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**THESSALONIKI PORT AUTHORITY S.A.**

**PROCLAMATION OF AN INTERNATIONAL OPEN CALL FOR TENDERS  
FOR THE CONCESSION  
OF THE CONTAINER TERMINAL (CONT. T)  
OF THESSALONIKI PORT AUTHORITY S.A.**

**JANUARY 2008**

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**PROCLAMATION  
PR. F.125/2008**

**THE THESSALONIKI PORT AUTHORITY (ThPA SA)**

**PROCLAIMS**

An open international bidding Call for Tenders for the assignment of a concession contract on the development, operation and exploitation of the Container Terminal within the Port of Thessaloniki zone for a concession period of thirty (30) years and calls interested parties to submit tenders for the selection of a Contractor.

## INTRODUCTION

1. The port of Thessaloniki is located in a unique position with regard to the Balkan markets and the wider area of Eastern Mediterranean and the Black Sea. This area comprises one of the most dynamically developing port markets in the world, and depends on the rapid extension of transshipment and the introduction of the economies of the Black Sea into the global trade system. The structural fundamental development of the regional economies resulted in an invariable growth in terms of container transportation in connection with economic development.
2. The societe anonyme under the corporate name "THESSALONIKI PORT AUTHORITY S.A." (henceforth "ThPA SA") proclaims an international Call for tenders through an open procedure, with the highest financial bid being the award criterion for selection of the contractor (henceforth "the Contractor") for the concession of Pier No. 6 of the Thessaloniki Port Authority, the Container Terminal for a self-financing investment, on one hand, aiming to further develop and expand the existing infrastructure and a financial fee to ThPA SA.
3. In this way the presence of the Port of Thessaloniki to date in the region of N. Greece and the Balkan countries will be better exploited and give a decisive boost to its rapid development into a significant regional Gateway Port to the markets of South-East Europe, in which in transit container throughput holds a significant share.
4. The information included in this Proclamation is intended to aid interested parties in their research to form an opinion on the scope of the Call for Tenders. This is provided for information purposes only, and do not constitute a guaranteed framework for the details of the scope of this Call for Tenders. ThPA S.A. and its advisors are not responsible for any mistakes or omissions.
5. In any case, interested parties should perform their own research and analysis of the data relating to the scope of the Call for Tenders, with the assistance of their own advisors.

## DEFINITIONS

6. **“The Contractor”** is: the legal entity to which the Tender shall be awarded, in accordance with paragraph 167 of this document.
7. **“CSPV”** is: the legal entity (S.A.) which shall be established by the Contractor, after award of the contract, as per paragraph 51 of this document, for the purpose of implementing the scope of the Concession Contract and which shall sign the said Contract along with the Contracting Authority.
8. **“Contracting Authority”** is: the Societe Anonyme with the corporate name **“Thessaloniki Port Authority” (ThPA SA)**  
Address: Thessaloniki Port, Pier No. 1  
Postal Address:  
PoB 10467,  
54110 Thessaloniki  
Greece  
Tel: 0030 2310 593 105  
Fax: 0030 2310 510 500  
E-mail: [secretariat@thpa.gr](mailto:secretariat@thpa.gr)
9. **‘Binding Investment’** is: the sum of share capital and any secondary debt of the CSPV for the construction and operation of the Container Terminal. Minimum Binding Investment amounts are set out in paragraph 52 of the Proclamation.
10. **“Secondary debt”** is: the part of the Binding Investment which is expressed in reduced security loans and/or other forms of capital, provided to the CSPV by:
  - i) the Initial or Future Shareholders or such affiliate companies (in the meaning of CL. 2190/1920, as applicable) and which the Initial Shareholders commit that will be paid by these companies and/or
  - ii) third parties, the service of which, however, shall be guaranteed by the Initial Shareholders or such affiliate companies.
11. **“Candidate” / “Tenderer” / “Bidder”** is: the Candidate whose Tender is being

considered.

12. **The “Call for Tenders”** is: the process starting with the publication of this Proclamation for it's the purpose of concluding a Contract with the Contractor for the construction, use and exploitation of the ThPA SA Container Terminal.
13. **“Proclamation”** is: this Proclamation with such Annexes as well as any other document issued by the Contracting Authority and provided to any interested parties, which include the terms and conditions on the basis of which the Call for Tenders is performed, calling interested parties to submit tenders in order to award the Concession Contract.
14. **“Minimum annual container throughput”** is: the minimum annual throughput of containers which the CSPV is required to achieve per annum throughout the term of the Contract. The minimum annual container throughput comprises an important commitment on the part of the CSPV and any breach of this term, as per the terms of the Proclamation, comprises a breach of contract on behalf of the CSPV.
15. **“The Representative”** is: the person who legally represents the Candidate/Tenderer/Bidder, in accordance with the provisions of this Proclamation.
16. **“Interested party”** is: every Natural person or Legal entity, Partnership or Joint Venture who has requested or received this Proclamation.
17. **“Investment”** is: any form of expenditure incurred for the construction of the expansion, operation and equipping of the CONT.T.
18. **“Evaluation Committee or EC”** is: the Committee defined as per ThPA SA the Board of Directors Decision, which proceeds to the unsealing and evaluation of Tenders, comments on the administrative recourse and proposes the award of the Concession Contract to the ThPA SA Board of Directors (BoD). The final decision on all matters rests with the ThPA SA BoD.
19. **“Berths”** means: the total length of the leased quay.

20. **“Scientific and Technical Rules”** are: the demonstration of the degree of skill, diligence, prudence and thoughtfulness reasonably and usually required by any competent and experienced constructor aspiring to comply with the utmost care to such contractual obligations.

21. **“Quay”** is: the ship to shore interface, where a ships berths or sternberths in order to load and unload.

22. **“Container Handling Operations”** are defined as follows:

*I Quay operations*

Time-tabling and designation of berths for ships transporting containers which are served by the Container Terminal quays and timely notification of the Port Master as per the Regulation of the Thessaloniki Port.

Loading and unloading of containers by use of quay cranes or ship cranes.

Quay operations include the processes of lashing and unlashng the containers or other cargo aboard.

*II Container yard operations*

The containers shall be transported from the quays to the temporary storage area and vice versa. Containers shall be stored in an allocated space on the basis of their condition and the expected handling activity.

*III Less Container Loaded (LCL) – Stuffing and Emptying Containers activities*

The receipt and delivery of loose cargo for loading or unloading to/from containers at the Container Terminal and to the allocated area.

*IV Container Receipt and Delivery*

The receipt and delivery of containers of all types, as well as fixed large size or heavy packaged cargo, which can be loaded/unloaded using a crane to or from the Container Terminal by road or rail transfer.

*V Ancillary activities*



Ancillary activities include, *inter alia*, container repairs, monitoring refrigerator containers, provision of power, potable water and telephone services, vessel garbage removal, vessel cleaning, mooring and unmooring, ship chandling, documentation modifications, cargo inspection facilitation.

#### *VI Miscellaneous*

All other activities within the Container Terminal and the ceded area, which facilitate the process of container handling.

23. **“Port Throughput”** is: the number of containers in TEU, which are handled through the CONT.T quays in a specific period of time. This is calculated as the sum of unloaded and loaded containers in TEU, from/to ship in a specific period of time, usually a year. Transshipment containers are counted as two (2) crane movements (Unloaded + Loaded).
24. **“Concession - Phase 1”** is: the first year of the Concession implementation in the area of ThPA SA Pier 6 on the development and operation of the Container Terminal, as described in Annex 1 of the Proclamation.
25. **“Concession– Phase 2”** is: the year following Phase 1 of the Concession implementation in the area of ThPA SA Pier 6 on the development and operation of the Container Terminal, as described in Annex 1 of the Proclamation.
26. **“Proclamation”** is: this Proclamation and its Annexes, as well as all documents published by the Contracting Authority and is made available to interested parties. It includes the terms and conditions on which the Call for Tenders is based and calls interested parties to submit tenders so as to award the Concession Contract.
27. **“Tender”** is: the Tender dossier to be submitted by candidates to the Contracting Authority.
28. **“Provisional Contractor”** is: the Candidate to be selected by the Contracting Authority as per paragraphs 166-167 of this Proclamation.

