

PANAMA CANAL AUTHORITY		VARIATION	PAGE 1 OF 5
1. REQUEST FOR PROPOSAL No.:	2. CONTRACT No.:	3. DATE:	4. VARIATION No.:
RFP-76161	CMC-221427	August 25, 2015	137

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].]
	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 attached

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)	(Employer's Representative/Contracting Officer's signature)
	16. DATE: 25/8/2015

August 25, 2015

Design and Construction of the Third Set of Locks

This Variation Agreement Number 137, is dated as of the 25th day of August 2015 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 organized 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 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) The Employer by letter dated July 21, 2014 (IAE-UPC-2154), requested the Contractor a price proposal pursuant to Sub-Clause 13.3 [Variation Procedure], to provide four capstans to be positioned on each of the following approach structures: Atlantic Northeast; Pacific Northwest, and the Pacific Southwest, for a total of twelve additional capstans.
- (c) The Employer by letter dated July 24, 2014 (IAE-UPC-2157), requested the Contractor a price proposal pursuant to Sub-Clause 13.3 [Variation Procedure], to provide distance markers, telephones and public address systems with electrical receptacles affixed to station posts to be positioned on each of the following approach structures: Atlantic Northeast, Pacific Northwest, and Pacific Southwest.

Provided the acceptance of the Contractor's proposal, the following paragraphs of the Employer's requirements would be varied:

- Paragraph 1.03.A.4.b.1 of Section 01 81 16.16 [Lock Appurtenances]
 - Paragraph 1.03.A.4.b.2 of Section 01 81 16.16 [Lock Appurtenances]
 - Paragraph 1.03.A.4.b.5 of Section 01 81 16.16 [Lock Appurtenances]
 - Paragraph 1.03.D.4.b 3 of Section 27 31 23 [IP-Based Telephone Systems]
 - Paragraph 1.03.B.13.a.1 of Section 27 51 16 [Public Address Systems]
- (d) The Contractor by letter dated November 6, 2014 (GUPC-IAE-3245), submitted a proposal related to the design, procurement and installation by the Contractor of additional equipment for a total amount of \$2,510,000.00 with no time implications to the Locks Contract. The economical proposal could be reduced in \$200,000.00 if the Employer considered eliminating the power outlets (120V) from the station posts. Additionally the Employer's consideration of the following issues was requested: (i) spare conduits capacity could not be contemplated in this area due to space



constraints (ii) spare capacity for DC System and MCC would be reduced.

- (e) The Employer by letter dated December 17, 2014 (IAE-UPC-2358), requests clarification on the difference of the unit prices proposed for the capstans of the Atlantic approach structure (\$12,372.71) and the Pacific approach structures (\$21,822.37).
- (f) The Contractor by letter dated January 2, 2015 (GUPC-IAE-3319) informs that the difference in price is due to a mistake and the correct unit price for the capstans at both sites is \$21,822.37.
- (g) The Employer by letter dated January 22, 2015 (IAE-UPC-2394) has responded to the Contractor's letter GUPC-IAE-3319, stating that:
 - (i) the Contractor has not submitted a revised price proposal, but the Employer calculates that the new direct cost considering the correct unit prices for the capstans would be \$1,832,411.13 plus overheads and 5% profit;
 - (ii) the Employer is not prepared to agree to a standard percentage uplift for overheads. However, a Variation will be issued pursuant to Sub-Clause 13 [Variations and Adjustments] on the basis that the direct cost and profit are agreed pursuant to paragraph (i) above, but the overhead payment will be the subject of a determination by the Employer's Representative.
- (h) Therefore, subject to the terms of this Variation Agreement No. 137, the Parties have agreed to a variation of the Contract as hereinafter stated, but not further or otherwise.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **Volume II, Part 1, Section 01 81 16.16 [Lock Appurtenances]:** Delete Paragraph 1.03 A. 2.b. in its entirety and replace it with the following:
 - b. Capstans shall be located along the lock walls so that at least one is available for use with up to 8 bollards. There shall be 4 capstans located along each of the approach structures.*
2. **Volume II, Part 1, Section 01 81 16.16 [Lock Appurtenances]:** Delete Paragraph 1.03 A. 4.b. 1) in its entirety and replace it with the following:
 - 1). The markings shall be located 3 m above the top of the lock chamber and approach structure."*
3. **Volume II, Part 1, Section 01 81 16.16 [Lock Appurtenances]:** Delete Paragraph 1.03 A. 4.b. 1) in its entirety and replace it with the following:

