

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 6
1. REQUEST FOR PROPOSAL No.: 76161	2. CONTRACT No.: CMC-221427	3. DATE: July 8, 2015
		4. VARIATION No.: 152

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) Grupo Unidos por el Canal, S.A. Building 22B, Brujas Road Cocoli, Republic of Panama	7. CONTRACTOR'S TELEPHONE NUMBER: 507-316-9900
	8. CONTRACTOR'S FACSIMILE NUMBER:

9. VARIATION:

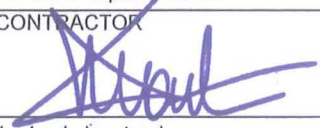
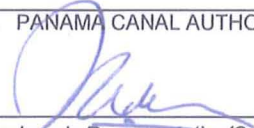
The contract referred to in item No. 2 is hereby varied as set forth in item 10, entitled "DESCRIPTION OF VARIATION".
YES. NO. The contractor shall send a copy, duly signed, of this Variation to the Employer's Representative/Contracting Officer.

	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], 4 th 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) Giuseppe Quarta Contractor's Representative	12. NAME AND TITLE OF THE EMPLOYER'S REPRESENTATIVE/CONTRACTING OFFICER (Type or print) Jorge de la Guardia, Employer's Representative
13. CONTRACTOR  (Authorized signature)	14. DATE: 15. PANAMA CANAL AUTHORITY  (Employer's Representative/Contracting Officer's signature)
	16. DATE: 8/11/2015

This Variation Agreement Number 152, is dated as of 8th day of July 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 Contractor requested through RFV No. 289 dated April 17, 2015 that the Employer makes a further advance payment of the Contract Price to the Contractor of USD 120,000,000 (One Hundred and Twenty Million Dollars), as set out in RFV No. 289.
- (c) In response to RFV No. 289, the Employer and the Contractor formalized Variation Agreement No. 149, dated June 5, 2015. Pursuant to Variation Agreement No. 149 the Employer agreed to make a further advance payment of the Contract Price to the Contractor of up to a maximum of USD 120,000,000 (One Hundred and Twenty Million Dollars) to be applied for payments to approved specified subcontractors and suppliers subject to the Contractor providing to the Employer the following documents at the following times:
 - (i) the VO No. 149 Bond Issuer Confirmation no later than 10 Business Days after the date of Variation Agreement No. 149;
 - (ii) the VO No. 149 Guarantee Security no later than 10 Business Days after the date of Variation Agreement No. 149;
 - (iii) the VO No. 102 Bond Issuer Confirmation, the VO No. 109 Bond Issuer Confirmation, the VO No. 110 Bond Issuer Confirmation, the VO No. 111 Bond Issuer Confirmation, the VO No. 112 Bond Issuer Confirmation, the VO No. 116 Bond Issuer Confirmation, the VO No. 117 Bond Issuer Confirmation, the VO No. 133 Bond Issuer Confirmation, the VO No. 136 Bond Issuer Confirmation all of which shall be provided in each case no later than 10 Business Days after the date of Variation Agreement No. 149; and

July 8, 2015

Design and Construction of the Third Set of Locks

- (iv) the VO No. 149 Guarantee Confirmations no later than 10 Business Days after the date of Variation Agreement No. 149.

Furthermore, if the Contractor failed to comply with any or all of the conditions of Variation Agreement No. 149 as set out at sub-paragraphs (i) to (iv) of paragraph (c) above, then pursuant to sub-paragraph (c) of Sub-Clause 14.2L [*Advance Payment for VO No. 149 Suppliers*] the whole of the balance of the Advance Payment for VO No. 149 Suppliers should immediately become due and payable by the Contractor to the Employer.

- (d) The Contractor has failed to provide in the agreed times, the following documents :
 - (i) the VO No. 149 Guarantee Security;
 - (ii) the VO No. 149 Guarantee Confirmations.
- (e) The Contractor has requested through RFV No. 293 dated June 18, 2015, and RFV No. 295 dated July 3, 2015, extensions to the period within which it is to provide the VO No. 149 Guarantee Security pursuant to sub-paragraphs (b)(ii) and (b)(iv) of Sub-Clause 14.2L [*Advance Payment for VO No. 149 Suppliers*] of 20 and 30 additional Business Days respectively, after the date of VO No. 149.
- (f) The Employer has responded through letter IAE-UPC-2579 dated June 29, 2015, and IAE-UPC-2591 dated July 8, 2015, indicating to the Contractor that the Employer in its sole discretion will permit the Contractor to submit to the Employer, the entire VO No. 149 Guarantee Security and the VO No. 149 Guarantee Confirmations, as defined in Variation Agreement No. 149, by no later than 30 Business Days after the date of Variation Agreement No. 149 but subject always to the Parties agreeing a formal variation to reflect such revised arrangements.
- (g) As a condition to the Employer permitting the extension of the period within which the Contractor is to provide the VO No. 149 Guarantee Security and VO No. 149 Guarantee Confirmations as referred to in sub-paragraph (f) above the Contractor shall provide the VO No. 152 Bond Issuer Confirmation in the form set out in Appendix 1 to this Variation Agreement No. 152 no later than 10 calendar days after the date of this Variation Agreement No. 152.
- (h) Therefore, subject to the terms of this Variation Agreement No. 152, the Parties have agreed to a variation to the Contract as hereinafter stated, but not further or otherwise.