29. **“CONT. T.”** means: the Container Terminal of the Thessaloniki Port Authority S.A., as illustrated on the maps and described in Annex 1 of this Proclamation.
30. **“Contract or Concession Contract”** is: the Contract to be concluded between the Contracting Authority and the CSPV for a period of thirty (30) years.
31. **“Title of the Contract”** is: “ThPA SA. Container Terminal (CONT. T.) Concession Contract”
32. **“Type A Bank”** is: a first class Bank or Financial Institution with an A credit rating for long-term non-collateralised financing (or better) from Standard & Poor’s Corporation or A2 ( or better) from Moody’s Investors Services, Inc. or A ( or better) from Fitch Ratings.
33. **“Type B Bank”** is: a first class Bank or Financial Institution with a BBB+ credit rating for long-term non-collateralised financing BBB+ (or better) from Standard & Poor’s Corporation or Baa1 (or better) from Moody’s Investors Services, Inc. or BBB+ ( or better) from Fitch Ratings.
34. **“Type C Bank”** is: a first class Bank or Financial Institution with an BBB- credit rating for long-term non-collateralised financing BBB- (or better) from Standard & Poor’s Corporation or Baa3 ( or better) from Moody’s Investors Services, Inc. or BBB-( or better) from Fitch Ratings.
35. **“Candidate”** is: any person or group of persons to have submitted a Tender for this Call for Tenders.

### **SCOPE OF THE CALL FOR TENDERS**

36. With this Call for Tenders, ThPA SA, as the Contracting Authority, seeks to obtain binding Tenders for the conclusion of the Container Terminal (CONT.T.) Concession Contract , within the port zone of ThPA SA

## **CONCESSION OF THE CONTAINER TERMINAL**

### **The right of Concession by ThPA SA**

37. By virtue of the Concession Contract of 27/06/2001 concluded with the Greek State, ThPA SA has the exclusive right to use and exploit the Port Zone of Thessaloniki, which it is entitled to develop in the most beneficial manner.
38. Within this framework, ThPA SA is entitled and intends to temporarily cede the use of the Authority's Container Terminal port facilities to third parties for the purpose of expansion, development, operation and exploitation.

### **Concession Scope**

39. The scope of the Concession is the radical upgrading and modernisation of the Thessaloniki Port Container Terminal, in accordance with best international practices, so as to successfully meet the growing port competition.
40. The Concession covers the port container throughput, storage and handling at the existing Container Terminal within the port of Thessaloniki, as well as the container infrastructure and facilities under construction. The Concession shall be carried out in two Phases (Phase 1 and Phase 2) of CONT.T construction.
41. The completion of construction Phase 1 and 2 and the procurement of the necessary equipment will increase the capacity of the port of Thessaloniki Container Terminal at the rate of 1,950,000 TEUs per annum.
42. A topographical diagram and description of the Concession area are included in Annex 1 of the Proclamation.
43. Detailed information about the facility to be ceded and the expansion shall be made available to candidates at the Data Room, to be established for this purpose, as per paragraph 101 of this Proclamation.

## **Duration of Concession**

44. The Concession will have a duration of thirty (30) years from the date the Contract comes into force. A compulsory extension of the duration of the concession to thirty-five (35) years shall apply, if relocation of the Contractor is realised as per the provisions of Annex 1 paragraph 9 of this document.

## **INVESTMENT FINANCING**

45. Financing of all kinds of investment for the ceded area shall be effected exclusively through the Contractor's equity and loan capital.

## **TENDER PROCEDURE**

46. The Tender shall be carried out in two phases. Phase 1 shall comprise three stages and Phase 2 shall comprise two stages, as follows:

### **PHASE 1**

47. **Stage 1:** Publication of the Proclamation - Signature of the Confidentiality Agreement by Interested Parties, which is annexed to this document in the form of Annex 13 – Opening of the Data Room – Collection of information by authorised representatives of interested schemes.
48. **Stage 2:** Submission of a Tender dossier (sub-dossier A and B) by interested parties.
49. **Stage 3:** Unsealing of the Tender dossier and Sub-dossier A – Preselection – ThPA SA's Written notification of the Tender Procedure Phase 1 results to the candidates.

### **PHASE 2**

50. **Stage 4:** Unsealing of Sub-dossier B – Table listing of financial offers – Selection of Provisional bidder - Submission of the supporting documents specified in paragraphs 123-124 by the provisional bidder and verification – Selection of provisional Contractor.
51. **Stage 5:** Award of Contract – Negotiations with the provisional contractor regarding the final contents of the Concession Contract – Signature of Concession Contract.

## **CONTRACTOR SPECIAL PURPOSE VEHICLE (CSPV) – CSPV SHAREHOLDER AGREEMENT**

### **Contractor Special Purpose Vehicle (CSPV) - CSPV Shareholder Agreement**

52. In order to complete the Concession Contract, the Contractor will establish a Greek Special Purpose Vehicle (CSPV) with a scope to develop, operate and exploit the CONT.T. port facilities and registered offices in Thessaloniki. The established company's purpose will involve the development of Pier 6 and the operation of the Container Terminal of the port of Thessaloniki, in accordance with the terms of the Concession Contract.
53. The members of the Contractor and future shareholders in the CSPV agree that they are required to contribute, in the company under establishment, capital of at least forty million Euros (€40,000,000) (binding investment), including secondary debt, until the completion of implementation of the works, plus a maturity period of two (2) years, of which at least twenty million Euros (€20,000,000) in the form of share capital. The Contractor's paid-in share capital, before signature of the Concession Contract, must not be less than three million Euros (€3,000,000). The remainder of the own investment shall be deposited during the period of construction, in such a way that the ratio of own investment contributions to the sum of own investment plus loans, is not lower than 20%, at any time.
- 52.1 Every Initial Shareholder undertakes the obligation against ThPA SA to pay the Contractor the proportion of the Binding Investment corresponding to their share on the dates, and to the amounts defined above and referred to in his Tender.
54. The company shall be established and will operate under the rules of private financing and for the purpose of providing port facilities to the CONT.T., comprising trade activities, in the framework of the provisions of the Concession Contract, the law, its articles of association, and L. 2190/1920 (Government Gazette Issue 37 A), as applicable.
55. Sole shareholders of the CSPV shall be all the Contractor's members. CSPV management shall necessarily be executed by a shareholder with experience in port

management or as terminal operator, as evaluated in the professional experience criteria of article 156 of this proclamation.

56. ThPA SA reserves the right to take part in the CSPV management by way of a permanent representative in the company's Board of Directors, which representative shall be appointed by a ThPA SA Board of Directors decision. To this end, the extra-corporate agreement to be signed by CSPV shareholders, as per the provisions of paragraph 163 of this document, will include a relevant term, subject to the absolute approval of ThPA SA, pursuant to which they will undertake explicitly and specifically the obligation, as per any selection of the CSPV Board of Directors, to elect a BoD member appointed by ThPA SA. as above.
57. An inviolable condition of the Call for Tenders is that the shareholder composition of the CSPV is not to be altered until the CONT.T. expansion investments have been finalised and for a period of two (2) years following the conclusion of investments (time of maturity). During this time, only stock transfers are permitted to affiliated companies in the meaning of article 42 (e) paragraph 5 of L. 2190/29 on societies anonyme, as applicable, following previous approval by the ThPA SA. After expiry of this period, changes to the CSPV shareholder composition are allowed, upon approval of the ThPA SA and provided that the CSPV management is, at any case, at the hands of a shareholder with experience in container throughput port management.
58. The company's management, operation, body competencies and any special issue and relevant details shall be regulated in the CSPV's articles of association, which shall be drawn up according to the model of Annex 11 hereof, and approved by the competent authorities for societies anonyme. ThPA SA reserves the right to impose stricter terms in the CSPV articles of association with regard to the company's operation. In addition, the company's shareholder contract shall be subject to ThPA SA control.
59. A model of the CSPV articles of association is attached in Annex 11 herewith.

