbitration Agreement**").

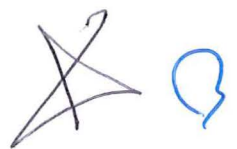
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Schedule II

1. A copy of the currently publicly available version of the articles of incorporation of the Company dated 20 October 2010 (the "**Articles of Incorporation**") ;
2. A copy of the minutes of the meeting of the board of directors (*administrateurs*) of the Company dated [*. *], resolving, inter alia, to approve the entry into and the performance by the Company of the Opinion Documents and granting a mandate to Mr. Jan Pieter De Nul for the signature of the Opinion Documents;
3. An electronic excerpt in respect of the Company from the RCSL dated [24 June 2014]²⁷;
4. A copy of a certificat de *non-inscription d'une décision judiciaire* (certificate as to the non-filing of a court decision) dated [24 June 2014]²⁸ with respect to the Company issued by the RCSL and in substance stating that, as of [24 June 2014], no judicial decisions have been filed with the RCSL by which the Company would have been declared in a state of bankruptcy (*faillite*), insolvency, moratorium, controlled management (*gestion contrôlée*), court-ordered liquidation (*liquidation judiciaire*), voluntary liquidation (*liquidation volontaire*) or suspension of payments (*sursis de paiement*) or would have entered into an arrangement with creditors (*concordat préventif de faillite*).

²⁷ This excerpt as well as the copy of the certificate in item #4 should bear a date in August, closer to the Effective Date.

²⁸ See FN above.



APPENDIX PP

FORM OF OPINION OF PANAMANIAN COUNSEL TO CUSA

[LETTERHEAD OF MORGAN & MORGAN]

[____], 2014

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

In re: Legal opinion of local counsel to Constructora Urbana, S.A.

Dear Mr. de la Guardia,

We have acted as special Panamanian counsel to CONSTRUCTORA URBANA, S.A., a company incorporated in Panama (the "**Company**"), in connection with the execution, delivery and performance of each of the documents set forth on Schedule I (each, an "**Opinion Document**" and, collectively, the "**Opinion Documents**") to which the Company is a party. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 108, dated August 1, 2014 (the "**VO No. 108**"), by and between Grupo Unidos por el Canal, S.A. ("**GUPCSA**"), as Contractor, and the Panama Canal Authority ("**ACP**"), as Employer. Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of Acceptance dated July 15, 2009, by and between GUPCSA, as Contractor, and ACP, as Employer (as amended, modified or supplemented, the "**Contract**").

In rendering the legal opinion set forth below, we have examined executed reproduction copies of the execution counterparts of the minutes of a meeting of the Shareholders of the Company, dated June 24, 2014, by which the execution, delivery and performance by the Company of each of the Opinion Documents is authorized, and by which Rogelio E. Aleman A. is authorized to represent the Company in the execution and delivery of each of the Opinion Documents and any other related documents that may be necessary in connection therewith.

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a small circular mark.

We have also examined each of the Opinion Documents as executed by the parties thereto.

We have also examined reproduction copies of the relevant corporate constitutive documents of the Company, as well as any and all amendments thereto, and of all other records and documents as we have deemed relevant or necessary as the basis for the opinions hereinafter expressed.

In rendering the opinions contained herein, we have considered the laws of Panama as of the date hereof.

In stating our opinion, we have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to us.

Based upon the foregoing, we are of the opinion that:

1. The Company is a *sociedad anónima* duly incorporated, organized and validly existing under the laws of the Republic of Panama.

2. The Company has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Opinion Documents, to carry on its business as presently conducted and to execute, deliver and perform each of the Opinion Documents.

3. The Company has taken all necessary corporate actions in compliance with its by-laws and Panamanian law to (a) authorize the entry into and validly execute the Opinion Documents, and (b) assume and perform the obligations contained in each of the Opinion Documents.

4. Each of the Opinion Documents has been duly authorized by the Company in compliance with its constitutional documents and Panamanian law.