August 25, 2015

Design and Construction of the Third Set of Locks

- 1). *The markings shall be located 3 m above the top of the lock chamber and approach structure."*
4. **Volume II, Part 1, Section 01 81 16.16 [Lock Appurtenances]:** Delete Paragraph 1.03 A. 4.b. 2) in its entirety and replace it with the following:
 - 2) *There shall be a flat vertical surface on which the numbers identifying the distance traveled/remaining in the chamber and along the approach structures are placed. The posts shall be spaced at intervals of 30.48 m (100 feet) and located along the chamber and approach structures so that the markings on the upstream faces are the reciprocals of the markings on the downstream faces. The distance markings shall be in feet.*
5. **Volume II, Part 1, Section 01 81 16.16 [Lock Appurtenances]:** Delete Paragraph 1.03 A. 4.b. 5) in its entirety and replace it with the following
 - 5) *They shall be placed so that they are visible from both Northbound and Southbound vessels entering the chamber or along the approach structure and shall not be obstructed by other fixtures on the post.*
6. **Volume II, Part 2, Section 27 31 23 [IP-Based Telephone Systems]:** Delete Paragraph 1.03.D.4.b. 3) in its entirety and replace it with the following
 - 3) *Poles of Section 01 81 16.16 (Locks Appurtenances), along each locks wall and approach structure, at distances not to exceed 122 m (400').*
7. **Volume II, Part 2, Section 27 51 16 [Public Address Systems]:** Delete Paragraph 1.03.D.10.b. in its entirety and replace it with the following:
 - b. *Units for exterior use shall be mounted on poles or station posts along the locks walls and approach structure, and as specified on Section 01 81 16.16 (Locks Appurtenances).*
8. **Volume II, Part 2, Section 26 05 43 [Underground Ducts and Raceways for Electrical Systems]:** Delete Paragraph 1.04.A.5. in its entirety and replace it with the following:
 5. **Spare Ducts:** *The Contractor shall leave spare ducts amounting to 100% of the ducts used to accommodate the various cables required by the final design. Due to space constraint this requirement is not applicable at the approach structure where the Contractor shall leave a minimum of one spare duct.*
9. Subject to the terms of this Variation Agreement No. 137, the Parties have agreed the Contractor is entitled to an increase in the Contract Price of USD 1,924,031.69 (Direct Cost: USD 1,832,411.13 + Profit (5%) USD 91,620.56), excluding overheads, to provide (design, procure and install) the following additional equipment:

August 25, 2015

Design and Construction of the Third Set of Locks

- (i) four capstans, and
- (ii) distance markers, telephones and public address systems with electrical receptacles affixed to station posts

on each of the following approach structures: Atlantic Northeast, Pacific Northwest and, Pacific Southwest, as described in GUPCSA's proposal attached to letter GUPC-IAE-3245, and as further revised in letter GUPC-IAE-3319.

10. Overhead payment plus corresponding profit will be the subject of a determination by the Employer's Representative pursuant to Sub-Clause 3.5 [*Determinations*] of the Conditions of Contract.
11. All of the Contractor's other existing and ongoing obligations pursuant to the Contract remain unaffected and nothing within this Variation Agreement No. 137 is intended to be a waiver or relaxation of the Contractor's obligations under the Contract, save only as expressly stated herein.
12. The Parties agree that, save as expressly stated in this Variation Agreement No. 137 the Contractor shall have no claims for additional time or any other relief or entitlement of any kind as a direct consequence of this Variation Agreement No. 137 or arising out of it or in any way in connection with it.
13. This Variation Agreement No. 137 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.

In Witness whereof the Parties hereto have caused this Variation Agreement No. 137 to the Contract to be executed on the 25th day of August of the year 2015 by their duly authorized representatives.

For ACP



Jorge de la Guardia
Employer's Representative

For GUPCSA



Giuseppe Quarta
Contractor's Representative