## **Transfer of CONT.T. business operations and personnel to the Contractor – Labour Issues**

60. In order to ensure smooth operation for the CONT.T. and orderly service for its users, the first eighteen (18) months from the date of the Contractor's establishment, ThPA SA will continue to provide its operations of loading and unloading and such administrative support, including information system management and the immediate maintenance of the Terminal in the form of subcontracting to the Contractor.
61. If the Contractor wishes to extend CONT.T. operation using ThPA SA personnel for more than eighteen (18) months, and so long as ThPA SA consents, the financial terms of service provision shall be determined anew by agreement between the parties for the additional period of time.
62. During the above period of time, the Contractor will deposit as fee for the provision of services from ThPA SA, the payroll cost of the workers increased by fifteen percent (15%) plus VAT, as results from the ThPA SA payroll.
63. Upon expiry of the period of paragraph 59 of this document, the provisions of PD 178/2002 on personnel transfer, shall apply. PD 178/2002 shall also apply in case of termination of the concession contract, and upon expiry of the concession period.
64. The terms and details of ThPA SA personnel transfer as a result of the transfer of the entire CONT.T. operation to the Contractor are described in Annex 3 of this document.
65. In signing the Concession Contract, the Contractor will have the right to employ his own personnel under the rules of labour law and the free market. More specifically:
  - 65.1 The Contractor, in signing the Contract, will take on the ThPA SA personnel who wish to leave ThPA SA and work for the Contractor.
  - 65.2 The Contractor is required to cover at least 10% of personnel requirements, to employ, by priority, children of ThPA SA employees and dockerworkers who worked for the ThPA SA until the date of signature of the Concession Contract, if they so wish and if they fulfil the necessary requirements. Specifically, priority

shall be given to employing children of ThPA SA staff who have transferred to the CSPV.

### **Rights and Obligations of the Contractor**

66. The Contractor's rights and obligations shall be included in detail in the Concession Contract to be signed between ThPA SA and the CSPV to be established by the Contractor. Acceptance of the Draft Contract, Annex 10 of the Proclamation, to be provided by the Data Room in accordance with paragraph 98 of this document, is a requirement for participation of parties interested in this Call to tender.
67. Specifically, in execution of the Concession Contract which comprises the scope of this Call for Tenders, the Contractor undertakes:
- 67.1 to accept the limitations of the Concession Contract concluded between the Greek State and ThPA SA.
  - 67.2 to take measures to protect the CONT.T., the port and the surrounding area, adhering to the environmental requirements, customs and terms which regulate the control of waste, the disposal of liquid waste and associated issues, as required by national and Community law in each case.
  - 67.3 to work together with local authorities and to contribute financially to the promotion of cultural concerns and the organisation of cultural events within the boundaries of the Municipality of Thessaloniki, in order to support the local community.
  - 67.4 to provide scholarships for undergraduate and postgraduate studies in subjects connected to shipping and ports to students of Macedonia and Thrace, giving priority to students of the Municipalities adjacent to the Port of Thessaloniki.

## **2. THE RIGHT TO PARTICIPATE AND DISQUALIFICATION CRITERIA**

### **RIGHT TO PARTICIPATE**

68. Persons or groups of persons who fulfil all the requirements of this Proclamation, and who have demonstrable experience in business activities related to container terminal port operations management, as per the requirements of the Call for Tenders have the right to participate in the Call for Tenders.



69. Candidates who take part in the Call for Tenders shall not be required to invest in a particular legal form in order to participate in the Call for Tenders.
70. Every Candidate is required to designate a representative, who will act on his behalf in all affairs of the Candidate with the Contracting Authority until the awarding of the Concession Contract (henceforth the "Representative"). In the case that the Candidate is comprised of more than one Member, the Representative shall be appointed jointly and unanimously by all the Members. The Representative must be able to communicate fluently in the Greek language. The Candidates shall declare all contact details to the Representative, as well as the preferred method of communication with the Contracting Authority (that is, via post, or fax, but not by means of email). All communications of documents with the Contracting Authority take place lawfully to the candidates via their Representatives. The candidates may change their Representative, but, until receipt of the relevant Notice of replacement to the Contracting Authority, communications will only be made to the designated Representative.
71. Changes to the line-up of the Candidates in the duration of the Tender Procedure are not permitted. In exceptional circumstances, in the case that the line-up of the Candidate is altered before the result of the Call for Tenders is finalised and only for the reasons mentioned in the paragraph below or for reasons of bankruptcy or Members of the Candidate being under liquidation or under related procedures, the Contracting Authority has the right, but is not required, to allow the change to the line-up of the Candidate and to replace the withdrawn Member(s) with new one(s). The Candidate or Tenderer whose line-up has been changed in this way is obliged to provide the Contracting Authority with details relating to the alteration in good time. If, with this alteration, a new Member(s) is (are) introduced, they will also have to be provided with all the details relating to this Proclamation in order to participate in the Call for Tender. The Contracting Authority retains the right in this case to re-evaluate whether the Tenderer continues to fulfil all the requirements of the conditions of this Proclamation.
72. In order to avoid circumstances of conflict of interests, companies and such affiliate

companies in the meaning of Article 42 (e) paragraph 5 of Law 2190/1920, as applicable, who are Members of a Candidate, are not able to participate in more than one Candidate. The Members of Candidates must report immediately and in writing to the Contracting Authority of any change constituting them an affiliate business - in the meaning of Article 42 (e) paragraph 5 of Law 2190/1920, as applicable – with any Member of another Candidate or which leads to their merging. The same mandatory disclosure applies for the relevant alterations between Members of the same Candidate, which take place without other consequences for the Call for Tenders. If, after submission of the candidacies into the Call for Tenders, a merger or affiliation between two persons who are Members of different Candidates is announced, one of the two concerned Members must immediately withdraw from the Candidate to which they participate. This Candidate must inform the Contracting Authority immediately whether they intend to replace the Member who has left, pursuant with paragraph 70 of this document, and if they intend to do this, to act without undue delay, keeping the Contracting Authority informed at all times.

#### **DISQUALIFICATION CRITERIA**

73. Any Candidates who have committed criminal offences which are related to their professional conduct, which can be ascertained in whatever method by the Contracting Authority are not permitted to take part in the Call for Tenders, and consequently shall be disqualified. As regards legal entities, and particularly societies anonymes, this case must not be the case for the Chairman of the Board of Directors and the Managing Director based on the articles of association of the legal entity or equivalent document. Offences related to professional conduct include embezzlement, extortion, forgery, perjury, fraudulent bankruptcy and additionally:
- participation in a criminal organisation, as defined in article 2, paragraph 1 of the Joint act 98/742/CFSP of the Council and European Parliament.
  - bribery, as defined in article 3 of the Council Act of 26 May 1997 and article 3, paragraph 1 of Joint Act 98/742/CFSP of the Council and European Parliament.
  - fraud, in the meaning of Article 1 of the contract relating to the protection of financial interests/concerns of the European Communities,
  - money laundering, as defined in article 1 of Directive 91/308/EC of the Council and European Parliament, on the prevention of exploitation of the financial system from money laundering.

74. For the purposes of awarding the contract, and in accordance with paragraph 165 of this document, the following parties are excluded from submitting a Tender:
- (a) parties who are bankrupt, in liquidation, compulsory receivership or, in the case of foreigners, in any other relevant situation resulting from a similar process, specified in national law of the state from which they originate,
  - (b) parties in respect of which proceedings have been instigated for bankruptcy, liquidation, compulsory receivership , bankruptcy settlement or any other similar process specified in national, legal and regulatory provisions.
  - (c) parties who have not fulfilled their obligations, as regards payment of social security contributions, in accordance with the law of the country where the company is based, or according to Greek law.
  - (d) parties who have not fulfilled their obligations regarding payment of taxes and duties, in accordance with the law of the country where the company is based, or according to Greek law.
  - (e) parties who are guilty of making false representations or have neglected to submit the required information.
75. Further to the above, ThPA SA, at the suggestion of the Evaluation Committee, has the right to reject, by providing full justification, one or more or all the Tenders, regardless of the stage which the tender procedure has reached.
76. Dismissal of a Tender does not create a right of compensation for the Tenderer.

### **3. GENERAL TERMS OF THE CALL FOR TENDERS**

#### **CONFIDENTIALITY**

77. Candidates who wish to receive information from the Data Room, which the ThPA SA will establish for the purposes of this Call for Tenders in accordance with paragraph 101 of this document, shall sign a confidentiality agreement with ThPA SA, which is annexed to this document as Annex 13. Regardless of this, all data, documents, information, plans and specifications and any material provided by the Contracting Authority to the Candidates in general or of which they become aware throughout the entire duration of the Call for Tenders, or otherwise related to information which is not

provided by the Data Room, remains confidential and must not be disclosed to third parties (including representatives of the Greek and international press), without the prior written agreement and authorisation of the Contracting Authority or the Candidates, respectively, unless it is requested by law or another competent judicial or administrative authority with relevant jurisdiction.

#### **EXPENSES OF THE CALL FOR TENDERS**

78. Participation in the Tender procedure takes place at the risk of the Tenderer, who does not have the right to compensation from the Contracting Authority as a result of this alone.
79. Expenses for the Tender Procedure are born exclusively by the Tenderers.