5. Each of the Second Confirmation of Joint and Several Guarantee, the Confirmation of Advance Payment Joint and Several Guarantee and the Guarantor Arbitration Agreement has been validly executed and delivered by the Company, and each such Opinion Document is legally valid, binding and enforceable on the Company under Panamanian law.

6. The executive of the Company appointed under the aforementioned corporate documents has all corporate powers and authority necessary for the execution of the Opinion Documents on behalf of the Company.

7. The execution and performance by the Company of the Opinion Documents to which it is party and the assumption of its obligations thereunder do not violate any law in Panama currently in force or conflict with the constitutional documents of the Company.

8. No authorizations, approvals, licenses, consents, or other requirements of governmental, judicial or public bodies or authorities of or in Panama, exemptions,

A handwritten signature, possibly 'X' or 'S', followed by a blue handwritten number '3'.

registrations or filings are required under the laws of Panama or under any other agreement and/or undertaking assumed by the Company in order for the Company to incur the obligations referred to in the Opinion Documents and/or to execute and deliver such Opinion Documents or any other documents and instruments to be delivered by it pursuant thereto.

9. According to information obtained from corporate searches in the Public Registry Office and from limited on-line corporate searches as obtained through the Internet, no corporate action has been taken by, or legal proceedings commenced against, the Company for the declaration of its insolvency (concurso de acreedores), winding-up (liquidación), dissolution, administration or reorganisation or for the appointment of a receiver, administrator (judicial or otherwise), liquidator (liquidador), administrative receiver, trustee or similar officer.

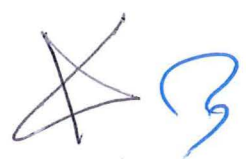
With regard to any opinion where the term enforceable or enforceability or a similar or equivalent term is used, said term means that the obligations assumed by the party against whom enforcement is sought are of a type that the courts of Panama will enforce. It does not mean that those obligations will necessarily be enforced in all circumstances in accordance with their terms.

We are licensed to practice law in Panama and we do not hold ourselves out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Panama. This opinion is effective as of the date hereof.

The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that they may be relied upon by counsel to ACP in connection with the Opinion Documents and the transactions contemplated therein).

Very truly yours,

Morgan & Morgan

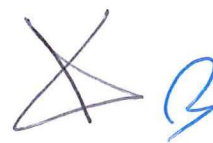
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Schedule I

1. Second Confirmation of Joint and Several Guarantee, dated as of [____], 2014, by Sacyr, S.A. (now Sacyr Vallehermoso, S.A.), Salini Impregilo S.p.A. (formerly Impregilo S.p.A.), Ondernemingen Jan De Nul N.V. and the Company (collectively, the “*Shareholders*”) in favor of ACP (the “*Second Confirmation of Joint and Several Guarantee*”).

2. Confirmation of Advance Payment Joint and Several Guarantee, dated [____], 2014, by each of the Shareholders in favor of ACP (the “*Confirmation of Advance Payment Joint and Several Guarantee*”).

3. Guarantor Arbitration Agreement, dated as of [____], 2014, by and among each of the Shareholders, Sofidra S.A. and ACP (the “*Guarantor Arbitration Agreement*”).

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a cursive 'B'.

APPENDIX QQ

FORM OF OPINION OF ENGLISH COUNSEL

LETTERHEAD OF []²⁹

[], 201[4]³⁰

Autoridad del Canal de Panama
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

Legal opinion of English counsel to the Contractor Entities (as defined below)

