

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 5
1. REQUEST FOR PROPOSAL No.: 76161	2. CONTRACT No.: CMC-221427	3. DATE: April 5, 2016
		4. VARIATION No.: 165

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".

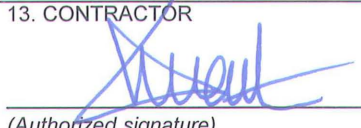
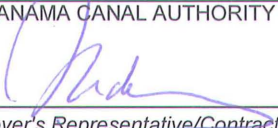
YES. NO. The contractor shall send a copy, duly signed, of this Variation to the Employer's Representative/Contracting Officer.

	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], 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) 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: 5/14/2016
	15. PANAMA CANAL AUTHORITY  (Employer's Representative/Contracting Officer's signature)
	16. DATE: 5/14/2016

April 5, 2016

Design and Construction of the Third Set of Locks

This Variation Agreement Number 165, is dated as of the 5th day of April 2016 and made

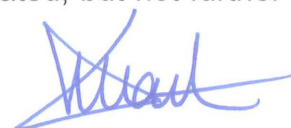
Between: Autoridad del Canal de Panama, Building 740, Corozal, Panama, Republic of Panama (hereinafter called the "**Employer**") on the one part,

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) Pursuant to Sub-Clause 14.2J [Repayment of Other Existing Advances], the Contractor was due to repay the Other Existing Advances on December 31, 2015, unless the Contractor provided to the Employer the Other Existing Advances LOC Extension providing a December 31, 2018 maturity date by no later than 45 days prior to January 1, 2016. The Contractor did not provide the Other Existing Advances LOC-Extension by the date that was 45 days prior to January 1, 2016 or at all.
- (c) Pursuant to Variation Agreement No 161 the Employer granted the Contractor a temporary deferral of the repayment of the outstanding balance of the Other Existing Advances subject to certain conditions. One of the conditions was the Contractor providing to the Employer a number of documents no later than 15 Business Days after the date of Variation Agreement No. 161.
- (d) By RFV No. 319 dated March 19, 2016, the Contractor requested an extension of 5 business days for the delivery of such pending documents, in view of which the period of 15 Business Days referred to in Recital (c) above would have to be extended to 20 Business Days.
- (e) Accordingly, the Employer responded through IAE-UPC-2935 dated March 23, 2016, indicating to the Contractor that the Employer would permit the extension of the period of 15 Business Days referred to in Recital (c) to 20 Business Days and subject to the Parties entering into a variation agreement, to be drafted by the Employer, with no time or cost implications for the locks contract.
- (f) Therefore, subject to the terms of this Variation Agreement No. 165, the Parties have agreed to a variation to the Contract as hereinafter stated, but not further or



THE PARTIES HEREBY AGREE AS FOLLOWS:

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

1. In this Variation Agreement No. 165, 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. 165 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. 165 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. 165 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. 165 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. 165 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. 165, 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. 165.
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. 165 is intended to be a waiver or



April 5, 2016

Design and Construction of the Third Set of Locks

relaxation of the Contractor's obligations under the Contract, save only as 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. 165 had been originally contained in the Contract.

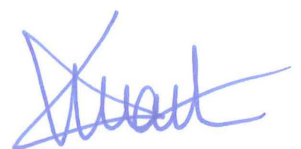
6. This Variation Agreement No. 165 shall be governed by the Laws of the Republic of Panama and is deemed to be incorporated into and form an integral part of the Contract.
7. The Parties hereby agree to amend Sub-Clause 1.1 [*Definitions*] of the Contract as follows:

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. 165" means Variation Agreement Number 165, dated April 5, 2016 between the Employer and the Contractor.

"Variation Agreement No 165 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. 165 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. 165 and confirming the continuing validity of such bond notwithstanding such modifications.

8. The Parties agree to amend Sub-Clause 14.2J [Repayment of Other Existing Advances] as follows:
 - a) in sub-clause (bA) of Sub-Clause 14.2J, the words "15 Business Days" shall be deleted and shall be replaced with "20 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. 165 are subject to the Contractor delivering to the Employer the VO No. 165 Bond Issuer Confirmation, duly executed by the parties thereto no later than 10 calendar days after the date of this Variation Agreement No. 165, failing which the amendments set out in paragraph 8 above shall be of no effect and void
10. Nothing in this Variation Agreement No. 165 is intended to or does increase the Contract Price or the Time for Completion.
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, performance, signing, execution or delivery of them) to give full effect to this Variation Agreement No. 165 and secure the full benefit of the rights, powers and remedies conferred upon it in this Variation Agreement No. 165.



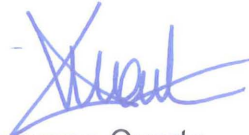
In Witness whereof the Parties hereto have caused this Variation Agreement No. 165 to the Contract to be executed on the 5th day of April of the year 2016 by their duly authorized representatives.

For ACP



Jorge de la Guardia
Employer's Representative

For GUPCSA



Giuseppe Quarta
Contractor's Representative

Appendix 1

VO No. 165 Bond Issuer Confirmation

[Letterhead of Zurich]

_____, 2016

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. 165

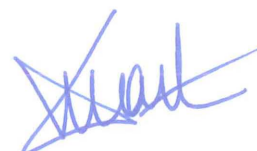
Dear Sirs:

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. 165, dated 5 April 2016 ("Variation Agreement No. 165") 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 documents specified in Variation Agreement No. 161 definition of "Other Existing Advances Security" 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. 165.

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.



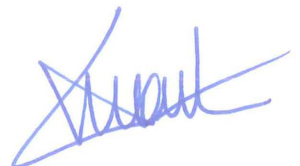
ZURICH AMERICAN INSURANCE COMPANY, as
Surety under the Payment Bond

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:

A handwritten signature in blue ink, appearing to be "Zurich", is located in the bottom right corner of the page.