#### **THE LANGUAGE OF THE TENDER PROCEDURE AND THE CONCESSION CONTRACT**

80. The official language of the Call for Tenders and the Concession Contract is Greek. Answers to clarifications which may be requested by interested parties shall also be compiled in the Greek language.
81. This Call for Tenders and its Annexes have been drawn up in the Greek language. At the same time, this Call for Tenders shall be available in a non-binding copy in the English language.
82. All the documentation for participation which shall be included in the tenderers' Tender dossier for this Call for Tenders as per paragraphs 115 and following paragraphs hereof, shall be drawn up in the Greek language or accompanied with a lawful translation into Greek. In the case of uncertainty, discrepancy or inconsistency between the texts, the text translated into Greek shall prevail. By exception, in as regards documents of incorporation of legal entities and associated corporate documents, as well as documents published by foreign authorities, in the case of uncertainty, discrepancy or inconsistency, the original text shall prevail. Similarly, where it is required to submit translation of national regulations and official specifications and/or other equivalent texts, the original document shall prevail. Any appeals against the Call for Tenders shall also be submitted in Greek.

83. All foreign public documents and supporting documents which shall be filed by the Candidates for this Call for Tenders from countries outside the European Union, shall be legally certified by the Competent Consulate of the tenderer's country with an affixed apostille, in accordance with the Hague Convention of 5-10-1961, which was ratified by Law 1497/84 ("Apostille"). Attestation in the meaning of articles 454 of the Hellenic Code of Civil Procedure and 53 of the Code on Lawyers shall only be made on the text bearing an Apostille.
84. It is not required to provide translation of the PROSPECTUS which shall be included in sub-dossier A of the Tender of Tenderers for confirmation of their professional competency, since they shall be submitted in the English language. The Contracting Authority has the right to request translation of this into the Greek within ten (10) days from the relevant written notification of the Candidates.
85. The documents and verbal communications between the Contracting Authority and Interested Parties, Candidates and the Contractor will take place exclusively in the Greek language. It is noted that all abovementioned persons are required to facilitate communication of their foreign employees with the Contracting Authority and its offices, by providing interpreters at their own expense.

#### **APPLICABLE LAW AND COMPETENT COURT OF LAW**

86. The Proclamation and the Call for Tenders in general as well as such documents are governed by Greek law and any disputes which may arise shall be resolved by the competent courts of Thessaloniki.
87. The Concession Contract to be signed is governed by Greek law and any disputes which may arise shall be subject to arbitration and shall be resolved conclusively based on the Arbitration Rules of the International Chamber of Commerce (ICC) in Paris.

88. The Call for Tenders is governed by the following provisions:
- Compulsory Law 1559/1950 "On the Thessaloniki Port Authority"
  - L. 2688/1999 "Conversion of the Piraeus Port Authority and the Thessaloniki Port Authority to Societes Anonyme."
  - The Codified Articles of Association of ThPA SA.
  - The Concession Contract of 27.06.2001 between the Greek State and ThPA SA.
  - Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors , as transposed into Greek Law by P.D. 59/2007 (Government Gazette Issue A 63/2007).
  - Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council
  - Law 1338/1983 "Application of Community Law" as amended and applicable.
  - Law 2077/1992 "Ratification of the Treaty of the European Union and relative protocols and declarations included in the final act."
  - Law 2854/2000 "Judicial protection during the stage preceding the conclusion of contracts of organisations which operate in the fields of water, energy, transport and telecommunications in accordance with Directive 92/13/EEC."
  - Law 3310/2005 "Measures to ensure transparency and prevent transgressions during the process of concluding public contracts," as altered by Law 3414/2005.
  - P.D. 82/1996 "Registering the shares of Greek Anonymous Companies who participate in procedures to undertake projects and procurements of the public sector and of legal entities in the wider public sector."
  - Legislative decree 2687/1953 on investment and protection of foreign capital.
  - Paragraph 1 of article 8 of Law 2741/1999, as amended with the provision of article 2 of Law 3060/2002 and interpreted with article 19 of Law 3193/2003 on precautionary control of contracts of large financial value by the Court of Auditors.
  - The terms of this Proclamation and ThPA SA Board of Directors relevant decision no. 3610/15-1-2008.
  - The terms of the Draft Concession Contract, which is available to Interested

Parties in Annex 10 of this document.

#### **ADMINISTRATIVE APPEALS -OBJECTIONS**

89. Appeals or Objections regarding the proclamation for the Call for Tenders, or such legitimacy, or of the participation of other candidates therein shall be lodged with the Evaluation Committee of paragraph 150 of this document, in writing, as follows:

- Against the proclamation for Call for Tenders, within the first half of the time period starting on the date of publication until the date when the tender is held. The deadline for this time period is inclusive of the dates of publication of the Proclamation and the date on which the Call for Tenders is held, and, if the result is a fraction, it is considered a full day. Objections shall be examined and the relevant decision of the ThPA SA Board of Directors (BoD), following recommendations of the Evaluation Committee, shall be published at the latest five (5) working days after the Call for Tenders is held. Objecting parties shall be informed of the relevant decision at their own discretion.
- Against the participation of Tenderers in the Call for Tenders or it's the legitimacy of the receipt procedure and unsealing of Tenders in the course of Call for Tenders itself and until the following working day. This objection will not induce postponement or interruption of the Call for Tenders, but shall be examined during the evaluation of the Call for Tenders results by the competent body, i.e. the ThPA SA Board of Directors (BoD), then the relevant decision shall be published.
- Appeals against the legitimacy of holding the Call for Tenders up to the awarding decision, within the time period of five (5) working days, from the date of notification of the excerpt of the relevant ThPA SA BoD decision (pre-judicial appeal) to the tenderers. This appeal comprises a term of acceptance for injunction before the competent judicial body, in the absence of which, an injunction is considered unacceptable. The ThPA SA BoD shall provide a justified decision on the appeal within ten (10) days from filing the appeal. Should the aforementioned deadline elapses with no action, it is concluded that the appeal has been dismissed. The interested party may file for an injunction for the same reasons as those of the appeal, within ten (10) days from the express or silent dismissal of the appeal before the competent court. This appeal shall not cause any postponement or interruption of the Call for Tenders. The BoD decision is final, does not allow of any type of administrative recourse and is notified to the

tenderers.

90. The Evaluation Committee has consultative competency with regard to the above objections, while the decisive competency rests with the BoD of the Contracting Authority. Objections filed for any reason other than those mentioned above shall not be accepted by the BoD.
91. ThPA SA BoD decisions on objections may be contested as per Law 2522/1997, pursuant to the provisions of the said article.
92. Law 2854/2000, as applicable, applies with regard to regarding judicial protection issues in the stage preceding the conclusion of the contract.

#### **RIGHT TO UNILATERALLY CHANGE THE TERMS OF THE CALL FOR TENDERS**

93. The Contracting Authority reserves the right to postpone or cancel the Call for Tenders, as well as alter the timetable of the Proclamation and the Call for Tenders at any time, or repeat the Call for Tenders, at its sole discretion, without liability of any kind against participants in the Call for Tenders and/or third parties.
94. Participation in the Call for Tenders takes place at the Candidate's own risk, who is not entitled as a result to compensation or anything else, except as specified in this document. The Candidate's participation in the Call for Tenders implies full acceptance of the terms and conditions of the Call for Tenders on his part.

#### **4. PHASE 1 – STAGE 1: MAKING AVAILABLE THE CALL FOR TENDERS AND PROVIDING INFORMATION AND CLARIFICATIONS**

##### **RECEIPT OF THE CALL FOR TENDERS**

95. Interested parties may receive this Call for Tenders on working days and hours, from Monday 28 January 2008 until the fifteenth day (inclusive) prior to the expiry of the deadline for submitting Tenders (ThPA SA Department of Procurements, Haralambos Gagavouzis, Head, Telephone: 0030 2310 593 230). Any candidates wishing to obtain access to the Data Room of paragraph 101 hereof, shall sign the confidentiality contract of Annex 13 and shall also produce a deposit receipt to the amount of four



thousand Euro (**€4,000.00**) in the ThPA SA bank account with Geniki Bank of Greece, IBAN number: GR 64 0150 1150 0000 0508 1201 902. This amount is non-refundable.