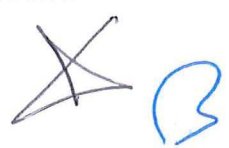
Dear Sir/Madam,

We have acted as special English counsel to (1) SACYR, S.A. (formerly SACYR VALLEHERMOSO, S.A.), a company incorporated in Spain ("*Sacyr*"), (2) ONDERNEMINGEN JAN DE NUL N.V., a company incorporated in Belgium ("*Jan De Nul*"), (3) CONSTRUCTURA URBANA, S.A., a company organized under the laws of Panama ("*CUSA*"), (4) SALINI IMPREGILO S.p.A. (formerly IMPREGILO, S.p.A.), a company incorporated in Italy ("*Impregilo*"), and (5) SOFIDRA S.A., a company incorporated in Grand Duchy of Luxembourg and operating under the commercial name "Jan De Nul Group" ("*Sofidra*", and each of Sacyr, Jan De Nul, CUSA, Impregilo and Sofidra, a "*Contractor Entity*", and collectively the "*Contractor Entities*"), in connection with the documents set forth on Schedule I (each, an "*Opinion Document*" and, collectively, the "*Opinion Documents*"). This opinion is rendered to you pursuant to Variation Agreement Number 108, dated August 1, 2014 (the "*VO No. 108*"), by and between Grupo Unidos por el Canal, S.A. ("*GUPCSA*"), as Contractor, and the Panama Canal Authority ("*ACP*"), as Employer.

Unless otherwise defined herein (including Schedule I, which is a part hereof), capitalized terms are used herein as defined in Contract No. CMC-221427, Design and Construction for the Third Set of Locks, Panama Canal, tendered under RFP #76161 by Letter of

²⁹ To be provided by English counsel for the Contractor Entities (as defined in para 1).

³⁰ This form is to be used to issue the opinion on the dates when, and with respect to, the Other Existing Advances Guarantees (if any) and the Replacement Performance and Defects Guarantees (if any) are executed and delivered.

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and a 'B'.

Acceptance dated July 15, 2009, by and between GUPCSA and ACP (as amended, modified or supplemented, the "**Contract**").

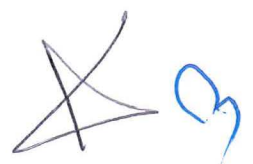
[INSERT CUSTOMARY ASSUMPTIONS/QUALIFICATIONS]

Based upon the foregoing, we are of the opinion that each of the Opinion Documents is legally valid, binding and enforceable under the laws of England and Wales on each of the Contractor Entities party thereto.

We are licensed to practice law in England and Wales.


Very truly yours,

[_____]

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Schedule I

1. [Replacement Performance and Defects Joint and Several Guarantee, dated [____], by the Contractor Entities in favor of ACP.]
2. [Replacement Performance and Defects Parent Guarantee, dated [____], by Sofidra in favor of ACP.]
3. [Other Existing Advances Joint and Several Guarantee, dated [____], by the Contractor Entities in favor of ACP.]
4. [Other Existing Advances Parent Guarantee, dated [____], by Sofidra in favor of ACP.]

 3

APPENDIX RR

**FORM OF OPINION OF PANAMANIAN COUNSEL TO PROJECT
COMPLETION ACCOUNT TRUSTEE**

[LETTERHEAD OF ARIAS FÁBREGA & FÁBREGA]

[____], 2014

Autoridad del Canal de Panama
Mr. Jorge de la Guardia
Employer's Representative
Building 720, El Prado
Balboa, Republic of Panama

**In re: Legal opinion of local counsel to Citibank, N.A. Panama
Branch, as trustee**

Dear Mr. de la Guardia,

We have acted as special Panamanian counsel to Citibank, N.A., Panama Branch, a National Association incorporated under the Laws of the United States of America, acting through its registered branch in Panama (the "**Trustee**"), in connection with the execution, delivery and performance of the Project Completion Account Trust Agreement, dated as of [____], 2014 (the "**Trust Agreement**"), among (i) Grupo Unidos por el Canal, S.A., as Contractor ("**GUPCSA**"), (ii) the Panama Canal Authority, as Employer ("**ACP**" and each of GUPCSA and ACP, a "**Settlor**", and collectively, the "**Settlers**"), and (iii) the Trustee. This opinion is rendered to you pursuant to paragraph 9 of Variation Agreement Number 108, dated August 1, 2014 (the "**VO No. 108**"), by and between GUPCSA, as Contractor, and ACP, as Employer. Unless otherwise defined herein, capitalized terms are used herein as defined in the Trust Agreement.

