

PANAMA CANAL AUTHORITY	VARIATION	PAGE 1 OF 4
1. REQUEST FOR PROPOSAL No.:  76161	2. CONTRACT No.:  CMC-221427	3. DATE: June 30, 2016
		4. VARIATION No.: 176

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:

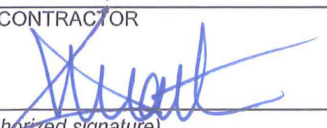
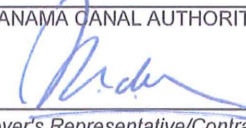
The contract referred to in item No. 2 is hereby varied as set forth in item 10, entitled "DESCRIPTION OF VARIATION".  
YES. NO. The contractor shall send a copy, duly signed, of this Variation to the Employer's Representative/Contracting Officer.

	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 <sup>th</sup> 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: 30/VI/2016
	15. PANAMA CANAL AUTHORITY  (Employer's Representative/Contracting Officer's signature)
	16. DATE: 30/VI/2016

June 30, 2016

Design and Construction of the Third Set of Locks

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**This Variation Agreement Number 176, is dated as of 30<sup>th</sup> June 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) By letter GUPC-IAE-4813 dated May 14, 2016 the Contractor informed the Employer that, on April 20, 2016, during the relocation of the IDAAN water pipeline a 30" pipeline valve was closed by the Employer's personnel and a valve which controlled a 24" pipeline was accidentally left open resulting in the flooding of a Crossunder tunnel at the Pacific Site and consequent damage to an elevator. The Contractor has repaired the elevator and has proposed an increase in the Contract Price of \$89,856.00 for the repairs and associated works as set out in its letter.
- (c) By letter IAE-UPC-3022 dated June 20, 2016, the Employer agreed the increase in the Contract Price proposed by the Contractor on the basis that there would be no other cost or time implications for the Contract.
- (d) Therefore, subject to the terms of this Variation Agreement No. 176, 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:

- 1. In this Variation Agreement No. 176, 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. 176 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



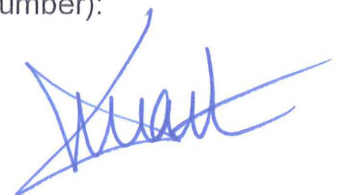


June 30, 2016

Design and Construction of the Third Set of Locks

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. 176 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. 176 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. 176 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. 176 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, 20911/ASM and 19962/ASM).
4. Save where expressly stated and in relation to breaches of, or failure by either Party to comply with, the terms of this Variation Agreement No. 176, 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. 176.
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. 176 is intended to be a waiver or 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. 176 had been originally contained in the Contract.
6. This Variation Agreement No. 176 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. **Sub-Clause 1.1 [Definitions] of the Conditions of Contract** shall be amended by the addition of the following definitions under Sub-Clause 1.1.6 [*Other Definitions*] (which shall be added in proper alphabetical order but without any number):



June 30, 2016

Design and Construction of the Third Set of Locks

*"Variation Agreement No. 176" means Variation Agreement Number 176, dated June 30, 2016 between the Employer and the Contractor.*

8. The Contract Price shall be increased by USD 89,856.00 by way of payment to the Contractor for the following works carried out in consequence of the flooding of the Crossunder tunnel at the Pacific Site and consequent damage to an elevator on April 20, 2016:
- (a) Supply and installation of the following new parts:
    - i. Tensioning pulley for regulator
    - ii. Switch for tensioning pulley
    - iii. Inductive device for aisle door n14-120k-n-5
    - iv. Cable for regulator
    - v. Load weighing device
    - vi. Bottom end stop
    - vii. Door operating device
    - viii. Card LMS1
    - ix. Cabin ceiling fan
    - x. Landing switch (LK)
    - xi. Landing switch (CN)
  - (b) Completion of the commissioning test of the three elevators.
  - (c) Associated works including dewatering and cleaning of the area; disassembly and reassembly of the replacement parts.
9. 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. 176 and secure the full benefit of the rights, powers and remedies conferred upon it in this Variation Agreement No. 176.

**In Witness** whereof the Parties hereto have caused this Variation Agreement No. 176 to the Contract to be executed on the 30<sup>th</sup> day of June 2016 by their duly authorized representatives.

For ACP



Jorge de la Guardia  
Employer's Representative

For GUPCSA



Giuseppe Quarta  
Contractor's Representative