96. This proclamation, along with the Draft Concession Contract and the Confidentiality Contract, Annexes 10 and 13 of this document, shall be made available to interested parties at the ThPA S.A. Department of Procurements, paragraph 94 hereof, following a written request, stating their details. In order to receive this Proclamation, parties interested in participating in the Call for Tenders shall produce the relevant authorisation through their Representative. The authorisation must include full details of the recipient, as well as those of the interested party (company name, address, telephone number, fax, e-mail).
97. In case of discrepancy between the terms of this Proclamation (including such Annexes) and the terms of the Concession Announcement, as published in the Supplement to the Official Journal of the European Communities and the press, the terms of this document shall prevail.
98. Interested parties may request, in writing, clarifications on the content of this Proclamation from the Contracting Authority up to the tenth day (inclusive) before the date defined in paragraph 106 hereof. These requests may be submitted by post, fax, or electronic mail in the Greek language.
99. The Contracting Authority will assess the requests on clarifications or additional information and respond in writing to the cases deemed to contribute to the facilitation of the interested parties and the best submission of Tender Dossiers. Replies shall be notified to all parties that have received a copy of this Proclamation, without disclosing the party that submitted the question. The dispatch of written replies on behalf of the Contracting Authority will take place three (3) working days, at the latest, before expiry of the Date of Submission of Tenders of paragraph 106 hereof.
100. No Candidate may, in any case, invoke verbal responses from any employee or

advisor of the Contracting Authority.

101. Interested parties who have received a copy of this Proclamation may contact the Contracting Authority for clarifications in writing via Fax no.: 0030 2310 510500 and e-mail: [htheodosiadis@thpa.gr](mailto:htheodosiadis@thpa.gr), during working days and hours.

#### **THE DATA ROOM**

102. As of the fifth (5<sup>th</sup>) working day after publication of the Proclamation of this Call for Tenders, all interested parties may receive from the Data Room to be operated by ThPA SA, the Proclamation Annexes which are not attached to this Proclamation. Ten (10) working days after publication of the Proclamation of this Call for Tender the Data Room shall provide at interested parties' own expense, legal, technical, financial and other details relating to the project, which will be available.
103. Access rights to the Data Room will be provided de novo to the Candidates who have signed the relevant confidentiality contract of Annex 13 hereof.
104. The Data Room will also contain the available technical details (technical specifications, etc.) of ports or other projects which were to be carried out and which comprise the scope of the self-financing investment of the Contractor.
105. In addition to the Data Room, participants in the Call for Tenders will have the opportunity to visit the areas which comprise the scope of the Concession, upon agreement with the Contracting Authority.
106. The Data Room shall be available to Candidates upon agreement with the competent services of ThPA SA, competent officer: Haralambos Theodosiadis, tel.: 0030 2310 593 139 during working days and hours, until the tenth (10<sup>th</sup>) day before the final date of submission of tenders, as per paragraph 106 hereof.

## 5. PHASE 1 – STAGE 2: SUBMISSION OF TENDER DOSSIER

### TENDER DOSSIER

107. Interested parties shall submit, as Candidates to the Contracting Authority, a Tender Dossier, which contains sub-dossiers A and B. Submission of the Tender Dossier must be made by **19/03/2008**, at **14:00**.
108. The submission/dispatch of the dossier by Candidates will take place on working days and from 9:00 - 14:00 as follows:
- Candidates will submit their dossiers to the ThPA SA (**Secretariat, Protocol Office, Administration Building ThPA SA, 2<sup>nd</sup> Floor, Pier No. 1, Port, telephone no.: 0030 2310 593 118**) by means of their legal representative, as specified in paragraph 69 hereof, who will also sign the Tenderer's a letter of submission of a Tender, as per Annex 2 of this Proclamation. The Representative to submit the dossier must produce their Identity Card or Passport, for confirmation of their identity.
  - A representative is not permitted to represent two or more entrepreneurial schemes.
  - Tender Dossiers sent via registered post or courier, at the Candidate's own risk as to the contents of the dossiers and the time of arrival at ThPA SA, shall be accepted.
109. The Submission Letter of the Dossier should state, inter alia, the Candidate's interest to participate in the Call for Tenders. The Submission Letter shall be addressed to the ThPA SA Managing Director and signed by the Candidate or his representative. In the case where there are more Members to the Candidate, the Submission Letter shall be signed by their joint representative. It is explicitly clarified that submission letters which do not bear all above signatures shall be dismissed.
110. In the case of more Members to the Candidate, they shall be listed in the letter, as concerns natural persons, with their full details of identity and residential address, and as concerns the legal entities, with their company name and registered office, as well as telephone and fax numbers, or e-mail address and website, where applicable.

111. The letter shall be accompanied by a statement of acceptance of the assigned Representative by the Candidate.
112. An example of the submission letter is provided in Annex 7 of this Proclamation.
113. ThPA SA shall not be liable for any delay, and is not required to receive dossiers or other documents from any postal facility or other Service, even if notified in due time. Untimely arrival of the Tender Dossier constitutes grounds for dismissal of the interested party from the remaining process of the Call for Tenders. Any Delay by accident or for reasons of force majeure shall not be recognised as a reason for late submission nor postal receipt of the dossier. In the case of late submission, as per the provisions hereof, the dossier shall be returned without being unsealed.

**DETAILS OF THE TENDER DOSSIER – SUB-DOSSIERS**

114. The Tender Dossier and its sub-dossiers (outer and inner) shall bear the name and address of the Candidate, their telephone and fax numbers, and e-mail address, as well as the following information:
  - To:** Thessaloniki Port Authority SA (ThPA SA)
  - Address:** ThPA SA Administrative Building, Pier No. 1, Port,  
104 67 Thessaloniki
  - TENDER DOSSIER** for the Call for Tenders: “Concession of the Container Terminal of ThPA SA”
  - SUB-DOSSIER :** (title of Sub-dossier)
  - Date of Call for Tender: **20/3/08**
  - (CANDIDATE):** (In the case of more than one Member to the Candidate, the details of all the Members shall be indicated)

**TIME OF VALIDITY OF TENDERS**

115. Tenders shall remain valid, binding the participants to the Call for Tenders, for a period of nine (9) months from the date of their submission, with the right to an extension of equal time, following such request by ThPA SA. Following such a request by ThPA SA, this extension of equal time shall constitute an obligation on the part of the Candidate, on penalty of disqualification.

**THE DOSSIER WITH SUPPORTING DOCUMENTATION AND DETAILS OF FINANCIAL SUFFICIENCY AND PROFESSIONAL SUITABILITY (SUB-DOSSIER A)**

**1. EVERY CANDIDATE**

The Candidates must submit legitimisation documents, as follows:

116. For Domestic legal entities in the form of a Societe Anonyme (SA) or Limited Liability Company (Ltd):

- Copies of the pages of the Government Gazette: on SAs, with the announcement of the company's latest Board of Directors and the representative, on Ltds, with the appointment of the company's administrator.
- Recent codified Articles of Association, certified by the competent Prefecture or Court of First Instance.
- Registration certificate by the local commercial or professional Chamber.

117. For Foreign legal entities in the form of a Partnership (General Partnership or Limited Partnership):

- Official copy or ratified photocopy of the company's latest articles of association in effect.
- For each Partner of the company, all documents specified in paragraphs 115 and 117 hereof, if applicable.
- Registration certificate by the local commercial or professional Chamber.

118. For Foreign Legal Entities:

Depending to their form, relevant legalisation documents and certificates with those referred to above in paragraphs 115 and 116, which are required by the law of their country of establishment or operation, proving legal establishment and operation, registration of the companies in the specified corporate registers and the latest articles of association in effect, as well as all other information and details requested above for domestic companies.

In the case that the country of origin does not issue a corresponding certificate, this can be replaced by a solemn declaration by the legal representative of the Candidate, stating that: (1) such a certificate is not issued, and (b) the Candidate fulfils the relevant legalisation condition.

119. In the case of more than one Member to the Candidate:

The documents and certificates of the above paragraphs 115, 116 and 117 shall be provided for every Member separately, as well as the relevant contract between the Members if they have established a joint venture.

120. Every Candidate whether a domestic or foreign legal entity of any form (and in case of more than one Member to the Candidate, all such Members):

Minutes of the Board of Directors decisions or, as the case may be, such competent body (and in case of grouping of persons, of all members to the Candidate):

- 120.1 Approving such participation in the Call for Tenders and the submission of the Tender Dossier, in accordance with the terms of the Proclamation and such Annexes, the sum of which is understood and unconditionally accepted.
- 120.2 Waiving any right of compensation against the Contracting Authority, its representatives, associates, employees and advisors, for any decision made by the Contracting Authority, particularly in the case of postponement, cancellation, declaration as unproductive or repetition of the Call for Tenders or repeal of its result.
- 120.3 Accepting all responsibilities and obligations on any issue related to the participation in the Call for Tenders. In case of groups of persons, the acceptance of responsibilities and obligations shall jointly and in whole with the other members of the Candidate.
- 120.4 Appointing a specific natural person as Representative of the Candidate (paragraph 69 of this Proclamation) and provides him/her with the legal authorisation to represent the candidate, and to sign all documents required for participation in the Call for Tenders.

It is noted that as regards the said Minutes of Board of Directors decisions the following must be proven by the produced legalisation documents of the Member to the Candidate, or by a notary or a competent authority of the document's place of

issuance:

- the competency of the body making the above decision to bind therewith the Member to the Candidate/the Candidate,
- the competency of the said body which may have certified the produced copy of the Minutes or Decision to issue the said certified copy,
- the authenticity of the signature(s) which have been placed on the enclosed documents.

121. Joint Statement of Members to the Candidate:

If there are more than one Member to the Candidate, they shall provide a joint notarised statement of all Members, signed by the representative of each member:

- stating the joint Representative of the Candidate,
- clarifying the scope intended for each Member to undertake should the candidate be awarded the contract, that is, the extent to which the Member is a future shareholder of the company referred to in the directly following paragraph or a person who contributes resources or know-how.
- declaring that all Members who are anticipated to be future shareholders of the Contractor will establish a CSPV, in case the Candidate is proclaimed Temporary Contractor, in accordance with Greek law (as per paragraph 51 of this Proclamation) for the extension, operation and exploitation of the Container Terminal, as well as the percentage by which each Member intends to participate in the company to be established.

122. Share registration supporting documents

In accordance with paragraph 87 hereof, the Call for Tenders is governed by the provisions of Law 3310/2005, as amended and applicable, combined with Ministerial Decision 110/2005 by the Ministry of Economy and Finance Undersecretary (designation of Places in which off-shore companies operate) (Government Gazette Issue B-1590), combined with the provisions of P.D. 82/1996 (as applicable).

Pursuant to article 8 Law 3310/2005, participation in the Call for Tenders is permitted only to Candidates whose Members fulfil the conditions of paragraphs 1 to 3 of article 8 above. In order to consider participation in the Call for Tenders acceptable, the Candidates are required to provide the documentation specified in the above

provisions. Furthermore, it is noted that the off-shore companies of article 4, paragraph 4 (a) of Law 3310/2005 are prohibited from entering the Call for Tenders.

Hereupon, it is noted that:

- The requirement of further registration to natural persons does not apply with regard to companies listed in the Stock Exchange of European Union Member States or the Organisation for Economic Cooperation and Development. Proof that on a company is listed in a Stock Exchange located in one of the above states, shall be effected by producing a certificate issued by the relevant Stock Exchange, certifying that the company is listed in the said Stock Exchange. Furthermore, these companies are required to provide the bulletin on company shares, as per the provisions of the relevant legislation.
- Members to the Candidates who are required, according to the law of the state in which the company has its registered offices, to register all their shares for all their activities or for a particular activity down to a natural person, must produce the supporting documents specified in article 8, paragraph 8(a) of Law 3310/2005.
- Members to the Candidates, who are not required, according to the law of the state in which their company has its registered offices, to register all their shares for all their activities or for a particular activity down to a natural person, must produce the supporting documents specified in article 8, paragraph 9 of Law 3310/2005.
- All the aforementioned documents produced by foreign companies must be ratified by the legally competent authority of the state where the company's registered offices are located, and be accompanied by an official translation in Greek.
- Solemn declarations required by the applicable provisions as above shall be signed by the person designated herein, or by a specially authorised person to this effect by the company's competent management body, by also producing, in this case, a ratified copy of the relevant minutes or decision.

### 123. Criminal Records

Every Member to a Candidate, in order to ascertain that they do not fall under the disqualification criteria of paragraph 72 hereof, must produce a criminal record excerpt or, in case of foreigners, a corresponding document issued by a legal or administrative authority of their country of origin, for the past five (5) months. If the said certificate is



not issued by the relevant country, it may be replaced with a sworn statement of the legal representative before a judicial authority or notary. This statement must include the reason why the issuance of the relevant documents is not possible by the relevant country.

In case of Candidates or Members to Candidates who are legal entities, it is clarified that legal representatives and managers means: a) the administrators in the case of General Partnerships, Limited Partnerships and Limited Liability Companies, b) the chairman and managing/commissioned director (as defined in the relevant minutes on company representation) in the case of a societe anonyme (SA) and c) natural persons who manage a legal entity, in any other case. Managers or managing directors of societe anonyme means the members of the company's Board of Directors, who are designated as such in the documents of the following paragraph.

In addition to these documents, a document must be produced stating the composition of the managing body of each Member to the Candidate at the time of submission of the Tender, as well as its legal representatives as per the above, in order to ascertain the person for whom the excerpts of criminal record are required. In the case that the criminal record excerpt is not clear, a solemn declaration, or sworn statement before a notary is required, by the person for whom the said excerpt was issued, clarifying the offences with which he/she has been charged which inflicted the penalties cited in the excerpt.

## **2. PROVISIONAL BIDDER**

More specifically, the Candidate who has gathered the highest present net value of guaranteed annual fee as per paragraph 164 hereof, shall be required to submit the following documents to the Evaluation Committee, pursuant to the provisions of paragraph 165 hereof:

124. Certificates of non-bankruptcy, not under liquidation, compulsory receivership or bankruptcy settlement

The provisional bidder, as per paragraph 165 hereof and in order to ascertain that they do not fall under the disqualification criteria of paragraph 73 (a) and (b) hereof, must produce a document issued by a judicial or administrative Authority of their country of descent or origin, stating that they fulfil all these requirements. If the said certificates are not issued by the relevant country, they may be replaced by a sworn

statement, or if this is not foreseen either, by an official statement made by the legal representative of the Candidate before a judicial or administrative Authority, notary, or competent professional body of the country of descent or origin. This statement must declare the respective country's inability to issue the relevant documents, and that the above obstacles do not apply to the Candidate or Member to a Candidate.

125. Security and taxation debt certificate

In order to ascertain that the exclusion criteria of paragraph 73 (c) and (d), hereof, are not fulfilled by the provisional bidder, in accordance with paragraph 165 of this Call for Tenders, the Provisional Bidder must produce certificates issued by the competent taxation/financial authority and the competent social security funds of the Greek State or the state where the company is based. If the said certificates are not issued in the relevant country, they may be replaced by a sworn statement, or if this is not available either, with an official statement made by the Candidate's legal representative before a judicial or administrative Authority, notary, or competent professional body of the country of descent or origin. This statement must declare the inability of the relevant country to issue the said documents. If a foreign person is permanently residing in Greece, then the relevant required certificates shall be filed on the basis of Greek law. The certificates submitted shall be in force at the date of submission of the Tender, as per the specific provisions of their place of issue or, if not defined otherwise, they should not bear a date of issue earlier than three (3) months from the date of submission of the tender.

**CANDIDATES' ECONOMIC AND FINANCIAL SUFFICIENCY**

126. Every Candidate and every Member to a Candidate, in order to prove their economic and financial sufficiency, which is connected to their ability to secure the financing necessary to fully cover the requirements of the Investment, should submit the following details:

126.1 Financial statements and/or consolidated financial statements in the case of affiliate companies, for the last three (3) fiscal years, audited by chartered auditors. In the case of candidates who are not required by law to publish financial statements, a solemn declaration on their financial situation must be submitted with all the above details as well as a statement on their not being required to issue financial statements, as per article 47 of Directive 2004/18.

The conversion of financial data into euros, where necessary, shall be made at the exchange rate of the said currency in Euro as posted by the European Central Bank (ECB) Foreign Exchange Reference Rate of 1 February 2008. Small discrepancies in the exchange rate into euros by the tenderers shall be permitted by Evaluation Committee.

- 126.2 Certificate issued by a chartered auditor or other relevant independent body or competent authority which must illustrate the annual consolidated income of the tenderer for each of the container terminals they managed over the past three (3) years (2004, 2005, 2006), indicating that the average of their sum over the past three years is greater than €250,000,000.
  - 126.3 Certificate issued by a chartered auditor or other relevant independent body specified herein showing (with reference to the relevant financial statements) to have a **net worth** (defined as the share capital plus reserves plus undistributed profits carried over to the next fiscal year) of at least €250,000,000 on average for the past three fiscal years (2004, 2005, 2006). In the case of a entrepreneurial scheme formed by the tenderer, the net worth of the tenderer comprises the sum of the weighted- as per the participation rate in the entrepreneurial scheme – net worth of all members.
  - 126.4 The way in which the Candidate intends to secure financing of the investment through equity and loan capitals. To this end, every Candidate shall submit a “Lenders Support Letter.”
127. The Lenders Support Letter should:
- 127.1 Be in accordance with the example provided in Annex 9 hereof.
  - 127.2 Be signed by one or more Class A Banks, and possibly by Class B Bank(s), but in any case Type A Bank(s) should cover at least 67% of the total loan needs required for the Project. It is clarified that this requirement relates exclusively to the Lenders Support Letter and does not limit the participation of other banks and/or financial institutions under different capacities for the organisation and financing for the Project.
  - 127.3 Provide sufficient support to cover an amount equal to at least 100% of the Candidate’s loan needs. It is clarified that if the Lenders Support Letter does

not indicate the commitment undertaken by each of the undersigned banks, should there be more than one, it must be illustrated in the term-sheet.

128. Tenders which are not accompanied by a Lenders Support Letter shall be considered unacceptable and dismissed. The terms of the Lenders Support Letter shall be the same as that of the Letter of Guarantee specified in paragraph 135 hereof.
129. The Candidates will have the opportunity to take out other forms of financing for the Project, with regard to the Designated Loan Agreements, other than that included in their Tender, provided:
- this does not adversely affect the timetable for the signature of the Concession Contract,
  - the terms of financing are more favourable for the Work and “Thessaloniki Port Authority SA” (as results from the Candidate’s Financial Model), and
  - the financing structure proposed in the Tender remains available and fulfils all requirements set forth in the Proclamation.
130. Correspondingly, it is possible, should there be changes in market conditions, to modify some of the terms of the proposed financing. It is noted that in any such case of using some other form of financing or modification to the terms of the proposed financing, the details examined in the framework of the assignment criteria and generally the terms of the Tender shall not be less favourable for “Thessaloniki Port Authority S.A.”, while no modifications shall be effected on the Draft Concession Contract.

**INFORMATION ON EXPERIENCE AND PROFESSIONAL COMPETENCE**

131. To prove their technical experience, each Candidate and Member to a Candidate, based on the official documents of paragraph 132 hereof, shall present a list of port projects, piers and facilities implemented by the Candidate and/or such members (collectively) over the past three (3) years, the size and nature of container terminals and their capacity expressed in TEUs per annum.

132. To prove their professional–business competence, each Candidate and Member to a Candidate shall submit tables and details, based on the reliable documents of paragraph 132, which should demonstrate that the Tenderer (company or group of companies):
- 132.1 has experience in the operation or participation in the operation or management of at least five (5) container terminals globally over the past three years. It is specified that the participation of the Candidate in the operation or management of the above terminals shall be equal to or greater than 5% (of the terminal company's equity).
- 132.2 the average container throughput over the past three years in the above terminals must amount to a cumulative total of over 5,000,000 TEUs.

**Proof of Financial, Professional and Entrepreneurial Competency**

133. The following documents shall be taken into consideration for proof and control of the candidates' financial, professional and entrepreneurial competency, as designated in paragraph 156 hereof:
- Annual Bulletins of national stock exchanges
  - Prospectus for listing on national stock exchanges
  - Balance sheets, Income statements and financial statements published as per the International Accounting Standards, duly signed and ratified by certified public accountants or equivalent bodies
  - Other audited statements, duly signed and ratified by certified public accountants or equivalent bodies, which shall be subject to evaluation by ThPA SA.
  - Certificates issued by the competent Port Authority or other competent public authority regarding the annual throughput of the Container Terminal, the Candidate's participation rate in the share capital of the Container Terminal's managing company, any Concession Contracts signed by the Candidate and his level of investment in these contracts.
  - The above certificates may be replaced by corresponding solemn declarations by the candidate, stating explicitly that should they be declared Contractor of the project, they shall submit all the above documents, subject to disqualification, prior to the signature of the concession contract.

134. In the case of candidates not required by law to publish financial statements, the submission of a solemn declaration on their financial situation with all the aforementioned details is required, including a declaration on not being required to publish financial statements, pursuant to article 47 of Directive 2004/18/EC.
135. If a parent company participates directly in the Call for Tenders, then the other companies in the group of the parent company may be taken into consideration for proof of the Candidate's professional experience and entrepreneurial competency. This means that the capacity of all other companies in the group of the parent company may be used as proof for the candidate in the calculation of the cargo handling volume and the investment criteria of paragraph 131 hereof.

#### **PARTICIPATION LETTER OF GUARANTEE**

136. In order to participate in the Call for Tenders, the candidates are required to submit, together with the Tender Dossier, a participation letter of guarantee to the amount of five million euros (€5,000,000.00) which shall be addressed to ThPA SA and issued by a bank legally operating in Greece or in a European Union Member State of investment grade level (at least BBB+) and rating by an international body.
137. The content of the participation letter of guarantee shall be, subject to disqualification, as per the model of Annex 8 herewith, and must include the full name of the company for which it was issued. In the case of an entrepreneurial scheme, the participation guarantee must include the full company names of all members of the entrepreneurial scheme who are submitting the Tender. The validity of the participation letter of guarantee shall be nine (9) months, accompanied by a required of an extension of equal time by the candidate, upon request by ThPA SA. The letter of guarantee may not be governed by any Law other than Greek Law. Any Letters of Guarantee which state that they are governed by Law other than Greek Law, or which specify a jurisdiction of foreign courts, shall be considered insufficient.
138. The Participation Letter of Guarantee may be written in a language other than Greek, provided that it is accompanied by a legal translation into Greek, by the Greek Foreign Ministry or the Greek Consular Authority.

#### **METHOD OF SUBMISSION OF TECHNICAL AND FINANCIAL TENDERS – (SUB-DOSSIER B)**

139. Financial and Technical Tenders shall be submitted in a sealed sub-Dossier (sub-Dossier B) which shall be contained in the main Dossier submitted and shall comprise three (3) separate and sealed Dossiers (B<sup>1</sup> – B<sup>2</sup> – B<sup>3</sup>):

- **Technical Tender Sub-dossier (B<sup>1</sup>):** its contents are described in detail in paragraph 139 hereof and shall be submitted in triplicate (3 copies), of which one (1) shall contain the original documents and bear the mark ORIGINAL and the other two (2), shall contain copies of the original bearing the mark COPY. One of the two copies shall contain legally certified copies of the documents,
- **Proposed Contractor Special Purpose Vehicle Sub-dossier (B<sup>2</sup>):** this sub-dossier shall contain a completed draft set of the Articles of Association for the “Contractor Special Purpose Vehicle,” which the Contractor company or companies/members to the Contractor’s scheme will be called to establish after being awarded the Contract, as well as the draft shareholder agreement for the creation of the CSPV.
- **Financial Tender Sub-dossier (B<sup>3</sup>):** its contents are described in detail in paragraph 143 hereof, and shall be submitted in triplicate (3 copies), of which one (1) shall be the original documents bearing the mark ORIGINAL and the other two (2) shall be copies of the original bearing the mark COPY. One of the two copy dossiers shall contain legally ratified copies of the documents.

Sub-dossier B<sup>3</sup> of the Financial Tender shall be well sealed. The use of self-adhesive dossiers is prohibited since it is possible to unseal and reseal them without it leaving a trace. If the sub-dossier is not sealed as per these provisions, the Candidate shall be disqualified from the Call for Tenders.

#### **CONTENTS OF SUB-DOSSIER B<sup>1</sup> (TECHNICAL TENDER)**

140. The Technical Tender of the Candidate should present, in a binding manner, the project for the infrastructure, superstructure, and equipment required to develop the CONT.T. The Candidate will take into consideration, but this is not binding, the technical studies which have been prepared and authorised by ThPA SA are available in the Data Room. Small technical solutions of an improving nature to the Technical Tender of the Contractor may be acceptable and shall be confirmed during the negotiation process with the Provisional Contractor. The Technical Tender includes the

Candidate's Tender with reference to the subjects detailed in Annex 2, paragraph 2.4.1. hereof, including:

- 140.1 The MASTER PLAN of the CONT.T. on a scale of 1:1000 (ground plan - at least three cross-sections of areas A1, A2, and A3 and at Phase 2 of the Concession) both in its final form as well as in the stages of its development.
  - 140.2 Proposed technical solutions for port construction works of Phases 1 and 2 of the Concession.
  - 140.3 Timetable with defined milestones for the project management (completion of studies, issue of permits, building of infrastructure and superstructure, and procurement of equipment) on a monthly basis for the completion of Phases 1 and 2 of the Concession.
  - 140.4 The estimated cost of constructing the technical works of the infrastructure and superstructure.
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141. The Technical Tender shall be prepared in accordance with: a) the accepted scientific and technical rules b) the terms of this Proclamation, and c) the requirements of Annex 4, which shall be taken into consideration in the Financial Model.
  142. The Technical Tender shall not include, subject to disqualification, any Financial Considerations which the tenderer has decided to pay ThPA SA in exchange. This should only be included in the financial tender of the tenderer.
  143. Candidates should submit the details of their Technical Tender in a clear and sufficient manner, so that it may possible to be examined by the Evaluation Committee on the basis of the provisions of paragraph 162 hereof.