In rendering the legal opinion set forth below, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the following documents:

1. an executed copy of the Trust Agreement; and

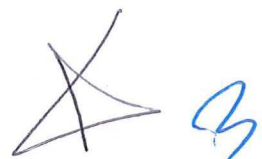


2. a copy of the general power of attorney granted by the Trustee to Mr. [] by means of Public Deed N° _____ of the Notary [] of the Province of Panama, Registered at Microjacket [], Document [] of the Public Registry Office, authorizing Mr. [] to represent the Trustee in the execution and delivery of the Trust Agreement and any other related documents that may be necessary in connection therewith (the "Power of Attorney").

In the examination of the items above, we have assumed, without any independent investigation:

- (i) the legal capacity of natural persons;
- (ii) the genuineness of all signatures;
- (iii) the authenticity of all agreements and documents reviewed by us for purposes of rendering this opinion letter (the "Reviewed Documents") as originals and the conformity to the originals of all Reviewed Documents reviewed by us as copies;
- (iv) other than as expressly set forth in paragraph 1 below with respect to the registration of the Trustee's branch in Panama, the due organization, existence and good standing of all parties to the Reviewed Documents;
- (v) other than as expressly set forth in paragraph 2 below with respect to the Trustee, the capacity, power and authority of each of the parties thereto to execute and deliver the Trust Agreement, and, other than as expressly set forth in paragraph 3 below with respect to the Trustee, the due authorization, execution and delivery by each such party of the Trust Agreement;
- (vi) that each of the Reviewed Documents is, under their respective governing laws, a legal, valid and binding obligation, enforceable against each of the parties thereto in accordance with their respective terms;
- (vii) that the Power of Attorney has neither been revoked nor amended by the Trustee; and
- (viii) that there are no shareholders' agreements or any other similar document, not subject to mandatory registration in the Public Registry Office of the Republic of Panama, governing the rights and obligations of the shareholders of the Trustee or by which any of the shareholders or directors of the Trustee is bound.

We have also examined reproduction copies of the relevant corporate constitutive documents of the Trustee, as well as any and all amendments thereto, and of all other records and documents as we have deemed relevant or necessary as the basis for the opinions hereinafter expressed.

Handwritten signature and initials in blue ink, consisting of a stylized 'X' and the number '3'.

In rendering the opinions contained herein, we have considered the laws of Panama as of the date hereof.

In stating our opinion, we have assumed, without any independent investigation or verification of any kind, the genuineness of all signatures on original or certified copies submitted to us.

Based upon the foregoing, we are of the opinion that:

1. The Trustee's Panama branch is registered at volume 39, folio 35, entry 5021 of the Mercantile Section of the Public Registry Office.

2. The Trustee has all legal capacity, power and authority (corporate and otherwise) to enter into, exercise its rights under and fulfill its obligations arising out of the Trust Agreement, to carry on its business as presently conducted and to execute, deliver and perform the Trust Agreement.

3. The Trustee has taken all necessary corporate actions in compliance with its by-laws and Panamanian law to authorize the execution, delivery and performance by it, through its authorized representative, of the Trust Agreement.

4. The Trustee has duly authorized and validly executed and delivered the Trust Agreement in compliance with its by-laws and Panamanian law.

5. The Trust Agreement is legally valid, binding and enforceable on the Trustee under Panamanian law.

We are licensed to practice law in Panama and we do not hold ourselves out as being conversant with, and express no opinion as to, the laws of any jurisdiction other than those of Panama. This opinion is effective as of the date hereof.

The opinions expressed herein are solely for your benefit and may not be relied upon in any manner or for any purpose by any other person without our prior written consent (except that they may be relied upon by counsel to ACP in connection with the Trust Agreement and the transactions contemplated therein).

Very truly yours,

ARIAS FÁBREGA & FÁBREGA

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a blue 'B'.