THE PARTIES HEREBY AGREE AS FOLLOWS:

The Employer and the Contractor agree to vary the Contract as follows:

July 8, 2015

Design and Construction of the Third Set of Locks

1. In this Variation Agreement No. 152, 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.
2. It is agreed that this Variation Agreement No. 152 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. 152 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 date of this Variation Agreement No. 152 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. 152 will have the effect of changing or extending the Time for Completion or any Milestone Dates under the Contract or entitle the Contractor to Excusable Delay. For the avoidance of doubt, this Variation Agreement No. 152 and the Advance Payment for VO No. 149 Suppliers being made to the Contractor in Variation Agreement No. 149 is without prejudice to each Party's position in any current or future DAB and/or arbitration proceedings pursuant to Sub-Clauses 20.4 [Obtaining Dispute Adjudication Board's Decision] and/or 20.6 [Arbitration] respectively (including but not limited to ICC References 20910/ASM and 20911/ASM).
4. Save in relation to breaches of, or failure by either Party to comply with, the terms of this Variation Agreement No. 152, the Parties agree that they shall 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. 152.
5. Further, the Contractor's obligations as to the progress of the Works and to complete the Works and comply with the Contract remain in all respects unaffected and nothing within this Variation Agreement No. 152 is intended to be a waiver or relaxation of the Contractor's obligations under the Contract, save only as

July 8, 2015

Design and Construction of the Third Set of Locks

expressly stated herein and the Contract shall remain fully effective as varied herein and the Contract shall have effect as though the provisions contained in this Variation Agreement No. 152 had been originally contained in the Contract.

6. This Variation Agreement No. 152 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.
7. Subject to paragraph 9 of this Variation Agreement No. 152, the Parties agree to amend Sub-Clause 1.1 [*Definitions*] of the Contract as follows:

The Parties agree to add the following definitions to Sub-Clause 1.1 [*Definitions*] of the Contract under Sub-Clause 1.1.6 [*Other Definitions*] (which shall be added in proper alphabetical order but without any number):

"Variation Agreement No. 152" means Variation Agreement Number 152, dated July 8, 2015, between the Employer and the Contractor.

"VO No. 152 Bond Issuer Confirmation" means a written confirmation (or rider, amendment or modification, as applicable), in the form set out in Appendix 1 to Variation Agreement No.152 and otherwise acceptable to the Employer, from the issuer of the Payment Bond, consenting to the modifications to the Contract made pursuant to the terms of Variation Agreement No. 152 and confirming the continuing validity of such bond notwithstanding such modifications.

8. The Parties agree to amend Sub-Clause 14.2L [Advance Payment for VO No. 149 Suppliers] as follows:
 - (a) in sub-paragraph (b)(ii) of Sub-Clause 14.2L in the first line delete the words "10 Business Days" and replace it with "30 Business Days"; and
 - (b) in sub-paragraph (b)(iv) of Sub-Clause 14.2L in the first line delete the words "10 Business Days" and replace it with "30 Business Days".
9. The Parties further agree that the modifications to the Contract as set out in and in accordance with paragraph 8 of this Variation Agreement No. 152 are subject to the Contractor delivering to the Employer the VO No. 152 Bond Issuer Confirmation duly executed by the parties thereto no later than 10 calendar days after the date of this Variation Agreement No. 152, failing which the amendments set out in paragraph 8 above shall be of no effect and void.
10. Nothing in this Variation Agreement No. 152 is intended to or does increase the Contract Price or the Further Contract Payment Amount.
11. 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,

July 8, 2015

Design and Construction of the Third Set of Locks

performance, signing, execution or delivery of them) to give full effect to this Variation Agreement No. 152 and secure the full benefit of the rights, powers and remedies conferred upon it in this Variation Agreement No. 152.

In Witness whereof the Parties hereto have caused this Variation Agreement No. 152 to the Contract to be executed on the 8th day of July 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

Appendix 1

VO No. 152 Bond Issuer Confirmation

[Letterhead of Zurich]

_____, 2015

Autoridad del Canal de Panama
Building 740, Corozal West
Panama, Republica of Panama

Reference: Contract No. CMC-221427, Design and Construction of the Third Set of
Locks, Panama Canal
Confirmation regarding Variation Agreement No. 152

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 #76161 between you, as owner and Employer thereunder (the "Owner") and Grupo Unidos por el Canal, S.A., as contractor (the "Contractor"); and (ii) the payment bond, Bond no. 08960194, dated August 7, 2009, in an amount of USD 50,000,000 (Fifty Million Dollars), issued in the Owner's favor in respect of the Contract (as amended, supplemented or otherwise modified from time to time, the "Payment Bond"). 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. 152, dated July 8, 2015 ("Variation Agreement No. 152") to the Contract, executed by the Owner and the Contractor, which provides for certain modifications to the Contract relating to an extension of the time within which the Contractor is required to provide the VO No. 149 Guarantee Security and the VO No. 149 Guarantee Confirmations to the Employer (as defined therein).

The undersigned, as Surety under and as defined in the Payment Bond, hereby consents to the aforementioned modifications to the Contract and confirms to you, as Owner and beneficiary under the Payment Bond, the continued validity of the Payment Bond in the respective amounts originally stated therein, notwithstanding the modifications set forth in Variation Agreement No. 152.

Nothing in this confirmation letter is intended to or shall waive, alter, amend or otherwise affect any of the terms or conditions of the Payment Bond, other than as stated herein.

ZURICH AMERICAN INSURANCE
COMPANY, as Surety under the Payment Bond

By: _____
Name:
Title:

ACCEPTED:

AUTORIDAD DEL CANAL DE PANAMA,
as Owner under the Contract and beneficiary under the Payment Bond referred to above

By: _____
Name:
Title: