



REPUBLIKA E SHQIPËRISË

MINISTRIA E INFRASTRUKTURËS DHE ENERGJISË

**BIDDING PROCEDURE DOCUMENTS
"CONCESSION/PUBLIC-PRIVATE PARTNERSHIP FOR THE
DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE
AND TRANSFER OF A TOURIST PORT IN THE CITY OF
VLORA (MARINA VLORA)".**

Contracting Authority

I. Contracting Authority

Section 1 Name and address of the contracting authority

Name Ministry of Energy and Industry
Address Rruga "Abdi Toptani", Nr. 1, Tirana, Albania
Website www.infrastruktura.gov.al

1.2 Type of Contractual Authority and main activity(s):

Central Institution

Independent Institution

Local Governance Unit

Session 2 Scope of the Contract

2.1 Type of Contract:

Work

2.2 Brief description of the Concession Agreement/Private Public Partnership

1. Scope of Contract: "Concession/public-private partnership for the design, construction, operation, maintenance and transfer of a tourist port in the city of Vlora (Marina Vlora)".
2. Contract Form: B.O.T (Construction - Operation - Transfer)
3. Source of Funding: Private Investment

2.3 Contract Term or duration for completion:

Term: 35 years.

2.4 Location of the Scope of Agreement:

Vlora Marina is planned to be built in the city of Vlora and specifically in the current port of this city.

Session 3 Legal, economic, financial and technical information

3.1 Admission Criteria pursuant to Annex no. 9.

3.2 Contract Insurance

The Economic Operator in a concession/public-private partnership procedure, submits the Bid Insurance Form, according to Annex 3.

The required value of the Bid Insurance amounts to 2% of the value of the project proposed (excluding VAT) by the Bidder.

Section 4 Procedure

IV.1 Type of Procedure:

Open	Limited	Pre-announced negotiation procedure
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV.2 Selection criteria of the winner:

With regards to relevance:

Criteria 1 “Technical”	35 points
Under criteria a) "Project and technical solution”	10 points
Sub-criteria b) "Superstructure”	10 points
Sub-criteria c) "Infrastructure”	10 points
Sub-criterion d) "Logistics of vehicle safety operation”	5 points
Criterion 2 “Maintenance Plan”	15 points
Criterion 3 “Concessionary Fee”	15 points
Criterion 4 “Design Experience”	15 points
Criterion 5 “Social and Environmental Impact”	10 points
Criterion 6 “Construction time”	10 points
Total	100 points

4.3 Time limit for submission of bids or requests to participate:

Date: 26/02/2021 Hour: 14:00

Place: The Bid is required to be submitted electronically

Whenever bids should be submitted electronically, the economic operators shall submit them electronically at the official website of the PPA, www.app.gov.al

4.4 Time limit for opening of bids or requests to participate:

Date: 26/02/2021

Hour: 14:00

Place: The Bid is required to be submitted electronically

The information communicated during the public opening of the bids, which are submitted electronically, should be communicated to all those Economic Operators that have submitted bids, based on their request.

4.5 Validity term of the bids: 150 days

4.6 Language(s) for drafting the bids or participation requests:

Albanian	<input checked="" type="checkbox"/>
English	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

Note: Documents issued/drafted in Albanian language do not need to be in English, whereas documents issued/drafted in foreign languages should be accompanied by a certified translation into Albanian.

Section V Additional Information

5.1 Paid documents:

Yes No

- 5.2** The amount of the fee to be paid by the economic operator in case of any complaint addressed to the Public Procurement Commission is 10% of the Bid Insurance amount.
- 5.3.** The amount of the ATRAKO fee, referred to in Article 12 of Law no. 125/2013 "On Concessions and Public Private Partnership" as amended, is the amount to be paid for the services of the Concession Treatment Agency (ATRAKO) by the winning bidder before signing the Contract,
- 5.4.** The amount of compensation, referred to in Article 25 of Law no. 125/2013 "On Concessions and Public Private Partnerships" as amended, and to Article 15 of DCM no. 575 dated 10.7.2013 "On the approval of the rules for the evaluation and award of concessions / public private partnership", as amended, is the amount to be paid by the winning bidder to the proposer for the drafting of the feasibility study only if the proposer has participated in the bid but has not been announced as winner. The amount of compensation for expenses incurred by the proposer for the drafting of the feasibility study will be according to the invoices proving such expenses, a value which cannot be higher than 1% of the investment value.

5.3 Additional Information (venue, office, methods for withdrawing tender documents)

PUBLIC PROCUREMENT AGENCY: www.app.gov.al

Date of publication of the Notice **6/01/2021**

II. INSTRUCTIONS FOR BIDDERS

1. PREAMBLE

The Ministry of Infrastructure and Energy decided to implement the project for the concession/public-private partnership of the tourist port "Marina Vlora".

The selection of the Winning Bidder will be based on a bidding procedure (open procedure) according to the qualification and evaluation criteria specified in this document.

The term of the concession/PPP contract will be 35 (thirty-five) years from its entry into force.

1.1. Additional information:

General overview:

a. Geographic position

The projected location of the facility is in the centre of the city of Vlora and specifically in the current port of this city which is under the administration of the Ministry of Infrastructure and Energy. The city of Vlora is located on the southern coast of Albania, approximately 150 km north of the land border with the Greece and specifically 157 km away from the largest border point with Greece, which is Kakavia border point, about 140 km (75 Nm) on the coastline, with Port of Corfu and only 90 km (50 Nm) from the Puglia region in Italy. The land border with Montenegro is approximately 234 km north of Vlora, and the entrance to the Bay of Kotor (also forms the land border between Montenegro and Croatia) is about 130 Nm from Vlora by sea. The city of Vlora is approximately 250 km away from the Morina customs point and only 170 km away from the customs point with the Republic of Northern Macedonia.



b. Connection to the engineering infrastructure

The port is considered to become part of the Master Plan of Lungomare in Vlora which will occupy a significant part of the port area, while the New Trans-Balkan Road or otherwise called "Cultural Corridor", the first part of which has been completed , will be complemented with a second segment starting from the existing road to the port. Also, recently, the Albanian Government has promoted the project of the Public Park, extending in the pedestrian area from the roundabout of Skela to the port, where it will connect the new boulevard Ismail Qemali with the Lungomare. It is observed that a considerable part of this park area lies within the territory of the Port of Vlora.

The footprint of the concession facility "Marina Vlora" is as follows:

PLAN RILEVIMI

IDENTIFIKIMI I PASURISE

ZONA KADASTRALE 8604

NRI PASURISE _____ VOL. _____

INDEKSI I HARTES VL-0-11

SHKALLA 1:2500

ADRESA E PASURISE: Rr. nr. _____ VLORE

O/F _____ Rr/L _____

P/G _____ Sh _____ K _____ Ap _____

PRONARI _____



POINTS	EASTING	NORTHING
01	4371362.891	4481081.776
02	4371411.889	4481058.438
03	4371369.916	4480968.616
04	4371345.668	4480972.004
05	4371654.417	4480794.516
06	4371615.794	4480713.980
07	4371616.732	4480713.394
08	4371574.798	4480622.297
09	4371577.018	4480621.264
10	4371542.199	4480547.352
11	4371527.889	4480553.724
12	4371562.318	4480627.598
13	4371563.948	4480626.784
14	4371606.077	4480718.153
15	4371607.386	4480718.209
16	4371642.154	4480794.110
17	4371344.929	4480869.050
18	4371317.397	4480757.085
19	4371276.823	4480767.187
20	4371247.386	4480634.370
21	4371229.136	4480629.017
22	4371227.866	4480638.082
23	4371229.957	4480639.001
24	4371229.533	4480647.031
25	4371220.279	4480650.973
26	4371283.736	4480900.479
27	4371335.146	4480887.590
28	4371358.206	4480979.568
29	4371369.734	4481004.208
30	4371347.895	4481015.008
31	4371350.731	4481050.494
32	4371302.211	4480879.591
33	4371331.345	4480872.430
34	4371306.695	4480774.122
35	4371277.595	4480781.418

RILEVIMI SIPAS FAKTIT

The Implementation Plan must meet the standards provided for in the European Union.

- 1.2.** The Concession Project / PPP "For the Construction, Operation and Transfer of a Tourist Port in the City of Vlora" is the unsolicited proposal approved by the Contracting Authority. With reference to Article 25 of Law no. 125/2013 "On Concessions and Public Private Partnerships" as amended, and Article 15 of DCM no. 575 dated 10.7.2013 "On the approval of the rules for the evaluation and award of concessions / public private partnership", as amended the Compensation amount is the amount to be paid by the winning bidder to the proposer for the drafting of the feasibility study only if the proposer has participated in the bid but has not been declared the winner. The amount of compensation for expenses incurred by the proposer for the drafting of the feasibility study will be according to the invoices proving such expenses, a value which cannot be higher than 1% of the investment value.
- 1.3.** These guidelines ("Guidelines for Bidders") as well as the "Invitation to Bid" are addressed to all legal entities or their joint ventures, which intend to participate in this bidding selection procedure.
- 1.4.** Expenses: The winning bidder must bear the costs related to the drafting and submission of its bid and any other costs will be reimbursed as provided in these documents and in accordance with Article 25 and Article 29 of Law no. 125/2013 "On concessions and public-private partnership", as amended.
- 1.5.** The Contracting Authority is entitled to permanently terminate this bidding selection procedure. The Bidder is not entitled to claim any compensation for costs or losses.

2. BIDDING PROCEDURE DOCUMENTS

2.1 Content

2.1.1 The type of project and technical requirements, tender procedure, contract terms and legal and economic financial requirements are set in the tender procedure documents which contain:

ANNEXES

Annex 1: Bid Form

Annex 2: Bid Invitation Form of the Limited Procedure or Announced Negotiation

Annex 3: Bid Insurance Form

Annex 4: Confidential Information Form

Annex 5: Statement of Compliance of the Technical Specifications by the economic operator

Annex 6: Statement of Conflict of Interest

Annex 7: Work Performance Evaluation Form

Annex 8: Statement of equipment availability

Annex 9: Qualification /Participation Certification Form

Annex 10: Statement on judicial status

Annex 11: Evaluation Criteria

Annex 12: Self-declaration for foreign bidders

Annex 13: Project implementation and technical specifications

Annex 14: Estimates

Annex 15: Disqualification Notice Form

Annex 16: Winner Notification Form

Annex 17: General Terms of Contract

Annex 18: Special Terms of Contract

Annex 19: Contract Insurance Form

Annex 20: Contract Signing Notice

Annex 21: Complaint Form to the Contracting Authority

Annex 22: Power of Attorney Form

2.1.2 Each bidder must consider the instructions, criteria, terms, specifications, deadlines and all information in the bidding documents. In case the bidder:

- I) does not complete all documentation and information in the bidding procedure documents; or
- ii) submits a bid, which is not in accordance with the terms and requirements of the bidding procedure documents;

The Contracting Authority shall determine that the bid does not comply with the requirements of the bidding procedure documents and will reject the bid.

2.2 Clarifications on Standard Bidding Documents:

2.2.1 The bidder, who requests clarifications or changes of the documents of the bidding procedure, must file his request through the contact person for this bidding procedure as provided for in point I.2 (of the Contract Notice) and the electronic procurement system.

All answers, along with relevant explanations, should be informed to all stakeholders.

2.3 Changes in the documents of the bidding procedure:

- 2.3.1.** At any time before the deadline for submission of bids, any time the Contracting Authority makes changes to the procedure documents, must extend the deadline for submission of bids according to law. The CA may, for any reason, on its own initiative or in response to requests for changes from a bidder, change the documents of the bidding procedure.
- 2.3.2.** All changes made by the Contracting Authority will be published on the PPA website. The changed documents will be considered as the documents of the bidding procedure for this bidding selection procedure.
- 2.3.3.** In order for the bidders to have sufficient time to make the relevant changes to their bid, the Contracting Authority may, on its own initiative, extend the deadline for submission of bids. In this case the Contracting Authority, according to the Law "On Concessions and Public Private Partnership" will publish the new deadline for submission of the bids on the PPA website.

3. BID: DRAFTING OF THE BID

3.1. The bid shall contain the following documents:

- a) Bid Form, completed in accordance with the attached model as Annex 1 of BPD/PPP.
- b) Bid Insurance Form, completed in accordance with the model attached to these documents: Annex 3 of BPD/PPP.
- c) Documents related to the scope of the concession/public private partnership (*design, projects, etc.*)
 - Hydrotechnical study of the facility to be built,
 - Hydrological and hydrogeological study of the concession facility,
 - The development and design plan should contain:
 - Phases of investment development.
 - Schedule of completion of works for each phase, defining:
 - ❖ Concrete deadlines for design, initiation of works, completion of constructions, beginning of the implementation phase.
 - ❖ Estimation of potential customers.
 - ❖ A preliminary design of the marketing plan, showing how domestic and foreign customers will be attracted to use the Tourist Port "Marina Vlora".

The Bidder must submit a general presentation of the project, including:

- Phases of development
- Methodology for complying project objectives
- Links to services and infrastructure nearby the boundaries of the project area.

- The economic operator (Investor or company contracted by the investor) must submit the geological study and the bathymetry of the site where the port will be built.
- The economic operator must submit a Study on the environmental impact and related impacts.

Marine construction and civil works

- The economic operator must file a detailed description of marine and civil works.
- The economic operator must file a detailed description flood prevention actions (pumping stations, etc.)
- The bidder must submit detailed specifications of major works for:
 - ❖ Wave-breaker
 - ❖ Pontoons, standard corridors, fingers, entrance channels,
 - ❖ Quays, piers and fenders.
 - ❖ Anchorage sites, anchors sites, way of anchoring, types of anchors.
 - ❖ Deepening works/sea excavations to reach the depth up to - 4.5 meters
 - ❖ Main buildings and foundations
 - ❖ Roads and paved areas
 - ❖ Fence design
 - ❖ Civil Works

Operations and maintenance

- The bidder must file a detailed description of the system of operation and maintenance, ensuring an efficient and professional management of the Tourist Port "Marina Vlora".
- The bidder must file a detailed description of the expected cooperation of the Tourist Port "Marina Vlora" with potential customers.
- The Bidder must act in compliance with the Maritime Code and the International Conventions in force in the Republic of Albania.

Other ancillary services

The bidder must file a detailed description of the system of necessary accessories as follows:

- ❖ Freshwater supply systems,
- ❖ Fuel supply systems with secondary protection structures,
- ❖ Wastewater collection and sewerage systems,
- ❖ Piping system for collecting and recycling of rainwater from concrete surfaces and sites,
- ❖ Shore facilities for the disposal of oil waste from ships (Sludge, slop),

- ❖ Electrical schemes,
- ❖ Road infrastructure schemes taking into account their economic estimates so as not to limit the site surface area.

Project implementation process:

The bidder must file an Implementation Plan, which must contain:

- a. Project implementation process.
- c. Activity development stages.
- d. Schedules and terms.
- e. Monitoring and quality assessment.

Social, environmental and meteorological impacts.

The Bidder undertakes to avoid or mitigate any social and environmental impacts by conducting the relevant assessments and explaining the effects of the Tourist Port "Marina Vlore", by filing a study prepared by an expert or licensed studio regarding the environmental and social impact on construction and development of this project.

An Economic Operator must submit only one bid.

The Contracting Authority shall consider any false information as a legitimate reason for the disqualification of the Bidder at any time. If such is identified or notified following the signing of the Contract, the Contracting Authority shall be entitled to terminate the Contract unilaterally and receive compensation for the current losses. According to the Criminal Code of the Republic of Albania, the provision of false information, compiling false or forged documents and any statement or any other data that does not reflect the truth, is considered as a criminal offence.

The Bidder should use only the Bidding Documents, without causing any changes to their content.

3.2 Contract Insurance:

3.2.1 As part of its technical bid, the Bidder must submit the Bid Insurance, according to the Bid Insurance Form (as provided for in Annex 3: Bid Insurance Form), amounting to 2% of the value of the project proposed (excluding VAT) by the Bidder.

3.2.2 Bid Insurance must be paid in the form of a deposit or guarantee, issued by a bank or a state-licensed insurance company to carry out this activity. The Bidder must guarantee that the Bid Insurance is valid for a period of 30 days after the end of the validity of the bid, which is 150 days. Which means, the bid must be insured for 180 days from the expiry date of its submission deadline. For motivated reasons, the Contracting Authority may request the Bidder to extend the validity term of the Bid Insurance, in case certain circumstances affect the extension of the evaluation deadline of the

respective bid or the submission of the Contract Insurance or in any other case that affects the extension of any mandatory term. Failure to extend the validity term of the Bid Insurance constitutes a reason for disqualification of the Bidder.

3.2.3 The Bid Insurance shall be submitted along with the bid, before the deadline for submission of bids expires. Any bid which is not accompanied by the Bid Insurance shall be rejected by the Concession/PPP Award Commission. The Bid Insurance must be submitted on behalf of: i) the company, in the event the Bidder is a single company; or ii) on behalf of the parent company in the event the Bidder is a temporary joint venture.

3.2.4 At the request of the non-winning Bidder, the Contracting Authority shall return the Bid Insurance as soon as possible, but not later than 30 days after the end of the bid validity term or any extension thereof.

3.2.5 The Bid Insurance of the Winning Bidder shall be returned after the submission of the Contract Insurance to the Contracting Authority.

3.2.6 The Bid Insurance may be retained by the Contracting Authority in cases where the Bidder:

- i) withdraws its bid during the bidding procedure prior to the expiry of the bid validity term;
- ii) does not submit the Contract Insurance (in case it is declared the winning bidder);
- iii) does not sign the Concession Contract (in case it is declared the winning bidder) within the terms specified in the Winner Notification Form (Annex 16);
- iv) has stated false information in his bid;
- v) in case it is declared the winner, it refuses to pay the expenses according to point 1.3 above.

3.3 Power of Attorney: Each Bidder (or member of the Joint Venture, when the Bidder is such) must submit a certified power of attorney, in the form set out in Annex 21 indicating that the person (persons) who signed the Bid is entitled to do so.

3.4 Bid Validity Term: Bids must be valid for 150 days starting from the expiry of the "deadline for submission of bids". A bid with a validity shorter than the set deadline will be rejected by the Concession Award Committee as inadmissible.

Exceptionally, the Contracting Authority may request from the Bidder the extension of the Bid Validity Term. The request of the Contracting Authority and the response of the Bidder must be in writing. In case of extension of the Bid Validity Term, the Bid Insurance Term will also be extended in accordance with point 3.2.2.

3.5 Bid Form and Signature

3.5.1 Each bidder must prepare and submit (upload to the system) the bid on the website of the Public Procurement Agency (PPA). Detailed information on e bid upload can be found in the user manual, which is published at <https://www.app.gov.al>.

3.5.2 The bidder, who will be declared the bidding winner, shall submit the original bid to the Contracting Authority. The original bid must be printed in ink, which cannot be erased. Person or persons entitled to sign (authorized by the power of attorney submitted as part of the Technical Bid, in accordance with point 3.3) must sign the Bid by:

- i) Signing the original copy of the bid; and
- ii) Mark the initials on each page of the original documents accompanying the economic bid.

3.5.3 The bid must not have any modifications, deletions or additions, unless the corrections are signed by the person or persons entitled to sign the bid. The original bid must be identical to the bid uploaded on the PPA website.

4. SUBMISSION OF THE ORIGINAL BID

4.1 Bid Form and Signature

4.1.1. Pursuant to DCM no. 130, dated 12.3.2014, "On conducting electronic bidding procedures of concession/public private partnership" and DCM no. 575 dated 10.7.2013, "On the approval of the rules of evaluation and award of concessions/public private partnership", the bid shall be submitted electronically in accordance with the instructions of the Public Procurement Agency. For more detailed information on this procedure, please visit the official website www.app.gov.al.

4.1.2 The Contracting Authority shall not be liable to any Bidder for any claim or complaint on any ambiguity on the way the Bid was filed unless a bid is not properly secured due to lack of proper infrastructure by the Contracting Authority.

4.1.3 In any case, the Bidders must submit electronically all the mandatory and necessary documentation for the presentation of their bid.

4.1.4 The winning bidder must submit the original bid to the Contracting Authority. The original bid must be enclosed in an envelope/box, closed and sealed. The name and address of the bidder should be marked on the envelope/box, together with the note:

Bid for the project "On the concession/public-private partnership of the tourist port "Marina Vlora".

The original bid must be filed to the following address:

To:	Ministry of Infrastructure and Energy
At the attention of:	Concession/PPP Award Commission
Address:	Rruga "Abdi Toptani", Nr. 1, Tirana, Albania

4.2 Deadline for submission of the bids

4.2.1 Bids must be submitted on the PPA website: www.app.gov.al.

within 26.2.2021, hour: 14.00

The winning bidder will be notified in writing by the Contracting Authority of the deadline for submission of the original bid.

5. OPENING AND EVALUATION OF BIDS

5.1 Opening of the bids

5.1.1 The Concession Award Commission identifies the bidders and opens the submitted bids on the PPA website, following the expiry of the deadline for the submission of bids.

5.2 Evaluation of the Bids

5.2.1 After the bid is opened, the Concession/PPP Commission will review it to determine if the bid is eligible, if the required documentation has been submitted, if the documentation required to be signed by the bidder has been duly signed, and if the Bid is valid.

5.2.2 The evaluation of the Contracting Authority will be based on the data and the content of the Bid itself, not referring to other sources. However, if necessary, the Concession/PPP Award Commission may request clarifications from Bidders, which do not constitute a change in the substance of the Bid. Clarifications should be in writing only and/or reflected in the relevant minutes. Also, in special cases, the Contracting Authority shall be entitled to include various experts, who can help address those issues for which the Concession/PPP Award Commission has encountered difficulties.

5.2.3 The bid shall be considered invalid if;

- i) The Bidder has not submitted the Bid Insurance;
- ii) the Bid contains false data;
- iii) the Bidder has not met one or all of the requirements according to the documents of the bidding procedure.

5.2.4 The Concession/PPP Award Commission evaluates a valid bid even if it contains minor deviations, which do not materially change or deviate from the characteristics, terms and other requirements set out in the selection procedure documents, or otherwise errors, which can be corrected without affecting its contents.

5.2.5 If more than one financial bid has the same value or has the same points, then the winner will be determined by lot, in the presence of the bidders.

5.2.6 The Concession/PPP Award Commission shall draft the final ranking, which must be publicly announced and communicated to the Bidders. After the announcement of the final ranking, each bidder may request an administrative review of the selection process, in case it deems that an action taken by the Contracting Authority and the Bid Evaluation Commission is contrary to the provisions of Law no.

125/2013 "On concessions and public-private partnership", as amended and DCM no. 575, dated 10.7.2013 "On the approval of the rules of evaluation and award of concessions/public private partnership", as amended, using the Bidding Complaint Form, defined in Annex 21.

5.2.7 At the end of the complained procedure, the concession/PPP award commission prepares the final bid evaluation report and proposes to the Chairman of the Contracting Authority the results for each of the bidders.

5.3 Invalidity and Failure of the Bidding Procedure;

Bidding procedure shall be considered unsuccessful when:

- i) none of the submitted bids meets the requirements of the invitation for bidding procedure;
- ii) The Contracting Authority, due to lack of economic profitability of the bids or the project itself, announces the closing of the bidding procedure;
- iii) Or when there are no participants in the bid.

5.4 Illegal actions

In accordance with conflict-of-interest prevention legislation, and ethics in public administration, the Contracting Authority shall reject a bid if the Bidder:

- i) has given or is preparing to give a cash or non-cash gift to a current or former employee of the Contracting Authority, as an attempt to influence an action or decision, or the course of the bidding procedure; and/or
- ii) is in a situation of conflict of interest in this procedure, such as - a bidder is related to a natural or legal person, who is charged by the Contracting Authority to provide consulting services during the preparation of projects, specifications or other documents related to bidding procedure, or is related to members of the Bid Evaluation Commission.
- iii) has submitted false documents/information related to the requirements submitted in the Standard Documents of the Bidding Procedure.

The Contracting Authority shall inform the Bidder and the Public Procurement Agency in writing of the rejection of the bid, as well as of the reasons for this rejection, and shall make the relevant note in the report on the bidding procedure.

5.5 Determining the Winning Bidder and Signing of the Contract

5.5.1 After the expiry of the complaint deadline, as defined in Point 5.2.6, the Contracting Authority shall inform the Bidder, whose bid has been selected as the best, by sending the Winner Notification, as provided in the Winner Notification Form. A more detailed copy of this notice shall be published in the Public Notices Bulletin.

Prior to signing the contract, the selected Winning Bidder must submit to the Contracting Authority, the Contract Insurance amounting to 10% of the project value

The Contract Insurance Form, as provided in Annex 18, must be signed and submitted in accordance with point 5.5.3. The Contract Insurance can be submitted in the form of an i) unconditional bank guarantee or ii) as an Insurance Policy.

- 5.5.2** The Contracting Authority and the Winning Bidder will negotiate in good faith the terms and conditions of the Concession/Public Private Partnership Contract, given that the Winning Bidder will be required to sign the Concession Contract under the Special and General Terms of the Contract, signed on each page and submitted as part of the Technical-Financial Bid, amended (if applicable) during the process of negotiating the Concession/Public Private Partnership Contract.
- 5.5.3** Prior to signing the Contract, it becomes clear that if the Winning Bidder (for ungrounded reasons) fails to submit the Contract Insurance and/or does not sign the Contract, the Contracting Authority will retain the Bid Insurance of the Winning Bidder and will invite the other Bidders, as per their ranking, until it receives the Contract Insurance and the General and Special Terms signed on each page by the Bidders as per their ranking or reject all remaining Bids.
- 5.5.4** The Contracting Authority will publish in the Bulletin of Public Notices, the name of the Concessionaire and the main terms of the Concession Contract, within 30 days from the signing of the Contract.

Annex 1

BID FORM

[Annex to be filled in by the Economic Operator]

Name of the Bidder _____

To: [Name and address of the Contracting Authority]

Date: [Submission date]

* * *

Concession/Public Private Partnership Procedure: [Open procedure]

Short description of the Contract: [Scope]

Publication (if applicable): Public Notification Bulletin [Date] [Number]

* * *

The form of the bid submission is defined as follows:

No	Criteria	Unit of measure	Bid or Reference to your Bid
1	Project and technical solution		
2	Superstructure		
3	Infrastructure		
4	Vehicle safety operation logistics		
5	Maintenance Plan		
6	Concessionary Fee	%	
7	Design Experience	No	
8	Social and Environmental Impact		
9	Construction time	Month	

Investment Value (excluding VAT): _____

Note: *The bidder must provide no more than one data for each criterion, based on the Project and the business plan submitted by the latter.
Prices must be expressed in Euro and Lek according to the daily foreign exchange of the National Bank of Albania on the day of publication of the invitation to bid.*

Pay attention to the wording of the bid, there should be no alternative forms of its presentation.

❖ **Attached the schedule of works as well as a summary estimate**

Bidder's signature _____

Seal

Annex 2

INVITATION TO BID¹

The Ministry of Infrastructure and Energy publishes this invitation to submit bids for the performance of the following works:

On the concession/public-private partnership of the tourist port "Marina Vlora".

Place of performance of the employment contract

Marina Vlora Port is expected to be built in the city of Vlora and specifically in the current port of this city.

Term of contract execution - 35 years

Bids must be submitted electronically before 26.2.2021 at 14.00

Whenever bids should be submitted electronically, the economic operators shall submit them electronically at the official website of the PPA, www.app.gov.al

¹ This Annex shall be applicable to restricted procedure and pre-announced negotiation procedure.

Annex 3

[Letter with the logo of the Bank/Insurance Company]

[Annex to be filled in by the Economic Operator]

BID INSURANCE FORM

[Date _____]

To: *[Name and address of the Contracting Authority]*

On behalf of: *[Name and address of the insured Bidder]*

Concession/Public-Private Partnership Procedure: *[Type of procedure]*

Short description of the Contract: *[object]*

Publication (if applicable): Public Notices Bulletin *[Date] [Number]/ No. of Reference on PPA webpage*

With reference to the above-mentioned procedure,

We herein certify that [name of insured Bidder] has transferred to the account at [name and address of the bank/insurance company] in the amount of [currency and price, expressed in figures and letters] as a pre-condition for the insurance of the Bid, submitted by the above-mentioned economic operator.

We herein undertake to transfer to the account of *[name of the Contracting Authority]* the insured amount, within 15 (fifteen) days from your plain and written request, without requesting any explanation, provided the request provides for the non-compliance with one of the following conditions:

- The Bidder withdraws its bid during the bidding procedure prior to the expiry of the bid validity term;
- The Bidder does not submit the Contract Insurance (in case it is declared the winning bidder);
- The Bidder does not sign the Concession Contract (in case it is declared the winning bidder) within the terms specified in the Winner Notification Form;
- The Bidder has stated false information in his bid;
- The Bidder, in case of announcement as winner, refuses to pay the expenses according to point 1.3 above.

This Insurance is valid *[contract notice or invitation to bid]* days from the date of expiry of the deadline for submission of bids on the PPA website.

[Bank's/Insurance Company's representative]

Annex 4

LIST OF CONFIDENTIAL INFORMATION

[Annex to be filled in by the Economic Operator]

(Fill in below the information you require to be kept as confidential)

Type and nature of confidential information	Page number and DSK/PPP points you require to keep confidential	Rationale behind confidential information	Time-limits on maintaining the confidentiality of the information

Annex 5

[Annex to be filled in by the Economic Operator]

STATEMENT OF COMPLIANCE FOR THE REQUIREMENTS OF STANDARD DOCUMENTATION OF THE CONCESSION/PUBLIC-PRIVATE PARTNERSHIP

Of the economic operator participating in the concession/public private partnership procedure to be held on _____ from the Contracting Authority _____ with object:

I, the undersigned, _____ in the quality of _____ economic operator _____ hereby state that:

We comply with all technical specifications set forth in the Concession/Public-Private Partnership Document and we herein accept them without any reservation or remark. We herein declare under our legal responsibility that we agree with all the technical specifications provided and we meet such specification as set forth in the Concession/Private-Public Partnership documents. We meet all the legal, financial and economic requirements as well as the technical specifications set out in the Standard Documents of the Bidding Procedure, and we certify such compliance through certificates and documents submitted together with this Statement.

Our bid shall be valid for the period set out in the Standard Document of the Bidding Procedure.

We shall not participate as Bidders in more than one bid for this Bidding Procedure.

We herein authorize the Contracting Authority to verify the information/documents attached to this Bid.

In case our bid is accepted, we shall provide the Agreement Insurance, as provided in the Standard Documents of the Bidding Procedure.

In the event that we are announced winners of the Bidding Procedure, we agree to sign the Contract under the Terms and Conditions Form.

Statement submission date _____

Bidder's representative

Signature

Seal

Annex 6

[Annex to be filled in by the Economic Operator]

STATEMENT **On conflict of interest**

Of the economic operator participating in the concession/public-private partnership procedure to be held on _____ from the Contracting Authority _____ with object _____:

Conflict of interest shall mean the state of conflict between the public tasks and the private interests of an official whereby he/she owns private, direct or indirect, interests, that affect or threaten to affect the proper performance of his/her public tasks and obligations.

Pursuant to Article 21(1) of Law No. 9367, dated 7 April 2005, the categories of officials set out in Chapter III, Section II, which are absolutely prohibited to benefit from entering directly or indirectly into contracts with public institutions include:

- The President of the Republic, the Prime Minister, the Deputy Prime Minister, the Ministers or Deputy Ministers, the Judges of the Constitutional Court, the Judges of the Supreme Court, the Head of the Supreme Audit Institution, the General Prosecutor, the Ombudsman, Members of Central Election Commission, Members of the High Council of Justice, the General Inspector of the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest, Members of the Regulatory Bodies (of the Supervisory Council of the Bank of Albania, including the Governor and the Deputy Governor; of competition; telecommunications; energy; water supply, insurance; securities and, media), the general secretaries of central institutions or officials in any public institution, holding at least equivalent positions with the general directors and heads of public administration institutions that are not part of the civil service.

As far as middle management level officials, according to Article 31, and officials, according to Article 32 of Chapter III, Section 2 of this law, are concerned, the restrictions provided in point 1 of this Article, due to their private interests, as defined herein, shall apply only to the conclusion of contracts falling under the subject-matter and territorial jurisdiction of the institution whereby the officials work. This restriction shall also apply whenever one of the parties is a subordinated institution.

Whenever the official is a mayor or deputy-mayor, head of commune or of the regional council, council member or high-ranking official of a local government unit, the restrictions, due to their private interests, as defined herein, shall apply only to the conclusion of contracts, as applicable, with the municipality, commune or regional council, whereby the officials exercise these functions. Such prohibition shall apply even in case a public institution is party to an Agreement, depending on this unit (Article 21(2) of Law No.9367, dated 7.4.2005).

The restrictions laid down in Article 21, point 1.2 of Law no. 9367, dated 7.4.2005, with certain exceptions, shall apply, *mutatis mutandis*, to all persons related to officials who, within the meaning of this law, shall include: **spouses, cohabitants, adult children, parents of the officials' spouses or cohabitants.**

I, the undersigned _____, in the capacity of the representative of the legal person _____ herein declare, under my personal responsibility, that:

I am aware of the requirements and restrictions laid down in law no.9367, dated 7.4.2005 "On prevention of conflicts of interest in the exercise of public functions" as amended, and by-laws issued for its implementation by the High Inspectorate of Declaration and Audit of Assets and Law no. 125/2013 "On concessions/private public partnership".

Accordingly, I herein declare that no official mentioned in **Chapter III, Section II** of Law No. 9367, dated 7.4.2005, and herein, owns any private interest, directly or indirectly related to the legal person I represent.

Declaration submission date _____

Name, Surname, Signature

Seal

Annex 7

[Annex to be filled in by the Economic Operator]

EVALUATION FORM

(This form will be accompanied by the Test Record)

Contracting Authority/Investor	
Address/telephone	
Name of Holder / Administrator	
WE HEREBY CERTIFY THAT:	
Contracting Authority / Investor has signed the contract with	
Operator name NUIS /	
Joint Venture NUISs /	
Subcontractors NUISs	
Address	
Object of the contract:	
Contracts start date	Date of contract termination
Value of the contract	Performed value
% of the Joint Venture of E.O. and a description of the work performed by each member	
Subcontractors	
Evaluation	(expressed in words)
	Complied
	Not complied
Signature	
Seal of the Contracting Authority	

Annex 8

[Annex to be filled in by the Economic Operator]

ON THE AVAILABILITY OF MACHINERY

Economic operator: _____

I declare availability of the vehicle, technical equipment and other physical assets to realize the Contract with object: _____

Owned				
Type of vehicle	Plate	No. Circulation Permit	No. Chassis	Other
1				
2				
3				
4				
5				

And

Lease					
Type of vehicle	Plate of vehicle	No. Circulation Permit of the vehicle	No. Chassis of the vehicle	No. Lease Contract (Notary)	Lease contract term (Start and end date)
1					
2					
3					
4					
5					
6					

- Add/delete rows, as necessary.

We authorize the contracting authority to verify the information provided in this table.

CONTACT PERSON (for this bid)

Name:

Address:

No. Telephone:

Fax:

E-mail:

**Signature
Stamp**

Annex 9

[Annex to be filled in by the Contracting Authority]

1. GENERAL REQUIREMENTS ON ACCEPTANCE/QUALIFICATION

Candidate / Bidder must submit:

1. A document certifying that (your entity):
 - a) is not under bankruptcy process,,
 - b) has not been convicted on any criminal offence, in accordance with Article 45/1 of the LPP,
 - c) has not been convicted by a final court decision related to professional activity, issued by the National Business Centre.

The above-mentioned requests shall be supplemented with the submission of the Company Data Log of the Commercial Register Extract and Extract on the Commercial History of the Company, issued by the National Registration Centre, as well as the self-declaration of the company, according to Annex no. 10 "Statement of Judiciary Status".

2. A document certifying that (your entity):
 - a) has settled all the due fiscal liabilities,
 - b) has settled all the social insurance liabilities issued by the Tax Administration.

The General Admission Requirements shall not be modified by the Contracting Authorities. The criteria concerned (points 1.2) must be certified through documents issued no earlier than three months from the day of the bid opening.

3. The economic operator must be registered in the relevant governmental professional or trade registers whereby the operator is established, by certifying their legal identity. Therefore, the Applicant must submit a copy of the Extract on the history of the company, as issued by the National Business Centre.

The Foreign Applicant / Bidder must certify that he meets all the requirements listed above. If the aforementioned documents are not issued in their country of origin, then a written statement shall be sufficient. If the language used in this procedure is the Albanian language, then the documents issued in a foreign language must be accompanied by their certified translation in the Albanian language.

In case of consortia of economic operators, each member of the group shall submit the above-mentioned documents.

In addition, should the bid be submitted by a consortium of economic operators,, the following shall be submitted:

- a. Certified agreement proving that the Joint Venture has been officially established;
- b. Special Power of Attorney.

2. SPECIAL QUALIFICATION REQUIREMENTS

1. In order to prove that economic operators are qualified, the bidder must submit:

- a) Bid Insurance, in accordance with Annex 3;
- b) *Statement on the compliance with the Technical Specifications, in accordance with Annex 5;*
- c) *Statement on Conflict of Interest, in accordance with Annex 6;*
- ç) Description of the Bid as completed and duly signed, in accordance with Annex 1;
- d) *Evaluation form according to Annex 7;*
- e) *Statement on the availability of funds according to Annex 8*

2. In order to prove that economic operators are qualified, the bidder must submit:

2.1 Legal capacity of economic operators,

1. Registration as a legal person. Commercial register extract from the National Business Centre;
2. NUIS
3. A document certifying that the capital / assets of your company are not in the hands of the bailiff or that there is any seizure order in force issued by the Bailiff Office in the district where your headquarters are established;
4. A document certifying that your company meets the due fiscal obligations issued by the Tax Administration;
5. A document certifying that your company has paid all the due social insurance liabilities issued by the Tax Administration;
6. A certification confirming the settlement of all due matured electricity liabilities as per the power contracts of the economic operator established in Albania. Non-settlement of power liabilities shall constitute a cause for disqualification of the economic operator, except when such unsettled due power liabilities, as confirmed in the certificate issued by the supplier, are under any appeal procedure with the respective court. The power supplier shall be obliged to issue this certificate no later than five (five) days from the date of filing the request by the economic operator.

The above criteria shall be deemed as complied with if the documents submitted are original or certified photocopies.

The bidding companies must be registered in the relevant professional or trade registers of the Government where they are established, by certifying their legal identity. Therefore, Bidders must submit an **Historic Extract of the company issued by the National Business Centre**.

The foreign Bidder (a company established outside the territory of Albania) must certify that it meets all the requirements listed above. If the above-mentioned documents are not issued in the country of origin of the Bidder, then such documents will be accepted in the form of a written statement, under the responsibility of the Bidder (in accordance with the form set out in Annex 12). With regards to the statement of non-issuance of these certificates by the institutions of the country of origin, the Bidder must submit a certificate from the Chamber of Commerce of the country of origin - proving that any or all of the certificates required under this Annex cannot be issued by any public institution responsible. Accordingly, the Contracting Authority will investigate whether such certificates are issued by the relevant institutions in the country of origin or not, and in case it officially ascertains that the country of origin already has a designated institution in charge for the issuance of such an evidence submitted by the

international bidder in the form of a self-declaration itself, the Commission shall consider the submitted self-declaration document as void.

In the case of temporary joint venture, the requirements of Annex 11 shall be mandatory for each of the members of this joint venture.

Legalisation of documents

The documents obtained outside the territory of Albania by international legal entities must be legalized in order to be granted a legal value. The documentation filed by the companies established in the Member States of the Hague Convention (5 October 1961) must contain the Apostille stamp, in accordance with Law no. 9060, dated 8.5.2003 "On the adherence of Republic of Albania into the Convention for abolishing the request of the legalizing of official foreign documents".

Temporary Joint Venture

Economic operators may submit a bid on their own or they may establish a joint venture of economic operators and bid as a single applicant.

The bid may be submitted by a joint venture of economic operators, where one of their operators represents the others during the procedure and, in case of selection, during the contract execution also. The bid must specify the respective part of the service or work that will be performed by each of the members of this joint venture.

Prior to the submission of the bid, the temporary Joint Venture should be formally established by means of a certified agreement, whereby the group representative, the percentage of each member's participation and the concrete tasks to be carried out by each of the members of the temporary Joint Venture shall be established. The will of the Parties to enter into a temporary joint venture agreement must be clearly stated by decision of the decision-making body of all the participating companies in the temporary joint venture agreement. In order to ascertain which is the decision-making body in this temporary Joint Venture, the current statute of each of the participating companies in this temporary Joint Venture should be submitted.

After the establishment of the joint venture, the members of the group shall appoint, by means of a power of attorney, their representative for the submission of the bid. The written agreement and the power of attorney concerned shall be submitted together with the qualifications and the economic bid, which must be signed by the representative. The Representative must also make the Bid Insurance, specifying the participation in the procedure on behalf of the Joint Venture.

In case this joint venture is announced as winning bidder, the Contract shall be signed by each of the members of Joint Venture.

Each economic operator must meet the legal requirements, provided in the legislation in force and those set out in the tender documents. The economic operator, member of the joint venture, may not simultaneously submit an individual bids. The Joint Venture shall not be modified following the submission of the bid, otherwise its bid shall be rejected.

In the event of bankruptcy of the economic operator's union representative or in other circumstances that interrupt his activity during the performance of the contract, the contracting

authority may continue the contract with another economic operator, designated as a group representative and proposed by the members of the Other non-representative, provided that he has legal, economic, financial and technical capacities to enforce the Contract, otherwise the contracting authority may withdraw from the Contract. In the event these circumstances occur to the other economic operator, if the group representative does not appoint a substitute, then the obligations of the non-compliant economic operator may be undertaken by the representative or another member of the group, provided that he or she meets the requirements.

1.2. Economic and financial capacity:

The Bidder shall own the necessary financial resources for the execution of the facility subject to this Bid and shall undertake any risk that may arise, as provided for or referred to in the General and Special Specifications of the Agreement.

In order for a bidder to qualify, he must at the same time meet the following criteria:

1. Annual turnover of each of the last 3 (three) years (fiscal years 2017, 2018 and 2019) to be at least 50% of the total investment (excluding VAT) proposed by the bidder.
2. Own equity (total assets less total liabilities) of the last fiscal year (2019) to be at least 40% (forty per cent) of the value of the total investment (excluding VAT) proposed by the bidder.
3. The total assets of the last fiscal year (2019) shall be at least 120% of the total investment (excluding VAT) proposed by the bidder.
4. Submit documents, in the form of a letter of interest, preliminary loan agreement or any other document, proving the financial support of the project by financial institutions or domestic or foreign banks amounting to not less than the value of the total investment (excluding VAT) proposed by the bidder, for the purposes of the performance of this project only.

Documents proving sufficient financial resources include:

- a. Certified copies of balance sheets of the last three years (2017, 2018 and 2019), submitted to the tax administration and,
- b. Financial audit reports (including the auditor's opinion), certified by an external licensed audit entity and,
- c. Annual Turnover certifications of the last two years (2017, 2018 and 2019) issued by the tax administration where the company has its registered office.
- d. Documents issued by reliable financial institutions.

Business Plan Structure

The business plan, submitted by the Bidder for the competitive procedure, shall contain at least the following data:

1. Project Total Cost (Investment Value):
Note: VAT shall be introduced as a separate item: so, shall civil works, machinery and equipment.
2. Financial Means (Sources of Financing):

- ___% of the investment value to be covered by own capital;
- ___% of the investment value to be covered by loans.
- 3. Amortization Terms and Conditions and Schedule:
 - Amortization Term;
 - Interest Rate;
 - Amortization Term Commencement Date.
- 4. Operational Costs (annual expenses incurred for the progress of the activity):
 - Maintenance Costs;
 - Staff Costs;
 - Annual Depreciation.
- 5. Revenues:
 - From port operations.
 - Services directly related to the main activity.
 - Other ancillary services for port operation.
- 6. Based on the above indicators, the relevant statements shall be prepared:
 - “Income and Expenses” Statement,
 - “Cash - Flow” Statement
- 7. In view of project performance evaluation, the following shall be calculated:
 - NPV indicators;
 - IRR indicators;
 - Investment repayment term;
 - Works Schedule;

Attention:

1. Bidders shall not calculate the investment value of the project less than EUR 22,725,571 (VAT exclusive), otherwise the provisions of comma “ii” of point 2.1.2 in “Bidders Guidelines” shall apply.
2. The Concessionary shall bear the costs of supervising the construction works. The Concessionary shall submit to the Contracting Authority at least three proposals for the selection of the supervisor. The Contracting Authority shall select one of the proposed supervisors)

1.3. Technical Capacities:

The Bidders shall comply with the technical requirements and submit the following:

1. Certificates for successful completion of civil works, so that the value of investment contracts realized in the last three years shall not be lower than 50% of the investment value proposed by the Bidder.
2. Professional licenses related to the execution of works, including at least
 - a. the following categories:
 - CW-1 “Excavation works”,
 - CW-2 “Civil and Industrial Constructions”,
 - CW-3 “Reconstruction and maintenance of civil and industrial buildings, façades cladding”,
 - CW-4 “Roads, highways, overpasses, railways, trams, subways, airport runways”,
 - CW-7 “Water supply, gas pipelines, oil pipelines, drainage and irrigation work”,
 - CW-8 “Marine constructions and deepening works”

CW-9 “Works and river protection hydraulic systems and reclamation”,
CW-10 “Construction of power plants for electricity production”,
CW-12 “Environmental engineering works”,

SC-2 “Hydro-sanitary plants, kitchens, laundries, their maintenance”,
SC-4 “Finishing masonry and related works, finishing with wood, plastic, metal and glass materials and finishing of technical construction nature”
SC-8 “Prefabricated constructions, reinforced concrete, metal and wooden structures”,
SC-9 “Special structural works”,
SC-10 “Special layers and superstructures”,
SC-13 “Telephone and tele-communication plants and lines”,
SC-14 “Internal electrical installations, telephone, radio-telephone, TV, etc.”,
SC-15 “Purification of marine, lake and river waters”,
SC-18 “Topographic surveying works”,
SC-20 “Geological-engineering drilling, wells and water drilling”

The economic operators must have the necessary licenses to implement the contract. For this they must submit the relevant license of the company based on the format approved by the Decision of the Council of Ministers No. 42 dated.16.01.2008 "On the approval of the regulation on criteria and procedures for issuing professional licenses for implementation, classification and discipline of entities legal entities that exercise construction activities”, as amended.

The foreign candidate / bidder must calculate the professional licenses issued by the country of origin for the categories of works at the responsible Ministry in the Republic of Albania (non-submission is a qualifying condition), according to the legislation in force.

3. Evaluation of the technical capacity in the Design of the Economic Operator based on the following documents.

The economic operator must meet the qualifying criteria of the item "Design". The economic operator must submit a valid Professional License. The Economic Operator must have a proven experience of designing and distributing world-class navies that allow them to achieve industry recognition and international accreditation.

4. Must have at least in possession of the following certificates:

ISO 9001: 2015 “Quality Management Systems”
ISO 14001: 2015 “Environmental Management Systems”
ISO OHSAS 18001: 2007 “Occupational Health and Safety Management Systems”
ISO PAS 99: 2012 “Integrated Management Systems”
ISO 39001: 2012 “Road Traffic Safety Management Systems”

5. Tools, technical equipment available or that may be made available to the bidder, according to Annex 8.
6. Proof of manpower necessary for the execution of the object of the contract,

The average number of insured employees shall be not less than 150 employees for the period July 2018 - November 2019.

A certificate testifying the number of employees and E-SIG 025 payrolls confirmed by the Taxation Directorate’s stamp shall be submitted.

The project shall contain detailed versions of the following studies/reports:

- Project description, including but not limited to, technical data and technical solution, superstructure, infrastructure, logistics of vehicle safety operation;
- Maintenance plan;
- Work execution schedule;
- Works projections;
- Environmental Impact Assessment (EIA) Report for the object of the concession;
- Business Plan according to the pre-defined structure, introducing the Value of the proposed Concession Fee too;

All documents shall be original copies or notary certified copies thereof. Failure to submit the required documentation or, the submission of false and incorrect documents, shall be considered a condition for disqualification.

All documents shall be original copies or notary certified copies thereof. Failure to submit the required documentation or the submission of false and incorrect documents shall be considered a condition for disqualification.

Annex 10

[Annex to be completed by the Economic Operator]

CRIMINAL RECORDS STATEMENT

Statement of the economic operator participating in the concession procedure/PPP, to be held on _____ by the Contracting Authority _____ with subject _____

I, the undersigned _____ in the quality of _____ economic operator _____ hereby declare that:

- The economic operator _____ has never been convicted for any criminal offence as provided by Article 45/1 of the AML,
- The economic operator _____ has never been convicted by means of final court decisions, on any act related to its professional activity.

Statement submission date _____

Bidder's representative

Signature

Stamp

Annex 11

EVALUATION CRITERIA

Bids shall be evaluated based on the following criteria, and the winner shall be the bidder earning the highest score based on the evaluation criteria.

The Bid Evaluation Commission shall evaluate the Technical and Financial Bids, based on the following criteria:

No.	Criteria	Maximal Score (S)	Score Calculation Criteria
1	Compliance with technical criteria: <ul style="list-style-type: none"> • Project and Technical Solution • Superstructure (facilities in view of services to be provided to customers) • Infrastructure (land, water, breakwater) their level and capacity of vehicles' safe accommodation. • Vehicle security operation logistics (entry, exit and accommodation). 	35 points <i>(10 points);</i> <i>(10 points);</i> <i>(10 points);</i> <i>(5 points);</i>	
2	Maintenance Plan	15 points	
3	Concessionary Fee	15 points	$P_{Fee} = \frac{Fee}{Fee_{max}} \cdot P$
4	Design Experience	15 points	$P_{EP} = \frac{EP}{EP_{max}} * P$
5	Social and environmental impact: <ul style="list-style-type: none"> • Social impact • Environmental impact 	10 points <i>(5 points)</i> <i>(5 points)</i>	
6	Construction and operation time	10 points	$P_T = \frac{T_{min}}{T} \cdot P$
	Total	100 points	

Whereby:

- P_T - Construction time calculated points
- T - Construction time
- T_{min} - Minimum Construction time
- P - Points
- P_{Fee} - Concessionary Fee calculated points
- Fee - Concessionary Fee
- Fee_{max} - Maximum Concessionary Fee
- P_{EP} - Design Experience calculated points
- EP - Number of ports designed during the last 10 years
- EP_{max} - Maximum number of ports designed during the last 10 years

The criteria introduced in the Bid constitute the non-negotiable terms of the Concession Contract and cannot be changed in any case.

Explanations concerning the selection criteria of the winner and the evaluation methodology during the competitive procedure:**Compliance with technical criteria**

The bid proposing the most efficient technical solution shall be evaluated with the maximum of technical scores.

The bidder shall submit a detailed project, including the technical criteria for the construction of the port.

The superstructure is an important part of the project, which includes the buildings needed to carry out this activity and the facilities for the various services that shall be provided to the port customers during their stay with their vehicles.

Infrastructure is another important component of the project, consisting of the terrestrial water part. Their size and level determine both the accommodation capacity and the vehicles safety level during operation and accommodation in this port.

Maintenance Plan

Bidder solution covering periodicity and maintenance ensuring maintenance and standards is guaranteed throughout the project development period.

Concessionary Fee Value

It is the royalty the concessionary shall pay to the Contracting Authority.

It shall start accumulation from the moment the port becomes operational. Its value is expressed as a percentage of the monthly/annual income the concessionaire will generate and give to the Contracting Authority.

The minimum concession fee shall be 2%, a value that shall be provided in the contract as a non-negotiable requirement.

The scores calculating method shall be based on the value the bidder transfers every year to the state.

Design Experience

It is the bidder's design experience for similar ports over the last 10 years.

Maximum points will be awarded to the bidder who has more experience in designing similar ports during the last 10 years and each bidder is evaluated using the formula set out in the Evaluation Methodology.

Social and environmental impact

The presentation of a monitoring plan for mitigation measures concerning the impact the service shall have on the environment (flora, fauna, soil, water, air) as well as on the micro-climate of the environment shall be evaluated with maximum score.

The bidder shall undertake to avoid or mitigate the social impacts by conducting an assessment thereof, explaining the effects the project will have on the community of the area around the Port and how the project will have a positive impact on the development of the area. Additional investments foreseen as auxiliary to the infrastructure of the area

Note: The information and issues to be addressed in the environmental impact assessment report are described in Law No. 10 440, dated 7.7.2011, "On environmental impact assessment" as well as other legal requirements pursuant to the legal regulatory framework of the environment.

Nevertheless, the EIA report may address other issues as identified during its completion.

Construction and operation time

It is the period from when the Concession Contract has entered into force until the date of application by the Concessionaire for its announcement as an international port by Decision of the Council of Ministers in accordance with the Maritime Code and applicable law. This term shall include:

- i) The term calculated from the date of entry into force of the Concession Contract, the Concessionary shall be aware of in order to obtain all the necessary permits related to the object's implementation project of the Concession Contract. (The deadline for applying for the necessary permits shall be no more than 12 months. All deadlines shall be suspended at the moment the concessionary applies to the entities responsible for permits and licenses issuance.) Deadline from the date when the Concessionaire has applied for all necessary permits for the initiation of the works until the date of application for the announcement of the international port.

Attention!

The shortest period presented by the bidders in the competition procedure earns maximum scores.

The time projected for construction shall be part of the Concession Contract.

The evaluation of this criterion shall be performed against the shortest (minimum) time period for the construction of the object, which shall receive the highest score and each candidate bidder shall be scored by the formula defined in the Evaluation Methodology.

Annex 12

FOREIGN BIDDERS SELF-DECLARATION

- Concerning participation in the concessionary procedure/PPP of “__”

[Date]

To:

[Bidder Name/Leading Participant of the Joint Venture] hereby declares and warrants that, on the date of this letter [Name of Bidder/Leading Participant of the Joint Venture] and any member of the Joint Venture (as applicable)

- (a) has never undergone any liquidation or bankruptcy procedure; (b) has never been convicted on any criminal offence;
- (c) has never been convicted by any final court decision concerning its professional activity.
- (d) capital/assets are not undergoing any evaluation procedure by a Bailiff Service Office and no writ of seizure has been issued therefore;
- (e) has executed all its fiscal obligations;
- (e) has executed all its social insurance obligations;

Sincerely,

Signature of the Authorised Person
Name and Title of the Signatory
Person
Bidder Name/Leading Participant of the Joint Venture
Address

Annex 13

(Annex to be filled in by the Contracting Authority)

PROJECT IMPLEMENTATION AND TECHNICAL SPECIFICATIONS

Project Technical Requirements

Vlora Marina must provide a protected, safe, functional mooring year-round for modern yacht fleets. The marina must be accessible throughout the seasons and must provide a safe and navigable access channel in addition to the protected basin.

The Navy must accommodate a minimum of 400 vessels. The anchorages of different types of ships should reflect the typical modern fleet expected to sail in the Ionian and Adriatic Seas, while also protecting against possible changes in markets and ship characteristics.

The Navy should make available and maintain accommodation and processing infrastructure for existing cruise ships currently operating in Port and consider a possible increase / decrease in this market.

A place for refueling of vessels should be provided, which should have ecological and safe equipment during the provision of the service.

The marina should be designed with sustainable development in mind and aim to achieve relevant eco-marine accreditations promoted by the industry.

The marina must be designed in accordance with the relevant European Standards and relevant codes and guidelines applicable to industry design, all of which must be clearly referenced.

Marine Infrastructure

The Navy must provide (but not be limited to) the following civil and maritime works:

- Fixed breakwater to ensure proper protection of the basin and port infrastructure;
- Necessary signage for safe operation of vessels according to the legislation in force;
- Fuel supply point attached to safety and operation equipment;
- Complete reconstruction of the Eastern Pier;
- Deepening works to achieve the appropriate water depth approximated to the defined naval scheme;

- Navy operational buildings;
- Necessary port infrastructure;
- Craft vehicle service.
- Safe circulation in the area
- Road network and connections with the interior area
- Service supply networks and network connections
- Accommodation infrastructure for processing the existing fleet of cruise ships
- Emergency infrastructure for superyacht and cruise ship visits.
- Port security system pursuant to the ISPS Code and law no. 168/2013 "On ship and port security".
- Landscape with public spaces and quality circulation spaces.

Operational Objects

The Navy should provide (but not be limited to) the Navy's infrastructure and operational facilities, as follows:

- Adequate security arrangements and controls
- Anchor holder facilities.
- Navy management facilities
- Authority facilities (customs, border police, captaincy, coast guard)
- Convenient parking inside the marina.
- Service of supply of vessels with electricity, water, wifi, collection and disposal of polluted waters as well as collection of solid and oily waste for each vessel according to the legislation in force.
- Fire and rescue equipment and systems as well as other emergencies
- Access to the Navy mooring platform and security solutions.

Project Master Plan and Supporting Material

A Master Plan for Vlora Marina should be prepared, which describes the presentation of the navy master plan and the justification of the design of this presentation. The Master Plan report should contain the necessary supporting plans and studies that describe the rationale on which the design is based.

The process on which the marina was designed (including the study and planning phases) and built should be clearly described in a methodology statement. Project risks need to be identified.

Operational and maintenance plans need to be established.

Bidding Concession Procedures\Public Private Partnership Procedures

A detailed description of essential works and installations, including specifications, should be provided.

A development program needs to be prepared.

An environmental and social impact study should be prepared.

Business Plan

A detailed naval business plan should be prepared..

Annex 14

(Annex to be filled in by the Contracting Authority)

WORK PROJECTIONS

Annex 15

[Annex to be filled in by the Contracting Authority]

STANDARD NOTIFICATIONS TO THE DISQUALIFIED BIDIDERS

[venue and date]

[Name and address of the Contracting Authority]

[Bidder Address]

Dear Mr. /Mrs., <contact name>

We thank you for your participation to this public concession/private public procurement procedure. It was held pursuant to Law on Public Procurement no. 125/2013 "On concessions and public-private partnership", as amended and DCM no. 575, dated 10.7.2013 "On the adoption of rules for the Concession/Public Private Partnership Evaluation and Award".

Your bid has been carefully examined against the terms and conditions set forth in the Contract Notice and Bid File. We regret to inform you that you have not been selected (disqualified, eliminated), due to the fact that your bid was rejected on the following grounds: *[tick the correct box]*:

[Your company]

- participated in the preparation of the contract notice, or the bid file, or parts thereof, which were used by the contracting authority
- received illegal assistance in preparing the contract notice or bid file, or part thereof

[Your company]

- Whether has been judged by a court having competent jurisdiction in cases of committing a criminal or civil offence, including corruption practices, money laundering, criminal organization, according to the laws in force or regulations applicable in Albania, or pursuant to international agreements and conventions;
- In case the court with competent jurisdiction has ruled that the company has committed an act of fraud or an act equivalent to fraud;
- Whether the company is under prosecution for one of the criminal offences described in Article 45 of Law no. 9643, dated 20.11.2006 "On public procurement";

- Whether the company has filed for bankruptcy and the activity has been taken in administration by the court in accordance with Article 45 of Law no.9643, dated 20.11.2006 “On public procurement”.
- Whether the company is under the procedure of filing for bankruptcy, according to an order for compulsory liquidation or administration by the court, or according to an agreement with the creditors, or pursuant to similar procedures, in accordance with the public procurement rules;
- has been convicted, by any final court decision, on offences related to the professional activity;
- has not paid for social and health contributions, in accordance with Albanian Law and legislation in force in the country of origin;
- has not fulfilled the obligations related to the payment of taxes, in accordance with the Albanian Law or with the provisions in force in the country of origin;

Failed to submit:

- Certificates or certifications required indicating that you are compliant to the terms set by the public procurement rules;
- A sufficient certificate, document or certification required by the contracting authority to verify your professional eligibility;
- Sufficient evidence, as described in the public procurement rules indicating that the candidate or tenderer in question meets the requirements for the minimum financial, technical and professional capacity, specified in the bid file or pursuant to the contract notice;
- The Contracting Authority has determined that you have submitted documents containing false information, for the purpose of qualification;
- Your bid [does not respond to the requirements] [is irregular];
- You failed to meet the bid insurance requirements;
- (any cause other than those above)

excuse

REASONING

[You are not eligible] [your bid was rejected] for the following reasons:

[Enter detailed reasons for disqualification or rejection of the bidding in question]

Whether you consider that the Contracting Authority has violated the Law no. 125/2013 “On concessions and public private partnership” and DCM 575, dated 10.7.2013 "On the adoption of rules for the Concession/Public Private Partnership Evaluation and Award” during the concession/PPP procedure, and base on this you are entitled to initiate a review procedure as provided in the Law "On Concessions and Public Private Partnership".

Even though we could not make use of your services in this case, I am confident you will preserve your interest in our concession/PPP initiatives.

Best regards,
< Name >

Annex 16

[Annex to be filled in by the Contracting Authority]

WINNER NOTIFICATION FORM

[Date _____]

To: [Name and address of the Winning Bidder]

Concession/Public Private Partnership Procedure:

Short description of the Contract: [Quantity, scope and duration of Contract]

Previous publications (if applicable): Public Notification Bulletin [Date] [Number]

We notify that the following bidders have participated in the procedure with the respective values offered:

1. _____ Value (in figures and letters) _____

2. _____ Value (in figures and letters) _____

Etc. _____ Value (in figures and letters) _____

The following Bidders were not qualified:

1. _____

2. _____

For the below mentioned reasons, namely:

* * *

(Contracting Authority) notifies [name and address of the winning Bidder] that the tender submitted on [date] for the concession to [name and general description of the object of the contract] has been accepted.

Your negotiation term for the Contract shall be _____

Bidder [name] is requested to submit to (Contracting Authority) the following documents:

- Signed copy of the General and Special Terms and Conditions and of the Concessionary Contract/Public Private Partnership duly signed.

Bidding Concession Procedures\Public Private Partnership Procedures

- Insurance of the Contract as per the required form of the Standard Documents of the Bidding Procedure. The insurance must be submitted upon signing the Contract by both parties.
- The bank mandate document certifying the payment of publishing costs and specialized consultancy expenses (*if any*). The payment concerned shall be executed before starting the negotiations.
- In case of waiver from the Contract, you must notify in a written from.

..... *Contracting Authority*

Classification Notice has been issued on _____

Complaints: whether there are any _____
(if any) reply submitted on: _____

[Head of the Contracting Authority]

Annex 17

**CONTRACT GENERAL CONDITIONS
Works**

**REPUBLIC OF ALBANIA
E
REPRESENTED
BY**

MINISTRY OF INFRASTRUCTURE AND ENERGY

**Representing the Contracting Authority
and
Acting as the Concessionary Company
“.....” Sh.p.k.**

**CONCESSION CONTRACT/PRIVATE PUBLIC PARTNERSHIP
ON
ON THE DESIGN, CONSTRUCTION, OPERATION AND TRANSFER OF A TOURIST
PORT IN THE CITY OF VLORA**

This draft contract may be amended, in accordance with the documents of the competitive bid procedure, in order to adapt to the winning bid and negotiations between the Authority and the selected bidder as the most successful bidder.

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REPUBLIC OF ALBANIA

NOTARY OFFICE _____

No. Rep. _____.

No. Col. _____

CONCESSION/PPP CONTRACT

**ON THE DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE AND TRANSFER OF
A TOURIST PORT
IN THE CITY OF VLORA**

PARTIES:

1. Ministry of Infrastructure and Energy as the ministry responsible for infrastructure (hereinafter "**Contracting Authority**"), represented by; and
2. **Concessionaire Company (SPV)**, "....." sh.p.k., with (NUIS): with headquarters at the address....., a company incorporated under the Albanian law, represented by

The Contracting Authority and the Concessionaire Company shall refer to this Contract each as "Party" and jointly as "Parties", according to their linguistic variants in singular or plural, as may be required from time to time by the context of this Contract.

Taking into account that:

- A. The Contracting Authority has the power to sign this contract in accordance with:
 - Law no. 125/2013 "On concessions/private public partnership" as amended;
 - Decision of Council of Ministers no. 575, dated 10.07.2013 "On the adoption of rules for the Concession/Public Private Partnership Evaluation and Award" as amended;
 - Decision no.1 dated 14.10.2020 of the National Territory Council "On the adoption of the National Sectoral Plan of maritime transport and port infrastructure".
 - Law no. 9251, dated 08.07.2004 "Maritime Code of the Republic of Albania", as amended;
 - Law no. 9710, dated 10.4.2007 "On Tourist Ports in the Republic of Albania ", as amended;
 - Civil Code of the Republic of Albania;
 - Administrative Procedure Code of the Republic of Albania;
 - Law No. 168/2013 "On Safety in Ships and Ports and by laws in its implementation;
 - The International Convention for the Prevention of Pollution from Ships (MARPOL

73/78)

- Law no. 8402, dated 10.9.1998 “On the control and discipline of construction works” as amended as well as other legal acts in force for the supervision of construction works;
- the law nr.107/2014, dated 31.7.2014, "On Territorial Planning and Development", as amended, and by-laws issued for its implementation.
- Law no. 52/2014 "On insurance and reinsurance activity”
- Bidding Documents for the Concession/Public Private Partnership of the Tourist Port "Marina Vlora";
- Bid submitted by the most successful bidder;
- Legislation in force in the Republic of Albania and international acts with binding effect in the Republic of Albania.

B. Dated, time....., the winning bidder (Concessionaire) has submitted its proposal regarding this bidding selection procedure (“**Concessionaire Bid**”), which has been accepted by the Contracting Authority (Concession Commission);

C. On, the Contracting Authority has sent to the Concessionaire the "Winner Notice", (*letter no Prot. "Winner Notice"*), through which the winning bidder (Concessionaire) has been invited to negotiate the Concession Contract.

D. The Contracting Authority and the Concessionaire undertake in good faith to implement this Concession Contract in accordance with the terms and conditions set forth below:

NOW THEREFORE for and in consideration of the covenants contained herein, the Parties agree as follows:

Article 1

Definitions and Interpretations

1.1 Definitions

Whenever capital letter words are used in this Contract (including its Annexes) these words shall have the meanings as defined below or throughout the text of the Contract:

- (i) "**Concession Contract**" or "**Contract**" means this Concession Contract (together with all its Annexes, which shall be deemed to be an integral part thereof) and any document or act attached to this Contract or its Annexes, irrespective of the name provided during negotiations between the Parties.
- (ii) "**Annex**" means any annex to this Contract which forms an integral and integral part thereof.
- (iii) "**Concession Rights**" means the rights of the Concessionaire Company starting from the Effective Date to perform the services set forth in this Contract.

- (iv) “**Right of Passage**” means the right to cross on and under the Port and into any part thereof, as well as to enter and exit it without undue interference by any third party for the purpose of implementation of this Contract.
- (v) “**Funder**” means any acknowledged national or international financial institution which, in accordance with its scope of business, may finance this Concession together with the Concessionaire Company.
- (vi) “**Financial Instrument**” means any loan agreement, treasury bills, contracts, instruments, insurance arrangements, registration or information statements, subordination agreements, mortgages, deeds of representation and administration, credit agreements, bonds purchase agreements, participation agreements and other documents that are signed by the Concessionaire and/or the Concessionaire in connection with the object of the Concession and for the exercise of the Concession Rights, including amendments, completions, additions, extensions, renewals and replacements of any such funding.
- (vii) “**Technical Design Requirements**” means the technical design requirements in accordance with the legislation on urban planning (Technical Design Requirements);
- (viii) “**Technical Construction Requirements**” means the technical construction requirements in accordance with the legislation on urban planning (Technical Requirements of Construction);
- (ix) “**Concessionaire Company**” is the subject established for special purposes, by the winning Bidder, for the special purpose under this contract, to which all rights and obligations of this Contract shall pass.
- (x) “**Port**” means a part of the land territory of the coast, maritime, lake and water territory, designated to receive vessels.
- (xi) “**Port Assets**” or “**Assets**” means all tangible or intangible assets that are or will be created by the Concessionaire which are included in the Business Plan and the Concessionaire Bid.
- (xii) “**Bidding Documents**” mean all documentation published on, at the Public Procurement Agency, to which the concessionaire relied on to prepare the respective Bid. **Annex 1:**
- (xiii) “**Concessionaire Bid**” or “**Bid**” has the meaning set forth in letter “B” of the Preliminary Contract Notices. **Annex 2:**
- (xiv) “**Bidding Price**” has the meaning as defined in the Concessionaire Bid.
- (xv) “**Effective Date**”/“**Date of entry into force of the contract**” has the meaning set forth in Article 4 of the Contract.
- (xvi) “**Construction works**”, means all the works needed for the construction of the tourist port in the city of Vlora and the relevant facilities.
- (xvii) “**Pre-Construction Phase**” means the phase as defined in Article 15 means the

time period which will be calculated from the Effective Date to the date of commencement of construction works.

- (xviii) "**Construction Phase**" means the period of time from the Date of Commencement of Works to the date on which the construction is completed.
- (xix) "**Maintenance Works**" means the obligation of the Concessionaire, under this Contract, to carry out such works as are necessary to guarantee the proper maintenance and proper operation of the port and assets.
- (xx) "**Permit, Authorization, License**" means any approval, permit, license, authorization, approval or certificate, the issuance or renewal of each is the responsibility of each State Entity as stipulated and required for the implementation of this Contract.
- (xxi) "**Services**" means the services subject to this contract as defined in Section 2.2.2 below.
- (xxii) "**Concession Fee**" means the fee that the Concessionaire pays to the Contracting Authority for the concession of the Services and which is regulated under Article 5.
- (xxiii) "**Service Tariff**" means the tariffs that are applied for each service performed in accordance with the relevant instruction of the Minister covering transport and the Minister covering finances, determined based on the business plan submitted in the competition and which is part of the documentation of the tender, which may vary in accordance with this contract and the Laws in force.
- (xxiv) "**Investment Value**" means the total amount for the investment to carry out the project pursuant to the object of the contract.
- (xxv) "**Annual Turnover**" means the gross annual revenue generated through the collection of fees from services provided to vessels in accordance with applicable law before the payment of taxes in accordance with Albanian legislation or the exercise of any other activity to be exercised in the Port Area within the meaning of Article 2.1.2 under this Contract.
- (xxvi) "**Corruptive Acts**" means the act of promising, giving, receiving or agreeing to receive money or any other valuable item, with the intent to corrupt or perceived as corruption, to influence a public employee in the performance of respective duties acts as well as acts that arise criminal responsibility according to the Albanian Criminal Code.
- (xxvii) "**Good Industry Practice**" means the practices, methods, standards, procedures and recommendations that are in accordance with the Laws generally applied in the provision of Services in terms of the Concession of this service, Concession which is expected to be to be performed by a skilled and experienced Contractor in the same or similar circumstances as practices, methods, standards and procedures which shall include, without limitation, Albanian and European standards (*whichever is higher from one period of time to the other*). Without being limited to

them, in the implementation or enforcement of these standards Albanian and European legal and sub-legal acts shall be included, as in the implementation or enforcement of these standards shall be included Albanian and European legal and sub-legal acts.

- (xxviii) "**State Entity**" or "**Entity**" means (i) the Council of Ministers of the Republic of Albania, and/or any of its ministries, departments or political and administrative subdivisions; and (ii) any other governmental entity, agency or authority under the control of the Republic of Albania, or any of its ministries, departments or political subdivisions, as well as any commune or municipality, and which exercise jurisdiction under the Laws of the Republic of Albania over the subject for special purpose (SPV), or any independent regulatory authority, acting in the territory of the Republic of Albania. The Contracting Authority is excluded under this definition.
- (xxix) "**Laws**" means any legal or sub-legal act, including international legislation with binding effect in the Republic of Albania, that applies to this concession and that regulates or directly or indirectly affects this Concession.
- (xxx) "**Tax**" means any tax, charge, duty, fee, charge, customs tariffs or charge of any kind, charged, imposed, claimed, or collected, directly or indirectly, by any State Entity under the Legislation in force.
- (xxxi) "**Concession Period**" means the duration period of 35 (thirty-five) years starting from the Effective Date, except when the Contract is terminated in advance or extended in accordance with the provisions under this Contract.
- (xxxii) "**Notice of Termination**" in respect of each Party, as the case may be, means a written notice from one Party to the other Party stating that it will exercise its right to initiate proceedings for the termination of the contract.
- (xxxiii) "**Working Day**" means every day of the week during which is a working day, in the sense of the provisions of the Labour Code in the Republic of Albania.
- (xxxiv) "**Inflation rate**" means the official inflation rate according to INSTAT calculations at the moment when the need for benchmark to this rate arises.
- (xxxv) "**Contract Guarantee**" means a valid contract insurance throughout the Concession period, issued by an insurance company or banking institution operating in Albania in accordance with Albanian legislation and guaranteeing the fulfilment of the Concessionaire's obligations.
- (xxxvi) "**Port Area**" means the area as defined by the cartographic annex part of the Contract as stipulated in Annex 3.
- (xxxvii) "**Vlora Bay**" means the geographical extent according to the definition, coordinates and boundaries defined in Physical Geography.
- (xxxviii) "**Contract Implementation Unit**" means the group to be designated by order of the Contracting Authority to monitor the performance of the Contract.

(xxxix) "**Testing**" means performing verifications of compliance of the construction carried out with the approved permit and design.

1.2 Interpretations

Unless otherwise provided for under this Contract:

- 1.2.1** A unit includes the plural and vice versa;
- 1.2.2** Reference to one gender includes both the other gender and the neuter gender;
- 1.2.3** Reference to natural persons shall also mean reference to legal persons of any form of organization in the broadest possible sense as well as to any other form of organization in the broadest possible sense that has no legal personality;
- 1.2.4** Reference to a law, decision, regulation, order or procedure includes reference to that law, decision, regulation, order or procedure as it is or may be amended, added from time to time and to any other act issued in support of and for the implementation of them.
- 1.2.5** The terms "*hereby*", "*hereto*", "*under this contract or hereby*", "*hereto*" and similar terms refer to the Contract as a whole and not to any Article, Paragraph, Annex, Schedule, Attachment or Chart or any other subdivision under this Contract;
- 1.2.6** Preamble and Annexes, Tables and Attachments to this Contract shall form an integral part of this Contract and references in the Annexes, Tables and Attachments shall be references to the Annexes, Tables and Attachments to this Contract, unless the Parties agree otherwise;
- 1.2.7** Any phrase beginning with the words "includes" or "including", "in particular", "for example", such as "or the like" shall be construed as illustrative and without limitation to the generality of the words of the Contract;
- 1.2.8** References as "*this Contract*" or "*this Concession Contract*" shall be construed as references to this Contract as may be amended or modified in the course of time, and shall include references to any document that amends, modifies or adds to it, or that is signed, made or given in implementation or in accordance with its terms;
- 1.2.9** Whenever this Contract refers to a number of "days" this number shall refer to calendar days, except when specified as Business Days;
- 1.2.10** Any reference to "month" or "year" shall be construed as a reference to a calendar month or a calendar year;
- 1.2.11** Any phrase, word, term and/or abbreviation beginning with a capital letter used in any Annex, Attachment or other attached Document shall have the meaning set forth in the Contract;
- 1.2.12** The titles used for the articles, paragraphs, sub-paragraphs, Annexes and table of contents are for ease of reference only and shall not affect the interpretation of the Contract;
- 1.2.13** In the event of any inconsistency between any capital letter, term, phrase or

abbreviation provided for in Article 1.1 and a provision, capital letter, term, phrase or abbreviation provided elsewhere in this Contract, Annex, Attachment or in a Other document attached to each Attachment, the meaning provided in Article 1.1 shall take precedence over the meaning given in each Annex, Attachment or any other document attached to each Attachment, unless the context of this Contract requires otherwise;

1.2.14 A reference to a State Entity means a reference to its jurisdiction and in cases when that State Entity

- (i) is substituted by another body/entity, then shall make reference to the jurisdiction of the latter;
- (ii) ceases to exist, then refers to the jurisdiction of the State Entity, which has the same competencies or similar to the State Entity that has ceased to exist;

1.2.15 As stipulated in the Contract, the term "Concessionaire" shall mean at the same time the term Special Purpose Entity "Concessionaire Company" and vice versa;

1.2.16 Without prejudice to the above paragraphs, if there is any conflict or inconsistency between the Articles and Annexes and/or any attachment to the Annexes and/or any other document referred to under this Contract, the conflict or inconsistency shall be settled in the order of the following of the priority, making the interpretation in good faith, based on the purpose of the Parties:

- (i) This contract
- (ii) Its annexes
- (iii) Bid documentation
- (iv) Tender Procedure Documents;

1.2.17 During the interpretation when there is a discrepancy between the two articles of the Contract, the article that specifically regulates the unclear issue or object of dispute shall prevail.

Article 2 Concession

2.1 Scope of the Concession

2.1.1 The Contracting Authority under this Contract and in accordance with its provisions and pursuant to the Legislation in force, grants to the Concessionaire the Concession rights for the construction, use and transfer of ownership on behalf of the state, to the Contracting Authority at the end of the concession, of a tourist port "Marina Vlora" in a part of the territory of the current commercial port of Vlora in Vlora city, in accordance with the bidding submitted and accepted by the CA, as well as the terms under this contract.

2.1.2 Contracting Authority under this Contract and in accordance with its provisions and the Laws in force, grants to the Concessionaire the opportunity to provide all types of services provided in

the bid submitted and accepted by the CA, as well as the necessary support services for the proper functioning of the Port, in accordance with the terms under this contract.

2.2 Concession Undertaking and Services

2.2.1 The Concessionaire under this Contract and in accordance with its provisions and laws accepts the Concession by agreeing and undertaking to implement the concession. The Concessionaire, in accordance with the provisions of this Contract, Laws, Permits, Authorizations, Licenses provided and required and at the expense, costs and upon respective risk, has projected and shall design, finance, build, equip, maintain and use and at the end of the Concession Period shall transfer ownership without compensation to the State, namely to the Contracting Authority.

2.2.2 The services to be provided by the Concessionaire under this Contract consist of:

- Seasonal summer parking
- Extended winter parking
- Extended annual parking
- Fuel supply
- Cargo and unloading of small, medium and high tonnage merchant ships (goods)
- Supply with food, water, etc.
- Support services necessary for the realization of the scope under this contract.
-

2.2.3. For any additional services not provided in paragraph 2.2.2 hereby, which are within the competence of the Contracting Authority, the Concessionaire shall address a written request to the Contracting Authority. The Contracting Authority will review and respond to the request of the concessionaire within 60 days, in accordance with the rules and conditions set out in Article 33 of Law no. 125/2013 "On Concessions and Public Private Partnership", as amended.

2.3 Concession Term

2.3.1 Concession of the Tourist Port "Marina Vlora", is granted for a period of 35 years from its entry into force (effective date) and ends on the day of the 35th anniversary of the effective date (effective period). However, in the case of a termination before the 35-year term, the concession period shall mean and be limited to the period beginning on the effective date and ending on the termination date. In case of extension of the concession after the 35-year term, the concession

period shall mean and be limited to the period starting from the effective date and ending on the date of the extension of the concession period.

2.3.2 The time limit of the Contract may be extended, if necessary, due to the amendments to the Contract, as provided in Articles 31, 32 and 33 of Law no. 125/2013 "On Concessions and Public Private Partnership" as amended, but the amendment will take place upon the Parties agree in writing. Any amendments shall be in the template of an annex and shall comply with the procedure set out pursuant to the legislation in force.

2.4 Port Area

2.4.1 Considering that the Concessionaire has agreed to fulfil its obligations under the provisions of this Contract, the Contracting Authority grants the Concessionaire the right to enter, take delivery and use in accordance with the Laws and pursuant to this Contract, The Port Area, as defined cartographically in Annex 3 for the purpose of implementing the Concession in accordance with the provisions of this Contract.

2.4.2 The Concessionaire shall not use the Port Area, as defined cartographically in Annex 3, for other additional purposes not provided in this Contract, without the written approval of the Contracting Authority which is provided in any case in accordance with applicable law.

2.4.3 Information regarding the scope of the Concession and the port area (Assets), is presumed to have been provided in good faith by the Contracting Authority, for all matters related to them. The Contracting Authority declares that shall provide to the Concessionaire through the company "Vlora Seaport" sh.a., within submitting a request and reasonable deadline, any information related to the Concession Object and Port Assets, for which the Contracting Authority has information or shall be aware in the future, to the extent it relates to the scope.

2.4.4 The Contracting Authority does not guarantee the condition of the Port Area (including land and underground or submarine space) with respect to the conditions set out below and the Concessionaire accepts the Port Area (including land and underground or submarine space). as it is and where it is "and declares and admits that:

- (i) has inspected the Port Surface and the surrounding area and agrees with the existing situation regarding the physical, morphological, geo-physical, geological and seismic conditions of the Port Surface (*including land and underground or submarine space*);
- (ii) agrees on climatic, hydrological, geological, seismic, etc. suitability, as well as with the general geophysical conditions of the Port Area and the surrounding area in which this surface is located, with land and subsoil, underwater part, relief and nature and with the nature of designs, works and materials required to fulfil the obligations under this Contract;

- (iii) has provided all relevant information regarding unexpected risks, situations or problems and all circumstances that may affect or infringe on the Concessionaire and respective rights or that may prevent or delay him in fulfilling his obligations under this Contract.

2.4.5 The Contracting Authority guarantees that the Concessionaire will own and enjoy free and safe from any claims of third parties, in accordance with the provisions under this contract, the entire Port Area (Assets set out in Annex 3) and anything relates to them, including all rights arising from this Contract, throughout the Concession Period.

2.5 Declarations and Warranty

2.5.1 Concessionaire declares and guarantees that:

- (i) make available, within the Effective Date, all information made available by the Contracting Authority, the Standard Documents required for the implementation of the Concession within the time limits specified under the Contract, as listed in the relevant annex attached thereto;
- (ii) owns or will own for the timely implementation of the concession, all information (legal, economic, technical), financial resources, equipment, systems and personnel necessary, appropriate and qualified to perform the Contract;
- (iii) The Concessionaire declares and warrants that, in no event shall claim from the Authority or State Entities any indemnity, penalty or make any claim in connection with the performance of the contract for facts, circumstances or events for which has been aware or notified in writing or referring to the circumstances presumed to have been notified;
- (iv) all contracts to be signed by the Concessionaire with third parties shall not have a validity period longer than the date of termination of the Concession Period, otherwise the responsible/debtor to third parties for the performance of these contracts shall remain the Concessionaire.
- (v) is duly established and organized in accordance with the Laws and is entitled to exercise the rights and fulfil respective obligations under this Contract;
- (vi) has taken all appropriate actions and enjoys all the powers and competencies to negotiate, conclude, execute and terminate this Contract and that the latter is engaging, binding, valid and enforceable against it;
- (vii) there is no act, document and/or action, completed, pending and/or pending before any court, arbitration court, administrative or criminal body, etc., and has not been subject to any fine , penalty, punishment, civil or criminal liability that have or may have a negative effect with a tangible impact on the breach of compliance with the obligations of the Contract.
- (viii) no amount of money or interest has been paid by the concessionaire or on his behalf to any official, employee or representative of the Contracting Authority for the purpose of influencing or attempting to influence them in connection with or take advantage of this Contract;
- (ix) During the entire duration of the concession in case it transfers the shares or stakes of the Concessionaire shall be performed in accordance with the provisions under this contract.

- x) The Concessionaire guarantees to the Contracting Authority that has all respective intellectual property rights (if applicable) that are needed or used to fulfil the Contract.
- (xi) provide the Contracting Authority with an original copy (or certified copy with the original) of the insurance policies required under this Contract within 30 (thirty) days of the occurrence of the obligation to obtain them;
- (xii) As long as the contract is in force, shall provide the services continuously and uninterruptedly, regardless of any claims or lawsuits it may have filed against the Contracting Authority and/or third parties, otherwise the Contracting Authority is entitled to terminate the contract and, as the case may be, to be compensated for the damage occurred;
- (xiii) Shall apply, in accordance with applicable law, for any permit, license or authorization, or any other approval necessary for the implementation of this contract.

2.5.2 The Contracting Authority declares and guarantees that:

- (i) Has provided the Concessionaire with all available information on the implementation of this Contract by offering to provide, as far as possible, any other information that may be requested of the Concessionaire after the Effective Date;
- (ii) For the construction of another tourist port in the area of the Bay of Vlora shall adhere to international practices for tourist ports, decision no. 9, dated 18.06.2003 on "Areas of development of the main Marines, in support of yacht tourism along the Albanian coastal area" of the Council of Territorial Adjustment of the Republic of Albania, Law no. 9251, dated 08.07.2004 "Maritime Code of the Republic of Albania", as amended; Law no. 9710, dated 10.4.2007 "On Tourist Ports in the Republic of Albania", as amended, the Legislation in force in the Republic of Albania and the international acts with binding effect in the Republic of Albania as well as the Integrated Cross-sectoral Plan for the Coast;
- (iii) In accordance with the Laws in case of division, merger or change of portfolios, the expression "Contracting Authority", according to this Contract shall refer to the minister responsible for directing maritime transport policies in the Republic of Albania;
- (iv) All data and all information has been made available to the Concessionaire in good faith as accurate, true and error free;
- (v) Shall assist the Concessionaire, in accordance with the state responsibility field, during the procedures for equipment with Permits, Authorizations, Licenses (if that is the case), technology and economic development zone, "duty free zone", in accordance with the legislation in force;
- (vi) Has taken all appropriate actions and enjoys all the powers and competencies to

negotiate, conclude, execute and terminate this Contract and that the latter is engaging, binding, valid and enforceable against it;

- (vii) No order, rule/ regulation, decision shall be executed by the Contracting Authority in case there is a suspension decision by the court. Any dispute over port activity shall be settled in accordance with the procedure laid down in Articles 22 and 23 herein;
- (viii) If the Concessionaire, in the framework of the port development strategy, decides to add services and expand the port in order to meet the requirements of the time, it must submit for approval to the Contracting Authority, the project and the relevant documentation. The Contracting Authority shall review and respond to the request of the Concessionaire within 60 calendar days, in accordance with the rules, conditions and deadlines set out in Article 33 of Law No. 125/2013 "On Concessions and Public Private Partnership" as amended.
- (ix) The activity of the port may not be prohibited by the Contracting Authority until the completion of the handover of the port, in the manner provided herein, unless it is proven that the Concessionaire carries out illegal activities, directly related to the scope of this contract and only if the Court has issued a final decision or has taken a decision to secure the lawsuit.

Article 3 **Establishment of SPV**

- 3.1 The Concessionaire must provide the Contracting Authority with an original copy (*certified copy*) of the establishment and registration documentation at the National Business Centre of the Special Purpose Vehicle (SPV) as well as the relevant extracts within 30 (thirty) days from the date of the entry into force of this contract;
- 3.2 If the Concessionaire has not fulfilled the conditions provided in Article 3.1 within the deadlines specified in this Article, certified in writing, it will be responsible to pay to the Contracting Authority penalties in the amount of 5,000 ALL for each day of delay until the preliminary conditions are met.
- 3.3 If even after 3 (three) months from the deadlines set out in Article 3.1, these conditions are not met, then the Parties shall discuss the settlement of the matter amicably through successive meetings until a written conclusion is reached.
- 3.4 After the expiration of 3 (three) months of the 3-month period specified in Article 3.3, certified in writing, the Contracting Authority shall be entitled to terminate the Contract upon prior notice of 30 (thirty) days in accordance with the provisions herein and benefit the contract insurance.

Article 4
Contract Effective Date

After the signing of the contract by the parties, and its approval by the Council of Ministers of the Republic of Albania, this contract enters into force with the publication of the decision of its approval in the Official Gazette of the Republic of Albania (hereinafter “date of entry into force ”). The Effective Date of this Contract shall be the date of approval of this contract by the Council of Ministers.

Article 5
Financial Issues

5.1 Concession Fee

5.1.1 The Concessionary shall pay to the Contracting Authority a Concession Fee equal to ...% (... percent) of the Annual Turnover the Concessionary will collect from the applied Fees based on the audited financial statements of the Concessionary for each Fiscal Year.

5.1.2 The obligation of the Concessionary for the payment of the Concession Fee, commences immediately with the operation of the port by the Concessionary and shall be paid in monthly instalments within the 15th (fifteenth) of each following month.

5.1.3 Outstanding accrued concession fees (arrears) on the date specified in this Contract shall be paid after that date, together with a default interest of 0.1% for each day of delay, calculated on the outstanding (arrears) portion. Should the Concessionary be overdue for more than 6 (six) months for at least one payment, the Contracting Authority shall notify the Minister responsible for the finances, whose order for the collection of fees constitutes an executive title for the commercial banks whereby the concessionary company's bank account to be seized by the bailiff service is opened and has the right to take all actions permitted by law and this contract.

5.1.4 At the close of the Fiscal Year and the certification of the balance sheet, the Parties shall complete the Concession Fee reconciliation.

5.2 Service Fee

5.2.1 The Concessionary shall apply a lump-sum fee as provided in the bid included in **Annex 2**, integral part of this Contract. The Concessionary shall submit for approval to the Contracting Authority a detailed fee schedule upon completion of the construction works and prior to the port being declared opened for international traffic.

The Service Fee may be subject to annual revision based on the Inflation Rate and according to the following formula:

$$RI = (IR^{(2)} - IR^{(1)})/IR^{(1)}$$

- “**RI**” shall mean the Fee Revision Index;
- “**IR⁽¹⁾**” shall mean the Inflation Rate by the end of the fee’s review respective year; and
- “**IR⁽²⁾**” shall mean the Inflation Rate during the fee’s review year.

The Inflation Rate declared on a quarterly or 6-month or 9-month or 12-month basis shall be taken into account depending on the Effective Date.

5.2.2 The Concessionary may review the Service Fees if necessary for the progress of the concession, but in any case shall notify the Contracting Authority at least 2 (two) months in advance for the new (amended) fees. The written notice shall as well state the reasons. The decision to review the service fees stays with the Contracting Authority, which, within 30 days, shall provide in writing, the rationale behind any decision adopted.

5.3 Investment Value

The Concessionary investment value for this Contract is ALL, VAT excluded, as provided in Annex 5.

5.3.1 Within the term of this Contract, the Concessionaire will take care to carry out the necessary reinvestments, according to its needs, in the following areas:

1. Maritime safety
2. Port management technology
3. Tourist services infrastructure
4. Enhancing local services capacities

5.4 Maintenance

The Concessionaire shall, starting from the moment of using the Concession facility, spend no less than 1% of the annual amount collected from the Service Fees, for the maintenance of the port and its assets, ensuring an efficient and professional management of the tourist port "Marina Vlore" in Vlora. In addition, the Concessionaire shall act in compliance with the Maritime Code and the International Conventions signed by the Republic of Albania.

The Concessionaire, from the moment it starts to use the Concession facility, shall maintain the port according to the applicable standards, ensuring an efficient and professional management of the port for its maximum operation. In addition, the Concessionaire shall act in compliance with the Maritime Code and the International Conventions signed by the Republic of Albania.

The Concessionaire shall carry out the necessary reinvestments in machinery and equipment in order to submit them in optimal working condition at the end of the concession period and the transfer of the work subject to concession to the Contracting Authority. This reinvestment shall be made based on the best practices in the industry, as well as in accordance with the technological

charter of the installed machinery and equipment, guaranteeing the Contracting Authority for the proper functioning of the work within the technical parameters, with the transfer to the latter.

Article 6

Contract Insurance

6.1 Contract Insurance

6.1.1 Prior to signing the contract, the Concessionaire, in order to meet the obligations of the contract throughout the concession period, submits to the Contracting Authority an irrevocable contract insurance, payable on the first request, in the form of an unconditional bank guarantee, issued by a commercial bank in Albania or, in the form of an unconditional insurance policy, issued by an insurance company operating in the insurance market in Albania.

6.1.2 Contract Insurance shall be at the rate of 5% of the investment value. Failure to provide the contract insurance in the required form and value shall result in the cancellation of the contract and the loss of the contractor's bid insurance. The Contract Insurance is an annex and an integral and inseparable part of this contract.

6.1.3 The Concessionaire shall be entitled to request the authority after the certification of the works, through a written request, providing reasoning and accompanied by compliance documents, reduction of the value of the contract insurance, proportionally to the investment realization, in accordance with the contract implementation schedule and the respective phase. The Deduction of the Contract Guarantee, during its duration, shall not be less than 25% of the initial value of the Contract Insurance.

6.2 Concessionaire Responsibility

The Concessionaire shall be responsible for paying the relevant premium for the completion of the Contract Guarantee amount whenever this amount is affected/reduced in accordance with the Contract for making payments of any nature specified in this contract in favour of the Contracting Authority. This completion shall be carried out within 15 (fifteen) days of any such payment.

6.3 Penalties

If the Concessionaire fails to complete, within the above period, the amount of the Contract Guarantee, the Contracting Authority shall be entitled to apply and withdraw a penalty in the amount of 10,000 ALL for each day of delay, but nonetheless not more than 3 (three) months. After 3 (three) months the Contracting Authority shall seek amicable settlement through successive meetings until a written conclusion is reached. If the parties do not reach a written agreement according to the provisions of Article 22 herein, the Contracting Authority shall , against a prior notice of 60 (sixty) days, be entitled to start the procedures for contract termination according to the provisions of Article 23 herein.

6.4 Negotiation period

The parties shall discuss the settlement of the issue amicably within a period of 30 days, with the right to extend this period for another 30 days. If the Parties fail to reach an agreement at the end of this period, the Contract shall be terminated in accordance with the provisions herein, namely Article 23.

6.5 Return of part of the guarantee

The Contracting Authority, upon certification of the works, at the request of the Concessionaire shall return to the latter, within 30 days from the receipt of the request, part of the value of the contract insurance. This measure may be reduced proportionately during the execution of the contract, but in no case, during its duration, may it be less than 25% of the initial value of the insurance.

Article 7

Concessionaire and Concession Company

7.1 In order to implement and meet the conditions set out herein, the Concessionaire shall be obliged, according to the deadlines set out herein, to establish a special purpose venture (SPV) in accordance with the Albanian legislation on Business Organizations, with the note before the name “Concession Company”, to which are automatically transferred the rights and obligations of this Concession Contract, from the moment of notification of the CA for the establishment of the Concessionaire Company.

7.2 Notwithstanding the establishment of the SPV, the Concession Company and the Concessionaire shall be jointly and severally liable for the responsibilities and obligations in fulfilling the terms of the contract, throughout its duration, starting from the moment the contract enters into force.

7.3 The Concession Company shall be established by having as partners/shareholders the companies that are parties to the merger contract of the companies selected as the most successful bidder.

7.4 The Concession Company shall have as its sole object the object of the concession contract.

7.5 During the Concession Period, the partners/shareholders of the Concession Company shall not transfer the controlling stake in favour of any third party, without the prior written approval of the Contracting Authority. The Contracting Authority shall not refuse to give such consent without reasonable legal reasons.

7.6 The Concessionaire, upon approval of the Contracting Authority, shall set as a financing guarantee in the financial institutions, for the realization of this contract, only the rights deriving from the concession contract.

Article 8

Project Implementation Unit (PIU)

Within 1 (one) month from the date of entry into force of this Contract, by Order of the Minister of the Contracting Authority, the Concession Project Implementation Unit (“PIU”) is established within the CA. The composition and responsibilities of the PIU shall be set out in the Ministerial Order. This Order shall not contain obligations of the Concessionaire to the PIU. The work of the PIU shall continue throughout the Concession Period.

Article 9

Contract subcontracting and assignment

9.1 The contracting authority can:

- a. require the concessionaire to award contracts that are at least 30% (thirty percent) of the total value of the concession contract to third parties, providing, at the same time, an opportunity for bidders to increase this percentage, while this minimum percentage is specified in the concession contract;
- b. require bidders to indicate in their bids the percentage of the total contract value they plan to assign to third parties.

9.2. For the subcontracting of public-private partnerships, which are carried out as public works or public service contracts, the relevant provisions of the public procurement law are applied, accordingly.

Article 10

Insurance

10.1 Insurance request

The Concessionaire shall, at its own expense, pay insurance for activities in accordance with international standards for the operation of ports and immediately upon paying these insurances, informs the Contracting Authority about them.

10.2 Insurance Coverage Tests

The Concessionaire shall periodically make available to the Contracting Authority copies of the insurance policies received by the Concessionaire in accordance with this Contract.

10.3 Application of Insurance Procedures

All monetary amounts received from insurance under clause 10.1 shall be used immediately by the Concessionaire to repair, renovate, restore or replace the assets or any part thereof that may have been damaged or destroyed and to return them to their previous condition.

10.4 Validity of Insurance Coverage

Insurance policies shall be valid and applicable for the entire duration of the Contract, plus 30 days after its termination. Each insurance policy shall set out that it is not terminated or cancelled earlier than 10 (ten) days from the day when such termination or cancellation is notified to the Contracting Authority in writing.

Article 11

Obligations of the Parties

11.1 Concessionaire Obligations

The concessionaire shall have the obligation:

- 11.1.1** to provide the maximum within months from the date of entry into force or before receiving the construction document (if the moment of obtaining a construction permit occurs before the deadline in question), all necessary financial or any other type and nature of resources required for the performance of the Contract;
- 11.1.2** to notify the Contracting Authority, within 10 (ten) days, of any substantial change in the sources of funding by submitting at the same time supporting documents and proposals to the Contracting Authority on how the financial situation shall be resolved.
- 11.1.3** to hire/contract persons professionally capable of providing the Services, in accordance with the Laws, Contract and Good Practices of the Industry;
- 11.1.4** to take measures to ensure security in the territory where it shall operate and provide the Services;
- 11.1.5** to allow the Contracting Authority to monitor and control the fulfilment of the Contract through the PIU Commission, set up for this purpose according to a prior notice, 3 working days before the day set for monitoring and control;
- 11.1.6** to meet, at its own expense and cost, any additional work to correct defects or deficiencies identified by the Contracting Authority and ensure the timely completion of the Project/ Infrastructure and Project Services as provided herein;
- 11.1.7** to implement the legislation in force during its activity. The Concessionaire and the Concession Company shall give special care on: compliance with environmental legislation related to pollution of the marine, air, land environment, noise emission, etc., Labour Code and regulations of technical security, technical discipline, protection at work, hygiene and safety from fire, water, etc., to prevent any accident, fatality or injury at work; not to jeopardize the operation, security and readiness of the Armed Forces/Navy, as well as the exercise of sovereignty and law enforcement at sea.
- 11.1.8** shall bear all costs or expenses necessary for repairs or replacement of equipment used to execute the Contract.
- 11.1.9** The Concessionaire shall, during the Concession Period pay regularly: Concession fee, taxes, levies, duties, VAT, social and health insurance of employees, debts or income tax, liabilities for indirect taxes, customs duties, service taxes which may be levied, collected or

received at any time by any State Entity or Body including, in the implementation of the Infrastructure and Project Services according to the applicable legislation.

11.1.10 to bear all costs or expenses related to damages that may eventually be incurred by third parties.

11.1.11 to pay all expenses for publications made as well as notary expenses.

11.1.12 The Concessionaire shall allow the smooth passage of vessels that will use other parts of the bay outside the concession facility, which do not impede the activity of the Port and be in accordance with the relevant legislation and instructions/ regulations/ orders in force.

11.2 Obligations of the Contracting Authority

The Contracting Authority shall, in addition to what may be described in other provisions of the Contract, have the obligation:

11.2.1 to provide the Concessionaire with the Permits, Authorizations, Licenses that are within its competence and the entities under its jurisdiction, in case the application by the concessionaire for their receipt is complete and in accordance with the applicable legislation;

11.2.2 to assist the Concessionaire, in accordance with its area of responsibility, for the provision of Permits, Authorizations, Licenses that are under the competence of State Entities;

11.2.3 The Contracting Authority shall undertake to ensure the continuity of the contract as far as possible, despite changes in national and sector strategic objectives.

11.2.4 to assist the Concessionaire in relations and in concluding agreements/ contracts with public institutions for the purposes of executing the scope of this contract;

Article 12

Handover of the concession facility from CA to the concessionaire

The contracting authority shall, within 30 (thirty) days from the entry into force of the contract/ its effective date, ensure that through the Vlora Seaport, part of the area subject to this contract to the concessionaire and the rest be hand over after the completion of the financing and realization of the project in the Port of Triport, the relocation of the Vlora Seaport in Triport Vlora in order to be able to carry out the procedure of relocation of the processing operations of the goods from the current port of Vlora to Triport Vlora port. The initial delivery date shall be considered the facility's date of handover.

Article 13

Work Schedule

The Concessionaire shall carry out the investment in accordance with the Work Schedule provided in Annex 4 and according to the deadlines set out therein.

Article 14
Project

14.1 Project(s) Costs

The Concessionaire shall, at its own expense and costs, prepare all Projects in accordance with the requirements of this Concession Project and the legislation, including the Technical Design Requirements ("TDR").

14.2 Responsibility for designs and sketches

The Concessionaire shall be solely responsible for the compliance of the project(s) and drafts of this Concession with the Laws and shall undertake to compensate any damages arising for design errors.

Article 15
Pre-Construction Phase

15.1 The Concessionaire shall, in accordance with the bid, carry out:

- (i) field data collection within days from Effective Date.
- (ii) data processing, modelling and preparation of the preliminary report within days from the end of the previous deadline, in case there is no need for additional information which can be requested from the Contracting Authority;
- (iii) drafting of the detailed project and the final estimate within days from the end of the previous deadline;
- (iv) drafting of the environmental impact report, in order to obtain the environmental permit and submission of the complete documentation in accordance with the legislation for obtaining the construction permit within days from the expiration of the previous term.

15.2 The Concessionaire shall be obliged to pay a penalty in the amount of 10,000 ALL for each day of delay in the execution of the above obligations, if not providing a legal reason.

Article 16
Construction Phase

16.1 Beginning and Duration

The Concessionaire within days from obtaining all the necessary Permits, Authorizations, Relevant Licenses, shall start the works and, within months as defined in **Annex 4**, will carry out the Construction Works. The Construction Phase shall be considered completed in accordance with the Contract after the Concessionaire has been provided with the Operation Permit in accordance with Law no. 8402, dated 10.09.1998 "On the control and discipline of construction works", as amended.

For each day delay in the start of Construction Works after the day from obtaining the Permits, Authorizations, Relevant Licenses, the Concessionaire shall be obliged to pay a daily penalty in the amount of 10,000 ALL.

For each day of delay in the completion of Construction Works after the expiration of the deadline provided in the Bid, the Concessionaire shall be obliged to pay a daily penalty in the amount of 10,000 ALL, except when the delay has occurred for objective reasons, made known to the CA. The deadline shall, against a notification letter from the Concessionaire to the Contracting Authority explaining the reasons, be suspended as long as the State Entities are late in providing the Concessionaire with Permits, Authorizations, Relevant Licenses beyond the legal deadline for their issuance, provided that the Concessionaire has submitted in time the complete legal and technical documentation for obtaining them.

16.2 Obligations of the Concessionaire during the Construction Phase

In addition to the other obligations provided herein, during the Construction Phase the Concessionaire shall:

- 16.2.1 provide in time all the necessary financial resources or of any other type required for the timely fulfilment of contractual obligations;
- 16.2.2 hire/ contract professionally qualified persons for the construction and operation of the Concession facility and its assets and shall ensure that all Construction Works are carried out in accordance with the Design and Technical Requirements and Construction Technical Requirements (“CTR”);
- 16.2.3 to notify the Contracting Authority, within 10 (ten) days, of any substantial change in the sources of funding by submitting at the same time supporting documents and proposals to the Contracting Authority on how the financial situation shall be resolved.
- 16.2.4 give priority to safety during construction and operation activity in order to protect life, health and the environment;
- 16.2.5 provide the representatives of the Contracting Authority, in a reasonable time against a prior notice from the latter sent not less than 3 days in advance, access to the construction site in order to verify the construction progress for the fulfilment of the obligations of the Contract. So as to avoid any ambiguity, failure to inspect by the Contracting Authority of any Construction Work shall:
 - (a) not be regarded as the consent or approval of the Contracting Authority, nor as a waiver of its rights herein, and
 - (b) not exclude or relieve the Concessionaire of the obligations or responsibilities herein, regarding the Construction Works;

- 16.2.6 submit six monthly reports on the progress of the Construction Works or any necessary information regarding the scope of this Contract, which may be requested by the Contracting Authority;
- 16.2.7 perform, at its own expense and cost, any additional work that may be necessary to correct the defects or deficiencies identified by the Contracting Authority and shall ensure the timely completion of the Construction Phase;

16.3 Obligations of the Contracting Authority during the Construction Phase

In addition to other obligations provided herein, during the Construction Phase, the Contracting Authority shall:

- 16.3.1 issue the Licenses, Permits, Authorizations and approvals required herein, which are in the competence of the Contracting Authority, provided that the complete documentation is completed, in accordance with the legal deadlines and shall make every effort to assist the Concessionaire, in view of the normal progress of the Construction Phase;
- 16.3.2 at the written request of the Concessionaire, assist the latter, making every effort, in order to obtain from the relevant institutions all work or residence permits for foreign contracted or employed personnel (if any), for the implementation of the Project as well as any other permit or authorization that may be required in this regard.

16.4 Suspension of Construction Works

- 16.4.1 The Contracting Authority, upon giving notification for this purpose, shall be entitled to request the Concessionaire to suspend in whole or in part the Construction Works if according to the reasonable and factual judgement of the Contracting Authority, the works that have been performed or are being performed are not in accordance with legislation and in particular with TDR, CTR and/or safety standards, when such claims are substantiated in writing by the Contracting Authority.
- 16.4.2 The Concessionaire, upon receiving the notification according to article 16.4.1, shall suspend the Construction Works or part of them, for the duration and in the manner determined by the Contracting Authority and after doing so, shall present to the Contracting Authority, the corrective/ rehabilitative measures to fix the defects that have been brought to its attention.

- 16.4.3 Upon taking the necessary measures, and the written request of the Concessionaire to revoke the suspension, the Contracting Authority shall lift the written suspension, no later than 3 working days from the date of receipt of the request of the Concessionaire.
- 16.4.4 Any dispute regarding the suspension of works, revocation of the suspension or the proposed corrective/ rehabilitative measures shall be settled in accordance with this Contract.

16.5 Abandonment of Works

The Concession shall be deemed abandoned by the Concessionaire if, without the prior approval of the Contracting Authority, the Concessionaire:

- 16.5.1 notifies the Contracting Authority of its decision to abandon the Works in whole or in part without lawful cause;
- 16.5.2 does not resume the Construction Works in full or in part within days from the end of the Force Majeure Occurrence or Event and the return of the situation to normal; terminates completely or over 50% of the Construction Works to be performed from time to time for a period of at least; withdraws or removes from the construction site directly or through the actions of subcontractors, all the personnel necessary to perform the Construction Works, before the completion of the Construction Works provided that this withdrawal leads to a substantial interruption of the Construction Works.
- 16.5.3 The date of abandonment or being considered abandoned shall correspond to:
 - (i) in the case provided for in paragraph 16.5.1 above, the date of notification;
 - (ii) in the cases provided for in point 16.5.2, the day immediately following the date on which the prescribed time limits have expired;
 - (iii) in the case provided for in point 16.5.3 above, the date on which personnel has effectively withdrawn from/ left the site.

16.6 Obligations of the Concessionaire upon completion of the Construction Phase Submission of sketches, projects, drawings and technical materials

- 16.6.1 No later than months upon completion of the Construction Works, the Concessionaire shall submit to the Contracting Authority the following materials:
 - (i) all technical data (including project report, oppositions, estimation and design documents, both in printed and electronic form, including all necessary instructions regarding the network and computer system) related to this concession;
 - (ii) technical materials and drawings of equipment, including original drawings (also construction drawings “as-is”), documents, instructions and quality certificates,

- installation and inspection records book;
- (iii) all documents or technical materials related to the Concession, as may reasonably be required by the Contracting Authority.

16.6.2 Intellectual Property Rights

The Concessionaire shall guarantee the Contracting Authority that it has all intellectual property rights (if applicable) including the appropriate licenses relating to hardware and software used during the implementation of the Concession.

16.6.3 Other Rights and Obligations of the Concessionaire

16.6.3.1 Applicable permits

The Concessionaire, for the duration of the Concession Period, shall implement and comply with the Permits, Authorizations, Licenses.

16.6.3.2 Taxes and duties

The Concessionaire shall during the Concession Period regularly pay the Concession fee, taxes, levies, duties, VAT, social and health insurance of employees, debts or income tax, liabilities for indirect taxes, customs duties, service taxes which may be levied, collected or received at any time by any State Entity or Body including, in the implementation of the Infrastructure and Project Services according to the applicable legislation.

16.6.3.3 Compensation

The Concessionaire during the validity of this Contract and until the resolution of all claims and requests related to actions or omissions during the execution of this Contract shall compensate or hold harmless from damages the Contracting Authority, State Entities exercising functions as an integral part of the Concession and its/their employees, from and against all complaints and requests made and/or losses and/or damages caused and/or costs, fees/expenses incurred and/or fines imposed and/or any complaints due to injury or death of any person and/or loss or damage caused or suffered by properties owned or belonging to the Contracting Authority, State Entities exercising functions as an integral part of the Concession and its employees, when these consequences come as a result of work performed by the Concessionaire. This is the result of any act, document or action carried out or omitted by the Concessionaire, or as a result of the Concessionaire failing to perform any of its obligations herein, or as a result of the Concessionaire violating any of the provisions herein, or the Concessionaire's failure to perform any of its duties and/or obligations including legal duties or resulting from any notice, action, lawsuit or proceeding given, registered or initiated by any related third party/person with this Contract and/or related to the use by the Concessionaire of the site where the Project is implemented or with the port assets and/or construction, function and maintenance of Project Infrastructure and Services.

16.6.3.4 Assignment or transfer of rights and competencies

Unless otherwise provided herein, the Concessionaire shall not assign or transfer its rights, privileges or interests under this Contract in favour of any person without the prior written consent of the Contracting Authority.

16.7 Other obligations of the Concessionaire

In addition to other obligations in the Contract, the Bidding Documents, the Bidding Offer, the Concessionaire shall provide:

- a. the safe entry, mooring and navigation schedule of vessels to the place of accommodation;
- b. maintenance of the access channel to the parameters required in the Bidding Documents by ensuring the safe navigation of the vessels ensuring that the water level on the platform and/or in the pontoon is at the appropriate level to ensure the safe accommodation and stay of the vessels;
- c. the proper depth of the pools and along the docking platform to carry out maintenance and capital operations, in order to maintain the levels of port use in the parameters specified in the Contract;
- d. Immediately inform the competent state bodies to prosecute any person for any criminal offence within the port.

16.8 Other obligations of the Contracting Authority

The Contracting Authority, after the Construction Phase, but before the start of the Exploitation and Maintenance Phase, at the request of the Concessionaire shall assist in the establishment of the border, customs and sanitary control and any other service in implementation of DCM on declaring an open port, in accordance with Law no. 9251, dated 08.07.2004 "Maritime Code of the Republic of Albania" as amended and Law no. 9710, dated 10.04.2007 "On tourist ports in the Republic of Albania" as amended, until the end of the Concession Period, but always after the Concessionaire has completed and submitted all relevant legal documentation.

16.10 Various Utilities Connection Points

I. The Contracting Authority shall assist the Concessionaire throughout the duration of the Concession Period by providing the relevant entities with access to the infrastructure and services including water, energy, and telecommunications necessary for the implementation, operation, and maintenance of the port and its assets in accordance with the Contract, provided that the Concessionaire has completed the required legal documentation. The Contracting Authority shall assist the Concessionaire, within the area of state responsibility, only to provide connection points for: entry and exit; electricity supply; and water supply, at the point

closest to the Port, provided that the Concessionaire has completed the required legal documentation.

II. The Concessionaire shall install metering devices at its own expense to measure water and energy consumption. The Contracting Authority does not guarantee the quality and quantity of water and energy and shall not be responsible for non-supply or insufficient supply of these services by the relevant entities. The Concessionaire may, at its own expense, and at its own risk and in accordance with the Laws, find alternative solutions for the provision of the above services. However, the Contracting Authority shall not be exempt from its obligation to provide assistance for the timely resolution of this problem.

To avoid any ambiguity, the connection with electricity, water supply and sewerage, etc. (utilities) is an obligation of the Concessionaire and not of the Contracting Authority. The Concessionaire shall, in accordance with the legislation in force, conclude for this purpose the relevant contracts with private entities that provide these services.

Article 17

Amendments to the Law

17.1 "Amendment to the Law" shall be considered each of the following cases and having the Substantial Adverse Effect:

- (i) approval, promulgation, modification, re-wording or repeal after the date of this Agreement by any governmental authority of any law, rule, sub-legal act, regulation or order, treaty, convention, directive, instruction, policy having legal effect; or
- (ii) the imposition by any governmental authority of any material condition (other than a condition which has been imposed as a result of a breach by the Concessionaire of any Permit, Authorization, License) related to the issuance, renewal or modification of any Permit, Authorization, License after the date of this Contract which renders performance by the Concessionaire of any of the terms of this Contract impossible or unenforceable; or
- (iii) any Permit, Authorization, License granted previously, and which does not produce further effects for reasons other than the breach or negligence of the Concessionaire or any Permit, Authorization, license granted for a limited period and renewed under other conditions (serious/coercive) than those previously specified.

Provided that each:

- (a) the imposition of taxes, levies, local taxes and/or their occasional increase by the Government Authority, and/or
- (b) setting of standards and conditions of operation, maintenance and safety arising from environmental legislation, new or amended; and/or
- (c) the imposition of standards and terms of employment or working conditions of workers; and/or
- (d) any rules or regulations laid down by any other regulatory authority having jurisdiction over the Project in relation to service standards;

are not considered Amendments to the Law.

17.2 Ensuring adequate guarantees

(i) In the event of an Amendment to the Law, the Concessionaire may propose to the Contracting Authority, and the Contracting Authority within 30 days from the date of the proposal, is entitled to enter into negotiations with the Concessionaire to make amendments to the provisions of this Contract which are reasonable and intended to reduce the negative impact of the Amendment on the Law. In such a case the Parties shall agree on appropriate amendments to the terms of this Contract until the Concessionaire is placed in the same legal and financial position as before the Amendment to the Law.

(ii) Upon any Amendment to the Law, the Concessionaire shall notify the Contracting Authority of the following:

- (a) the features, nature and impact of the amendment to the law on the Project;
- (b) in considerable detail, the additional cost estimate by the Concessionaire caused by the Amendment to the Law, and
- (c) the measures undertaken by the Concessionaire or its proposals to mitigate the impact of the Amendment to the Law, including in particular the reduction of additional costs.

Article 18

Supervision of Construction Works

18.1 Supervision of Construction Works will be performed in accordance with Law no. 8402 dated 10.09.1998 “On the control and discipline of construction works” as amended as well as other legal acts in force for the supervision of construction works. The Independent Supervisor will be selected and perform the duties under this Contract for the period from Effective date until after 3 (three) months from the date of commencement of the Operation and Maintenance Phase.

All costs and expenses related to the Independent Supervisor will be covered by the Concessionaire.

If the Contracting Authority, either on its own initiative or on the basis of a written report from the Concessionaire, has reasonable grounds to believe that the Independent Supervisor is not performing his duty in accordance with the Contract and in a professional manner, after providing The Independent Supervisor the opportunity to be heard, is entitled to dismiss him/her and elect another, based on the decision of an advisory commission, consisting of 1 (one) member of the Contracting Authority, 1 (one) member of the Concessionaire and 1 (one) member from the Albanian Union of Urban Architects and Urban Planners, who elects an Independent Supervisor by a majority of voting. If either Party objects to any advice, instruction or decision of the Independent Supervisor, the dispute shall be settled in accordance with Article 26.

- 18.2 The issuance of the Operation Permit / Certificate of Use shall be carried out based on Law no. 107/2014, dated 31.7.2014 "On Territorial Planning and Development" as amended and by-laws issued for its implementation.
- (i) At least 15 (fifteen) days before the completion of the Construction Works, the Concessionaire will notify the Contracting Authority of the date when it intends to start the Operation and Maintenance Phase. After this notification, the Contracting Authority will continue with the inspection of the Construction Works in order to issue the "Operation Permit". He will notify the Concessionaire and determine how the Tests will be conducted, to ensure that the Project has implemented TDR and CTR and the standards under this Contract. The date and time of completion of each test shall be determined by the Contracting Authority in agreement with the Concessionaire. The Contracting Authority will also send its representatives to assist during the Tests. The Concessionaire will provide all necessary assistance to the Contracting Authority in carrying out the tests. In case of disagreement regarding the date of the tests, they will start no earlier than 10 (ten) days from the moment the Concessionaire has been notified;
 - (ii) Upon completion of each Test, the Contracting Authority shall provide the Concessionaire with copies of all test data including its analytical results;
 - (iii) Upon completion of the Construction Works and after the Contracting Authority has considered all the Tests successful, it will issue the Operation Permit to the Concessionaire;

Article 19

Operation and maintenance

19.1 Obligations of the Concessionaire

19.1.1 In addition to the other obligations in this Contract, the Concessionaire shall administer, use, maintain and repair the object of the Concession and the assets wholly at its own expense, cost and risk in accordance with the provisions of this Contract. The obligations of the Concessionaire shall include, but are not limited to, the following:

- i.** Concessionaire:
 - a. It will start operating immediately after the announcement by the Council of Ministers of an open port for international traffic;
 - b. Shall ensure an optimal use of the entire concession facility and assets in the port;
 - c. Shall ensure that the Services to be provided under this Contract are in conformity with the standards of operation and maintenance as well as the standards of maritime safety in accordance with the legislation in force and that they are safe, functional and normal conditions of uninterrupted flow of road and port traffic;

- d. Minimize the flow of traffic in case of accidents or incidents that affect the security of the port by acting quickly and readily and keeping in touch with the emergency services of the Contracting Authority or other Entities;
- e. All financial, technical, technological, administrative and other resources for the operation, maintenance, repair and timely replacement of assets that may be damaged will be ready for use;
- f. Except in emergency cases, it will use and administer the Infrastructure and Services, according to the principle "first come, first serve" and that of non-discrimination.
- g. Shall ensure the proper storage of data /records /accounts related to the operation of the port and the provision of Services as well as the accurate reflection of the performed turnover;
- h. Shall equip, maintain and implement Permits, Authorizations, Licenses and shall implement Laws, including, but not limited to, those related to the security of ponds, platforms, internal premises (water and land) of the port, health, environment and safety at work.
- i. In accordance with the provisions of this Contract, shall perform, undertake or provide, with relevance to the Concession, all services that the Contracting Authority would be authorized to perform, undertake or provide as if to perform these services itself.
- j. Shall prevent, with the help of law enforcement agencies, any unauthorized violation or use of the port and its assets.
- k. Shall strictly implement the Regulation on the Operation and Management of the Tourist Port, after having previously obtained the consent of the Contracting Authority regarding its text.

(ii) Repair and maintenance

The Concessionaire, at its own expense:

- a. shall repair and maintain the port and its assets or any part thereof and for this purpose, *inter alia*, will take protection and preventive measures;
- b. shall maintain the port and its assets in accordance with the Laws, the provisions of this Contract and the Good Industry Practices in order to provide appropriate service standards and to ensure that the port and assets are transferred to the Contracting Authority at the end of the Concession Term, in good condition, excluding normal depreciation.

(iii) Access to inspections

The Concessionaire shall be obliged to offer all the cooperation to the experts appointed by the Contracting Authority to verify that the port and its assets are being used and maintained in

accordance with the Laws, this Contract and the Good Practices of the Industry. Such inspections shall be carried out annually, upon prior notification by the Contracting Authority.

(iv) Reporting

The Concessionaire shall submit to the Contracting Authority monthly and annual summary reports relating to vessel traffic and fees collected. The Concessionaire must submit a detailed annual report on the costs of the operation and maintenance system of the Port.

(v) Computer System and Network

The Concessionaire shall install, operate, maintain the computer system and network (including the Data Exchange System and the Captaincy Communication System and the competent authorities) following all protocols that the Contracting Authority shall establish from time to time.

(vi) Safety Issues

As regards safety issues in ports, the Concessionaire will strictly implement the requirements of law no. 168/2013, dated 31.10.2013 "On ships and ports safety", and by-laws to its implementation.

(vii) Staff Employment

The Concessionaire will employ qualified and skilled personnel in order to perform the object of the Contract. The terms of employment may be determined according to the Concessionaire needs, but shall be in accordance with the Laws and the Concessionaire shall bear any responsibility in this regard. All required documentation related to the employment of foreign personnel will be completed and prepared prior to the employment or contracting of such personnel. To avoid any ambiguity, failure to prepare this documentation in accordance with the Laws will not constitute a Force Majeure. All employees shall be the responsibility of the Concessionaire.

(viii) Compensation for claims for damages

The Concessionaire shall be liable for all damages that may be caused to third parties as a result of its actions during the exercise of the activity of operation and maintenance under this Contract.

(ix) Infrastructure for captaincy, customs and police

Port customs and police services are under government control. The Concessionaire will build the necessary infrastructure for the captaincy, border police, customs and other necessary institutions according to the project approved by the final administrative decision-making body.

Article 20

Archaeological sites or Cultural Heritage sites

Discovery of cultural, archaeological, fossil relics, cemeteries and monuments, past artistic remains and any other items of archaeological, geological and historical value on site resulting from the intervention of the concessionaire will be declared to act in accordance with the applicable legislation. The Concessionaire must notify the contracting authority of any such discovery and follow the instructions of the project implementation unit on the facility administration procedure.

Article 21

Force Majeure

21.1 “Force Majeure Event” means any circumstance or event that is objectively beyond the absolute, direct or indirect forecast and control of the Affected Party (the “**Affected Party**”) causes complete or partial impossibility of The Affected Party to fulfil any of its obligations under this Contract (except for the payment of money), but only if and to the extent that:

21.1.1 this circumstance, notwithstanding the exercise of reasonable care, could not have been prevented or could not have been prevented, averted or avoided by the Affected Party;

21.1.2 The Affected Party has taken all reasonable precautionary measures, due diligence and reasonable alternative measures in order to avoid the consequence of this event on the ability of the Affected Party to fulfil its obligations herein and to mitigate its consequences;

21.1.3 the event is not, or has not been, a direct or indirect consequence of the Affected Party's breach of any of its obligations herein, and

21.1.4 The Affected Party has given notice to the other Party ("**Unaffected Party**").

21.2 Force Majeure Events include, but not limited to the following circumstances, provided that they meet the criteria set out in the definition of Force Majeure Event above:

21.2.1 acts of war, invasion or act of an external enemy, or acts of terrorism, blockades, embargoes, rations;

21.2.2 acts of rebellion, uprisings, civil unrest, strikes of a political nature, acts or campaigns of terrorism;

21.2.3 lightning, fire, earthquake, hurricane, cyclone, typhoon, tornado or other natural disaster;

21.2.4 epidemics, pandemics or plagues; and

21.2.5 any act of sabotage, strikes or work activities to impose or slow down work (*however, excluding employees of the party claiming it as a case of force majeure, or employees of any of the partners/ shareholders of this party, or employees of any subsidiary controlled, directly or indirectly by the parent or subsidiary of any partner/ shareholder of such party*).

The Affected Party shall be exempted from fulfilling its obligations and shall not be considered in default of the Contract for as long and to the extent that the inability to fulfil the obligations lasts. At the same time, the Concession Period shall be automatically extended for as long as the Force Majeure Event lasts.

21.2.6 Notwithstanding the Concessionaire's maintenance obligations, to the extent that the Concessionaire is an Affected Party in a Force Majeure Case or Event, cases that result are insured in accordance with applicable law, and the consequences of this Force Majeure Case or Event are within the conditions covered by the insurance guarantees that are required to be carried out in accordance with Law no. 52/2014 "On insurance and reinsurance activity", the Concessionaire shall raise claims and base them directly on Insurance, under Article 10 by implementing the relevant provisions herein and the applicable legislation.

Article 22

Cases of Non-Compliance

22.1 Non-Compliance by the Concessionaire

Each of the following cases will constitute a "Case of Non-compliance by the Concessionaire", ascertained by the decision of the commission set up by the Contracting Authority or by any structure determined by the Contracting Authority for this purpose:

- 22.1.1 non-compliance by the Concessionaire, essentially as regards the TDR and CTR as well as the provision of the Service;
- 22.1.2 abandonment of Works under section 16.5 or provision of Services by the Concessionaire under this Contract;
- 22.1.3 non-payment by the Concessionaire causing the damage within the time periods specified herein or non-payment on time of any other payment or indemnity under this Contract;
- 22.1.4 delay in payment of the Concession Fee for 6 (six) consecutive months.
- 22.1.5 the Concessionaire's failure to meet or waive any of its obligations under the other Contract or subcontract, which have damaged or may damage the Project/Infrastructure and Project Services in a serious and irreversible manner;
- 22.1.6 non-compliance with the Regulation on the Operation and Management of the tourist port, which has affected or may affect the Project/Infrastructure and Project Services in a serious and irreversible manner;
- 22.1.7 any declaration and/or guarantee provided by the Concessionaire that according to this Contract will be considered or declared invalid by a final court decision;
- 22.1.8 bankruptcy or insolvency of the Concessionaire;
- 22.1.9 Contract Insurance is in violation to this Contract or otherwise invalid;
- 22.1.10 The Concessionaire shall express the intention to revoke/terminate this Contract without having the right to do so as expressly provided in the Contract;
- 22.1.11 Another breach of this Contract, which by its nature and consequences is substantial, regardless of whether or not it is expressly defined as such in this Contract ascertained by the Contracting Authority excluding Force Majeure events.
- 22.1.12 Violation of the applicable legislation.

22.2 Non-Compliance by the Contracting Authority

Each of the following cases shall constitute a "Case of Non-performance by the Contracting Authority":

22.2.1 Failure to issue Permits, Licenses, Authorizations within the deadline or performing or not performing an action under its authority that violates the activity of the Concessionaire by the Contracting Authority, after completing the complete documentation and within the deadline by the Concessionaire.

22.2.2 Any breach of this Contract, by its nature and its consequences, is substantial, whether or not expressly provided as such in it, excluding Force Majeure.

22.3 Notice of Talks

Each of the Parties, exercising the right conferred upon under this Article, shall send a written notice to the other Party explaining in detail the cause of the non-compliance and shall propose negotiations between the Parties to find possibilities for overcoming this cause "Notice of talks".

22.4 Remedy of non-compliance

Upon receipt of the notice of negotiations, each of the parties, within a period not exceeding 60 (sixty) days of the "Negotiation Period", or for as long as the parties have agreed, the Parties will enter into negotiations to reach a written agreement in order to resolve the case of non-compliance. Exceptionally, in case of becoming aware of committing a Corruptive Act by the Concessionaire, each party shall be entitled to initiate procedures for termination of the Contract.

22.5 Liabilities during the remedy period

Upon reaching an agreement, the non-compliant party shall perform all agreed actions for the performance of the Contract within a period of time "Remedy Period".

During the Remedy Period, the Parties shall continue to comply with their respective obligations under this Contract, and for any non-compliance, the non-complying Party will compensate the other Party for any damages or losses.

22.6 The rights of the Parties

22.6.1 After the occurrence of non-compliance event by the Concessionaire, and in case of non-remedy of non-compliance according to Article 22.4, the Contracting Authority shall be entitled to start the procedures for termination of the Contract according to its provisions.

22.6.2 After the occurrence of non-compliance event by the Contracting Authority, and in case of non-remedy of non-compliance according to Article 22.4, the Concessionaire shall

be entitled to start the procedures for termination of the Contract according to its provisions.

22.6.3 Each Party shall, before proceeding with the termination of the Contract, take into account the nature of the cause of the non-compliance, its consequences on the performance of each Party and the circumstances under which the non-compliance has occurred.

22.7 Consequences of non-compliance

If even after the Remedy Period, the cause has not been eliminated or resolved, nor has an agreement been reached during the negotiated phase, in writing, the Party sending the Remedy Notice may notify the termination of the contract by means of a notice addressed to the other party. Against the Notice of the party for the termination of the Contract, the other party shall be entitled to address the court according to the jurisdiction defined herein within the legal deadline of 45 days, according to the legislation in force.

22.8 The right of the Contracting Authority to substitute the Concessionaire

After the Contracting Authority has completed all the procedures for identifying non-compliance according to the provisions herein, as well as after sending to the Concessionaire the notice of the procedure for termination of the contract according to its provisions, the Contracting Authority shall be entitled to:

22.8.1 take over and establish control over the Project Infrastructure and Services;

22.8.2 prevent the Concessionaire and any other person having claims arising from the Concession from entering the site and using the Project Infrastructure and Services;

22.8.3 substitute the Concessionaire and continue the works if that will be the case or to continue providing the services of the Concession at its discretion and free will as it deems appropriate in order to comply with the scope of the Concession. In such circumstances, the Contracting Authority assumes the responsibilities of the Concessionaire under this Contract.

22.8.4 The right of the Contracting Authority according to this article can be exercised only after the Funder has not exercised his right or in case of intervention the latter has not proven any output within 3 (three) months for the normal going concern of the Concession.

22.9 The right of the Funder to intervene and substitute the Concessionaire

22.9.1 Immediately upon becoming aware of non-compliance by the Concessionaire for cases provided in items 22.1.1, 22.1.2, 22.1.5, 22.1.6, 22.1.7, 22.1.8, 22.1.9, 22.1.10 herein, the Contracting Authority upon completion of the Negotiation Period which do not result in termination and before the eventual termination of the Contract, shall notify the Funder in order to enable the latter to assist the Concessionaire to remedy and take measures to adjust non-compliance within days from such notice.

22.9.2 In case the remedy of the non-compliance is not possible by the Concessionaire, the Funder, in case it deems it in its interest, may intervene in this Concession by proposing to the Contracting Authority, the transfer of the concession to a substitute management team or a replacement entity in compliance with point 22.8.3, which must have the expertise, skills, reputation and financial good standing at least equivalent to that of the Concessionaire at the time of the announcement of the bidding winner of the Concession. The Contracting Authority shall not unreasonably prevent consent to this substitution. The Substitute shall be entitled to all rights under this Concession and shall fulfill all the obligations deriving thereof but shall not be entitled to the right to sell, transfer and impose a security lien on the inventories and revenues of the Concession.

If the Funder chooses not to intervene in the Concession or if within months from the intervention no reasonable solution is achieved for the continuation of the Concession, the Contracting Authority shall be entitled to terminate the contract as per the provisions thereof.

In case there are financial costs for the intervention of the Funder, the latter has taken them into account and is ready to meet these financial costs.

22.10 Non-compliance of the Contract and damage compensation.

22.10.1 Liabilities

Non-compliance of the Contract and damage compensation

22.10.1.1 Liabilities

Each Party shall be responsible for compensating the other Party the damages arising as a result of non-compliance of the guarantees and obligations provided in the Contract. This provision does not apply in the case of Force Majeure. In this case each Party shall bear its own costs and expenses incurred up to the time of the occurrence of the Force Majeure event.

22.10.1.2 Penalties

To any non-compliant Party, penalties are applied according to the provisions in this contract in the sense of the provisions of the Civil Code of the Republic of Albania.

22.10.1.3 Notices

In case of non-compliance, the Contracting Party must immediately notify the Non-Complying Party in writing.

22.10.1.4 Delay in error correction

Each Party shall endeavour to settle its dispute amicably and to remedy the non-compliance. In any case, the non-complying Party will have days available to remedy the non-compliance. Exceptionally, in case of becoming aware of committing a Corruptive Act by the Concessionaire, each party shall be entitled to initiate procedures for termination of the Contract.

22.10.1.5 Failure of the non-complying Party to remedy the situation

Failure of the non-complying Party to remedy the situation within days will give the complying party the right to initiate proceedings for termination of the contract upon a written notice.

22.10.1.6 Going Concern

During the day period, each Party will comply with the Contract in good faith and in a regular manner, otherwise it is obliged to compensate the damage caused to the other party.

Article 23

Termination of the Contract

23.1 Settlement procedures

The parties with mutual will, through a request of one party and approval of the other party, may terminate this Contract before the deadline of 35 years. Unless otherwise provided in the Contract, the Contracting Authority may terminate the contract when it:

a) can prove that the Concessionaire cannot perform its obligations, due to insolvency and serious violations, considered as such by the legislation in force, that prevent or do not allow the extension of the Contract, in accordance with the technical standards and other accepted standards;

b) The Concessionaire/Private partnership fails provide insurance for the financing of the project within 12 months from the date of entry into force of the Contract, according to the ways provided for this contract and the tender documents.

c) The SPV transfers its shares/quotas to third parties, without the approval of the Contracting Authority, unless this transfer is a result of the regular trading of shares in a regulated capital market.

2. Each party, unless otherwise provided for in the Contract, is entitled to terminate the Contract when:

a) the fulfilment of obligations becomes impossible, due to the circumstances of each party;

b) there is a serious violation by the other party and that this party cannot remedy this violation within the time limit and in the manner specified in the Contract.

3. The Parties shall also be entitled to terminate the Contract by mutual consent.

4. Prior to the termination of the Contract, in accordance with this article, the Contracting Authority shall inform the Ministry of Finance of all known circumstances, which lead to and caused the conditions for the termination of the Contract and shall ask for its opinion.

23.1.1 Termination of the Contract due to Force Majeure

In case of termination of the Contract due to Force Majeure during the construction period, each Party bears its own expenses incurred up to when the force majeure event began.

In case of termination of the Contract due to Force Majeure during the period of operations, the Contracting Authority shall take over the investments made up to that moment and the Concession Object in the condition "*as is*" without any encumbrance, according to the provisions of Article 23, insofar as they can be applied by paying to the Concessionaire an amount equal to the value of the investment according to the invoices and in accordance with the bid, less the income obtained by the Concessionaire from any type of insurance and the normal asset depreciation rate.

23.1.2. Contract Termination for non-performance by the Concessionaire

In case of contract termination in accordance with its provisions for non-performance by the Concessionaire, the Contracting Authority has the right to address the court, according to the jurisdiction chosen by the parties to this contract, to determine the amount of compensation or compensation due.

23.1.3 Contract Termination for non-performance by the Contracting Authority

In case of contract termination in accordance with its provisions for non-performance by the Contracting Authority, the Concessionaire has the right to address the court according to the jurisdiction chosen by the parties to this contract, to determine the amount of compensation, the compensation and the missing profit that belongs to them.

23.2 Other obligations

During the contract termination procedure and until a final court decision, if a decision has been made to secure a lawsuit, the Parties shall continue to fulfil their respective obligations, as long as these obligations can be fulfilled, in order to ensure the continuity of services provided to users/customers. The party that will not be able to fulfil these obligations, bringing negative consequences to users/customers, shall compensate the other party for any damage or loss caused.

Neither party has the right to terminate the contract unilaterally without reasonable causes and contrary to the manner and procedure provided in this contract.

During the contract termination procedure, the port activity shall continue normally until the port is delivered, as provided in the present contract.

23.3 Contact termination consequences

In accordance with the provisions of this Contract:

- (i) The Concessionaire shall transfer all assets (as defined in Article 1.1.) and rights upon termination of the Concession as a result of the termination of the Concession Period, or the Contract termination;
- (ii) The Contracting Authority shall have the right to collect any bank warranty issued by the Concessionaire for any amount that the Concessionaire owes to the Contracting Authority.
- (iii) Each insurance policy shall pass on the name of the Contracting Authority, which will be the sole beneficiary of them if applicable;

23.4 Contact termination consequences and obligations of the Concessionaire

In case of Contact termination:

- (i) The Concessionaire shall transfer to the Contracting Authority without burdens, all immovable properties, assets (as defined in Article 1.1.), equipment, machineries and Concession and intellectual property rights (*if any*);
- (ii) The Contracting Authority shall have the right to collect any bank warranty issued by the Concessionaire for the amount that the Concessionaire owes to the Contracting Authority.
- (iii) Each insurance policy shall pass on the name of the Contracting Authority, which will be the sole beneficiary of them;

23.5 Contact termination consequences for non-performance by the Contracting Authority

In case of Contact termination in accordance with its provisions, in case of non-performance by the Contracting Authority, the Concessionaire is entitled to compensation for the following damages, unless this Contract provides otherwise:

23.5.1 In case of Contact termination during the period from the Effective Date until the end of the Construction Phase to be compensated for the value of the construction performed effectively plus 0.2% of the Investment Value, but however not more than the Investment Value under this contract and if the concessionaire does not agree with this compensation, he has the right to address the Administrative Court of First Instance in Tirana;

23.5.2. in case of Contact termination during the first year up to the third year of operation (third year included) with the value of the construction performed effectively plus 0,5 % of the Investment Value, but however not more than the Investment Value according to this contract;

23.5.3. From the fourth year of operation to the sixth year (sixth year included) with the value of construction effectively carried out minus normal depreciation, plus the average profit of the previous three years of activity.

23.5.4. From the seventh year of operation onwards with the value of construction effectively carried out minus normal depreciation, plus missing profit until the end of the concession period.

23.5.5. The construction value and any other investment made up to that time by the Concessionaire, shall be determined by a commission of real estate experts, composed of three

members, one from each party and the third selected by the two members elected by the Parties. The commission submits the evaluation act after having unanimously agreed on all its content.

23.5.6. Upon the payment of the indemnities as above, all Assets (as defined in Article 1.1.) of any type performed until the moment of the Contract termination, shall be transferred to the Contracting Authority.

23.6 Contact termination consequences for non-performance by the Concessionaire

In case of Contact termination in accordance with its provisions, for non-compliance by the Concessionaire, the Contracting Authority becomes the owner of all assets of the Port, including intellectual property rights (*if any*) and any documentation (*legal, technical, financial, etc.*) and has the right to keep the Contract Warranty in the amount it has at the time of the Contact termination. In any case, except the above, the Contracting Authority has the right to require through judicial processes the compensation of the damage caused as a result of non-performance by the Concessionaire in accordance with the provisions of the CC in the Republic of Albania.

23.7 The Contracting Authority and the Concessionaire have no right to claim penalties or other indemnities in case of the Contract termination, other than what is provided in it.

Article 24

The transfer at the end of the Concession

24.1 Start of the Transfer Process

In the last 12 (twelve) months of the Concession Period, the Concessionaire shall begin fulfilling the delivery obligations, as set out below, shall cooperate with the Contracting Authority and provide to the latter (or any designated third party through it) all access and information, as may be required or necessary to take charge of the use of the port as well as of any Electromechanical and Computer Equipment that serves the normal operation of the port. Within a reasonable period of time before the end of the Concession Period, the Parties shall meet periodically in order to agree on the detailed delivery procedures, including the items set out below.

a) Immediately after the expiry of the deadline:

- i) The port must be in a reasonable condition of maintenance, cleanliness and appearance, taking into account reasonable age and depreciation, and within the technical parameters for a normal operation in accordance with its destination;
- ii) Concession Rights will automatically terminate and the ownership of the port and its Electromechanical and Computer Equipment will be transferred to the Contracting Authority, and the Concessionaire will no longer have the right to use and have them;
- iii) All costs, without exception, related to the automatic termination of the Concession Rights, upon the transfer of ownership of the port, Electromechanical and computer equipment and their delivery as defined above, will be charged and borne only by the Concessionaire;

iv) Licence agreements regarding the use of software must be valid for at least 3 months after the end of the Concession period and allow their use by the Contracting Authority. In any case the Concessionaire guarantees the Contracting Authority that he will have easy access to the vessel database.

v) The Concessionaire shall immediately transfer to the Contracting Authority, to the extent that it has not yet been transferred, in any case together with the relevant obligations incurred in the ordinary course of business starting from the date of delivery, all Concession Rights, securities and interests for the port as well as Electrical and Computer Equipments and everything included in them, free from any obligation or burden, including:

1. all raw materials, consumables parts and spare parts,
2. all embodied property;
3. intellectual property rights held by the Concessionaire or Concessionaire Company (those arising out of ownership, license or other source) to the extent that these are reasonably required for the use of the port and Electromechanical and Computer Equipment;
4. all constructions and parts inextricably linked to them;
5. books or records computerized or not, reports, data, files and information, drawings, test results, documents,
6. all guarantees of Electromechanical and Computer equipment, materials and works,
7. all contractual rights, including rents and insurance policies,
8. All works in process (including Construction Works, if any) under contracts with vendors, suppliers, contractors and subcontractors,
9. licence agreements regarding the use of software, which must provide for the substitution of the Concessionaire by the Contracting Authority, to the extent that these are reasonably required for the use of the port and Electromechanical and Computer equipment; and
10. all rights in respect of any sum insured to be paid in the name and on behalf of the Concessionaire but unpaid on the date of termination of this Contract, in respect of the rights, titles and interests of the Concessionaire in the Concession Project;

vi) Employment contracts between employees and the Concessionary Company will be for a period of time not exceeding three months after the end of the Concession period. The concessionaire recognizes the obligation to make known to each employee this fact in the individual employment contract.

vii) The Concessionaire shall perform all necessary actions to implement any transfer provided for in this Article, including the signing of any required document, as well as the connection with the Contracting Authority of any necessary act, contract or agreement and at no cost or expense for the Contracting Authority (except as expressly provided in the sub-paragraph below); and

viii) The Contracting Authority shall be responsible for equipping or granting, at its own expense, all Authorizations to use the port and Electromechanical and Computer equipment (or transferring their use to a third party), and the Concessionaire shall assist the Contracting Authority in identifying and obtaining any such Authorization, including the provision of reasonable assistance in preparing related requests.

b) In case of contract termination before the expiry of the Deadline of this Contract, the requirements of point (a) of this Article shall apply *mutatis mutandis* to these cases.

The Contracting Authority agrees and undertakes that within 15 (fifteen) days from the transfer of rights and securities related to the assets and the submission of the relevant documents as provided in the paragraphs above, he will issue the Certificate of Acceptance of object delivery of this Contract. The Concessionaire must deliver these assets in a functional condition.

Whereas all the above assets of the Concessionaire will be transferred to the Authority on the day of the end of the Concession Period, the Concessionaire himself and the Concessionary Company with its assets will not be transferred to the Contracting Authority.

24.2 Reconciliation of mutual obligations in case of termination of the Concession Period

The Concessionaire and the Contracting Authority at the end of the concession period will engage in negotiations according to the provisions of this contract for bilateral negotiations on the reconciliation of mutual obligations between the parties.

24.3 Delay in the transfer process

In case that the transfer of assets from the Concessionaire to the Contracting Authority is delayed for reasons attributable to the Contracting Authority, the Concessionaire shall continue to use the port and assets as if the Contract was being executed making all payments under this Contract “Financial Issues” to the Contracting Authority. To avoid any ambiguity, the Concessionaire in this case has the right to realize profits as if the Contract was into force. This provision does not authorize the Contracting Authority to tacitly extend the Concession Period nor does it entitle the Concessionaire to tacitly extend the term of the Contract.

24.4 Risks

Until the full transfer in accordance with this Article, the risk shall be entirely charged to the Concessionaire, except for the late transfer for reasons attributable to the Contracting Authority, in which case the risk shall pass to the latter from the date of termination of the Concession Period.

Article 25

Remedies, penalties and indemnities

25.1 The exercise of the rights by each Party to terminate the Contract, as provided in it, shall not prevent that Party from claiming any other right, remedy or indemnity that may exist under the Laws.

25.2 All means of the remedy or indemnity available to the Parties shall be cumulative and failure to seek or obtain benefit from any of the means of remedy/indemnity by either Party shall not be construed as a waiver:

25.2.1 from penalties or damages already claimable;

25.2.2 from other means of remedy or indemnity.

25.3 In addition to other penalties expressly provided in the Contract, for any other non-compliance that does not result in termination of the Contract, the Concessionaire is obliged to pay a penalty for each day of non-compliance in the amount of 10,000 ALL, but however not more

than 6 (six) months. After this period, the Contracting Authority has the right to start the procedures for the contract termination.

Article 26

Disputes Settlement

- 26.1.** This Contract shall be governed and construed in compliance with the applicable laws of the Republic of Albania.
- 26.2.** Any dispute between the Contracting Parties that arises or relates to the implementation and interpretation of the Contract, including, but not limited to, issues relating to its termination, non-performance, settlement, invalidity whether contained in the Contract or in the Standard Documents of the concession and/or the Concessionaire Bid shall be considered for amicable settlement.
- 26.3.** The joint written decision of the Parties or their duly authorized representatives to settle the matter amicably shall be final and binding on them.
- 26.4.** Any objections, disputes or complaints between the Contracting Parties, which arise or relate to the implementation and interpretation of this Concession Contract, shall be settled amicably between the parties, based on the goodwill.
- 26.5.** **If the dispute cannot be settled amicably, the parties agree that the dispute shall be finally settled in the Administrative Court of First Instance.....**

Article 27

Final provisions

27.1 Segregation

If any of the provisions/articles of this Contract is deemed invalid, unlawful or unenforceable for any reason and by any competent court or jurisdiction, such provision/article shall be repealed or shall have no effect without having impacts on the provisions that remain. If a provision/article of this Contract which is essential to the fulfilment of its purpose results to be invalid or unenforceable, for any reason and by any competent court or jurisdiction, the Concessionaire and the Contracting Authority shall immediately commence negotiations in good faith to rectify this invalidity.

27.2 Contract Amendments

This Contract may be amended, in accordance with the provisions of Article 31 of Law no. 125/2013 "On Concessions and Public/Private Partnership", as amended. Any amendments to this contract shall be made by written agreement of both Parties and signed regularly by them. Any amendments to this Contract or the attached Annexes shall be an integral part of this Contract.

27.3 Notifications

27.3.1 Any notifications under or in connection with this Contract shall be in writing, signed by the notifying Party or its duly authorized representative, and shall be notified in person or by

registered mail to the address stated by the Party in this Contract. Notifications for convenience can be sent by email. For the email notification to be valid, it must be accompanied by the notification in person or by registered mail.

27.3.2 A notification shall be considered validly received (including the notice of change of address as follows):

- (I) if sent in person, it shall be deemed to have been received the next day of the delivery day;
- (ii) if sent by registered mail, it shall be considered to have been delivered upon receipt of the delivery notification;

The addresses for notifications and communications under this Contract are:

Contracting Authority:

Ministry of Infrastructure and Energy

Rruga “Abdi Toptani”, nr. 1,

Tirana, Albania

Concessionaire:

27.4 Confidentiality

All data and documents (financial, technical or any other type) provided by one Party to the other Party, except when it is a legal obligation or the result of a request or order from the competent state bodies, should not be made known to third parties, without the consent of the other Party, with the exception of providing information on a mandatory basis to the legal advisers/auditors of the interested party. This provision shall be valid for up to two years after the termination of the Contract.

27.5 This contract obliges the Concessionaire not only for what is provided in it, but also for all the consequences deriving from the implementation of the Laws.

27.6 This Contract is drafted in 4 (four) original copies, in Albanian language.

The parties, by voluntarily acknowledging that they are legally bound and enjoying all legal rights, have signed this Contract on the date indicated in it, in accordance with their free, full and unconditional will.

CONTRACTING AUTHORITY

Represented by

On behalf of the Concessionaire:

Represented by:

ANNEXES

ANNEX 1

**BIDDING DOCUMENTS FOR THE CONCESSION/PUBLIC-PRIVATE PARTNERSHIP
OF THE TOURIST PORT "MARINA VLORA";**

ANNEX 2

**CONCESSIONAIRE BID
(BID DOCUMENTS SUBMITTED ONTO THE MINISTRY OF
INFRASTRUCTURE AND ENERGY)**

ANNEX 3

CARTOGRAPHIC DETERMINATION - MAPS

ANNEX 4

INVESTMENT DEVELOPMENT PLAN - WORKS SCHEDULE

ANNEX 5

LIST OF CONSTRUCTION WORKS - WORKS ESTIMATE

Annex 18

[Annex to be filled in by the Contracting Authority]

**SPECIAL TERMS OF CONTRACT
Works**

The following special Terms of Contract shall complement the General Conditions of Contract. In the event of a dispute, the following provisions shall prevail over those of the General Conditions.

Article 1: Definitions

1.1 Contracting Authority shall be _____

1.2 Contractor shall be _____

Article 2: Contract Insurance

2.1 Contract Insurance at the amount of 5% shall be provided by the Contractor to ensure the execution of its obligations under the contract.

2.2 The Contract insurance shall be issued or returned immediately to the Contractor according to Annex 19 "Contract insurance form"

Article 3: Representative of the Contracting Authority

3.1 Representative of the Contracting Authority: _____

3.2 Address/contact point: _____

Article 4: Construction site

4.1 The Construction Site will be (Accurate description of the object location to be realized):

Article 5 Start date

5.1 The present contract: _____

Article 6: Type of Contract

Annex 19

[Letter with the letterhead of the Bank/Insurance Company]

[Annex to be filled in by the Economic Operator]

CONTRACT INSURANCE FORM

[Date _____]

To : [Name and address of the Contracting Authority]

On behalf of: [Name and address of the insured Bidder]

Concession procedure / ppp: [type of procedure]

Short description of the Contract: [object]

Publication (if applicable): Public Notification Bulletin [Date] [Number]

Whereas:

- (name of the Winning Bidder) has been declared the winner in the Bidding Concessionary Procedure/PPP_____, located in _____, according to the letter of (name of the Contracting Authority) (hereinafter referred to as "Contracting Authority"), Prot. ___No., date ___. 2015, "Winner Notice"; and
- The Winning Bidder has submitted to us the Draft Contract concluded between him and the Contracting Authority, "On concession/PPP of _____ ; and
- in your Contract it is required the issuance of a Contract Insurance in the amount specified below, as a guarantee for the fulfilment of the obligations of the Concessionaire provided in the Contract; and
- (name of the Bank/insurance company) agrees to issue this guarantee.

We hereby declare that:

- we are the guarantors of the above-mentioned contract up to the total amount of 10% (*the amount in figures and words*), an amount which is payable in the manner and currency specified in the contract; and
- we undertake to pay, as soon as you make the first request in writing and without the need to justify the request, any amount within the limit of (*amount of guarantee*); and
- to obtain this guarantee, you do not need to first contact the Concessionaire/Public Private Partnership to
make the payment according to your request; and
- no additions or changes to the terms of the Contract, which you may agree with the Concessionaire, release us from the obligations of this Guarantee.

This guarantee is valid until the date that includes 30 days from the date of issuance of the Certificate of Completion.

This Insurance shall be valid until the full contract implementation.

[Bank's/Insurance Company's representative]

Annex 20

[Annex to be filled in by the Contracting Authority]

NOTIFICATION PUBLICATION FORM OF THE SIGNED CONTRACT

Seksioni I Contracting Authority

I.1 Name and address of the contracting authority

Name _____
Address _____
Tel./Fax _____
E-mail: m.caca@neptun.al
Website _____

1.2 Type of Contractual Authority and main activity(s):

Central Institution	Independent Institution
<input type="checkbox"/>	<input type="checkbox"/>
Local Governance Units	Other
<input type="checkbox"/>	<input type="checkbox"/>

Seksioni II Scope of Contract

II.1 Type of Contract

Work	Services
<input type="checkbox"/>	<input type="checkbox"/>

II.2 Short description of the Contract

1.Scope of Contract _____
2. Contract Form _____
3. Source of Funding _____

II.3 Contract Term or duration for completion:

Duration in months or days

or

Starting from up to completion

Seksioni III Procedure

III.1 Type of Procedure:

	Open	Limited	Preliminary negotiation and announcement
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III.2 Number of submitted bids:
bids:

Number of duly submitted

Seksioni IV Contract information

IV.1 Contract number: _____
//

Contract date

IV.2 Name and address of contactor

Name _____

Address _____

Tel./Fax _____

E-mail: m.caca@neptun.al

Website _____

IV.3 Total Value

Value _____(without VAT)

Currency _____

IV.4 Additional Information (*if any*)

Date of publication of such notice //

Annex 21

COMPLAINT FORM TO THE CONTRACTING AUTHORITY

Complaint addressed to: **The Contracting Authority**

Section I. Identification of the Complainant

The complainant can be a bidder or a potential bidder (e.g., as an individual, in partnership, in cooperation, in Joint Venture).

Complainant full name (please print)

Address

City

Country

Postal Code/Zip Code

No. Telephone (including area code)

No. Fax (including area code)

E-mail

Name and position of authorized official completing the complaint (please print)

Signature of authorized official

Date (year/month/day)

No. Telephone (including area code)

No. Fax (including area code)

Section II. Procedure Information

1. Identification Number

Fill in the contract number in the contract notice or in the bid documents, including the type of procedure used for the concession/PPP in question (e.g., Request for Proposals (KP), Open Procedure (PH), Restricted Procedure (KP) , Negation Procedure with Preliminary Announcement (PN),).

2. Contracting Authority

Name of the Contracting Authority in charge for the management the procurement process.

3. Estimated Concession/PPP Value

Calculation of the contract value (amount expressed in figures and words)

4. Scope of Contract

Brief description of works/services purchased.

5. Deadline for submission of the bid

Deadline for submission of the bids.

Date (year/month/day)

6. Determination Date the Winning Contract

Date (year/month/day) if applicable

Section III. Description of the complaint

1. Legal Basis of the Complaint

(write the legal violation, based on decisions, acts, documents, etc.)

2. Detailed Statement of Facts and Arguments

Provide a detailed statement of the facts and arguments supporting your complaint. For each reason of the complaint, specify the date on which you became aware of the facts related to the reasons for the complaint. Mention the relevant sections of the bid documents, if applicable. Use additional pages, if necessary.

3. List of Annexes

For a complaint to be considered filed, it must be complete.

*Preferably attach a legible copy of all documents related to your complaint and a list of all of these documents. The documents should normally include **any published notification, all bid documents, with all changes and annexes, and your proposal**. Determine which of the information is confidential, if any. Explain why the information is confidential or submit a version of the relevant documents with the confidential parts removed and a summary of the contents.*

Send the completed concession/PPP complaint form, all necessary annexes and some additional copies to the **contracting authority**

4. Preliminary Objection to the Contracting Authority

An objection is a complaint addressed directly to the contracting authority. Attach a copy of each written complaint, including the response, if any.

1. Have you made any such objections? If yes, then specify the manner of objection (e.g., in writing, by fax, etc.).

Yes **No**

-
2. Contracting Authority To whom the Objection has been made

Name of the contracting authority.

Name and position of the official against whom the objection has been made.

3. Nature of the Required Corrective Measure

What kind of corrective action are you asking for?

-
4. List

For a complaint to be considered filed, it must be complete. Attach a legible copy of all documents related to your complaint and a list of all of these documents. Documents should normally include any published notification, all bidding procedure documents,

with all changes and annexes, your proposal; all correspondence and any written information relating to an objection you have made. Determine which of the information is confidential, if any. Explain why the information is confidential or submit a version of the relevant documents with the confidential parts removed and a summary of the contents.

Send the completed bidding complaint form, all necessary attachments and some additional copies, to: **Relevant authority according to law no. 125/2013 "On concessions and private-public partnership"**

No. Fax:

E-mail:

Complainant's Signature and Seal

Note: For complaints at the Public Procurement Commission, you should refer to the Complaint Form issued by this institution.

No. Fax:

E-mail:

Complainant's Signature and Seal

Annex 22

POWER OF ATTORNEY FORM

**POWER OF
ATTORNEY**

On this day on day, month, year

Before me

Notary

The undersigned Mr./Mrs. __
in his/her quality _____

Nationality _____

Holder of Passport or Identification Document no. _____ Issued

by _____

On _____

Resident in _____

I hereby appoint Mr/Mrs _____ in his/her quality of _____, to

- (a) sign or stamp and submit to the competent authorities all documents listed in Schedule 1 attached;
- (b) deliver and receive any documents or instruments related to the documents listed in Schedule 1 attached; and
- (c) take all necessary or additional action in relation to the matters set out herein, including the signature and implementation of any act required to complete the documents listed in Schedule 1, or in order for these documents to have impact.

And is authorized to appoint other persons to exercise all or part of the duties set out in this Power of Attorney.