#### **CONTENTS OF SUB-DOSSIER B<sup>3</sup> (FINANCIAL TENDER)**

144. The Candidate's Financial Tender will include the aforementioned Financial Consideration, as specified in paragraph 144 hereof, and shall be submitted legally signed by the Candidate's Representative, as per the "Example Financial Tender" attached in Annex 5 hereof.
145. Candidates should submit the details of their Financial Tender in a clear and sufficient manner, so that it may possible to be examined by the Evaluation Committee on the



basis of the provisions of paragraph 164 hereof. At the same time, a financial model, which shall reflect all the concerns regarding the construction, operation and financing of the project, shall be submitted. More specifically, the following parameters need be taken into account for the aforementioned Financial Consideration:

- 145.1 **Initial Payment** – representing a single fixed price in cash equivalent to forty million euros (€40,000,000), which shall be paid to ThPA SA as follows:
- 145.1.1 Twenty-five million Euro (€25,000,000) on the date of signature of the Concession Contract between ThPA SA and the CSPV.
- 145.1.2 Fifteen million Euro (€15,000,000) on the date of transfer of the all mechanical equipment to the CSPV.
- 145.1.3 The payments referred to above in 144.1.1 and 144.1.2 include respectively. the purchase at the undepreciated value of the existing Fixed Assets of machinery and equipment of the CONT. T of Annex 6 hereof.
- 145.2 **Annual Fee** on consolidated income – this is the amount resulting as a percentage (%) of consolidated income from exploitation of the CONT.T., as these result on a yearly basis (fiscal year) from the financial model of the Candidate in Annex 4. Consolidated income means the sum of income resulting from all activities carried out and remunerated services provided by the Contractor.
- 145.3 **Guaranteed Annual Fee** – this is seventy percent (70%) of the above annual fee which the Tenderer commits and guarantees to pay ThPA SA on an annual basis, regardless of the actual future income resulting from its exploitation.
- 145.4 **Annual Rental I** – this is the annual rental to be paid by the Contractor to ThPA SA and relates to the length of the quay available to accommodate vessels. The rent price shall be calculated on the basis of the existing total length of quays No. 26 and No. 27 (approximately 595 m) and shall be increased, when the extension of the quay is available for exploitation. It is specified as an amount per metre of berth per year of one thousand eight hundred Euro (€1,800). The Annual Rental I shall be increased yearly by two percent (2%) over the Consumer Price Index (2% + CPI). In the event of a negative Consumer Price Index the readjustment shall amount to 2%.

- 145.5 **Annual Rental II** – this is the annual rental to be paid by the Tenderer to ThPA SA and relates to the extension of the terminal is available for CONT.T exploitation. The rental price shall be calculated on the basis of the current available area of the Container Terminal (approximately 350,000 m<sup>2</sup>) and shall be increased when the extension becomes available for exploitation. It is specified as an amount per square metre of the terminal area per year of four Euro (**€4**). The Annual Rental II shall be increased yearly by two percent (2%) over the Consumer Price Index (2% + CPI). In the event of a negative Consumer Price Index the readjustment shall amount to 2%.
146. The amount of the Guaranteed Annual Financial Bid which shall be evaluated by the Evaluation Committee for the ranked listing of the Financial Tender by higher bidder, is the Net Present Value of the total cash flow of the Guaranteed Annual Fee for all the years of the Concession Contract with an agreed, contractual discount rate uniform for all Candidates equal to nine percent (9%), expressed in Euro and rounded to a whole number (€1).
147. In order to determine the Financial Consideration, the tenderer should also take into consideration that the Internal Rate of Return (IRR) of the contributed capital (Binding Investment) at actual values, for the period of concession, as results from their financial model, shall not exceed 15%. In the Fiscal year following that in which the contractor will achieved an IRR greater than one percentage point (1%) of the above 15%, the profits for distribution shall be shared between the CSPV (contractor) and the ThPA SA at a ratio of 50:50.

#### **PROOF OF PARTICIPATION IN THE TENDER PROCEDURE**

148. Participation in the tender procedure constitutes proof that the tenderer is fully aware of the Call for Tenders and such Annexes, has accepted their legality and terms and is fully aware of the conditions, regulations and contractual and organisational framework of operations of ThPA SA, as well as the requirements of this Proclamation.
149. Candidates are called to be bound by this Call. The Submission Letter of the Tender Dossier of Annex 2 is both a binding statement for the Candidate and comprises, subject to disqualification, an integral part of their tender.

150. Failure to satisfy the terms of the Proclamation and such Annexes or failure to provide the information requested shall be considered, at the discretion of the Contracting Authority, as sufficient reason to disqualify the candidate's tender.

**6. PHASE 1 – STAGE 3: UNSEALING OF TENDER DOSSIER AND SUB-DOSSIER 1 – PRELIMINARY SELECTION - ThPA SA WRITTEN NOTIFICATION TO CANDIDATES ON PHASE 1 RESULTS**

**EXAMINATION OF THE DOCUMENTATION SUPPORTING THE PARTICIPATION OF CANDIDATES**

151. ThPA SA will select a Tender valuation Committee (the Committee or EC), which will proceed to the unsealing of the tender dossiers and immediately after this, of sub-dossier A of the documentation supporting the candidates' participation.
152. The unsealing of the dossiers will take place at a public meeting of the Committee in which representatives of all the entrepreneurial schemes partaking shall be called to attend. The unsealing of the dossiers will take place on **Thursday 20 March 2008 at 10:00 am**, at the offices of ThPA SA (Administration Building, 2<sup>nd</sup> Floor, BoD Conference Hall, Pier No. 1, inside the Port). The candidates' dossiers shall be opened by the EC in the order of submission to the protocol office of the Contracting Authority.
153. At this stage, the EC will examine whether the tender dossier contains the two sub-dossiers A and B, and whether sub-dossier A includes the documentation, certificates, legalisation information and documents specified in paragraphs 115-122 of this Proclamation. It will also examine the Participation Letter of Guarantee. If the Participation Letter of Guarantee does not fulfil the terms hereof, then the tender is dismissed from the Call for Tenders.
154. Sub-dossier B will remain closed and shall be opened at Stage 4 of Phase 2 of the tender procedure, as per paragraph 160 and following paragraphs hereof at a date and time to be determined by the Evaluation Committee and notified to the candidates by ThPA SA.
155. Following the unsealing of tenders, the Committee will proceed to recording the tenders submitted, as well as the supporting documentation which has been submitted

in the minutes which will also be signed by the committee.

156. The Committee may request clarifications or supplements from the candidates solely on the submitted documents. Following any submission or clarification of additional documents, the Committee will draw up minutes stating which of the tender dossiers and sub-dossiers A are found to be complete, in accordance with the provisions hereof and which were dismissed from the tender procedure, either because they have been found to be deficient, or because these deficiencies were not remedied in a timely manner by the candidates.

#### **CONTENT AND INSPECTION OF THE EXPERIENCE AND PROFESSIONAL COMPETENCY OF CANDIDATES**

157. Every candidate who does not fulfil all the following selection criteria shall be dismissed from the tender procedure:

##### **157.1 Professional Experience:**

- Experience in the operation or participation in the operation or management of at least five (5) Container Terminals globally in the past three years. It is defined that the candidate's participation in the operation or management of the aforementioned container terminals must be equal to or greater than 5% (equity adjusted).
- Average throughput of containers over the past three years in the aforementioned terminals combined shall be greater than 5,000,000 TEUs.

##### **157.2 Financial Sufficiency:**

- An average net worth, or consolidated net worth in the case of affiliate companies, greater than €250,000,000 in the past three years. In the case of a joint venture, the weighted average of the net worth of every member of the JV shall be taken into consideration, for the past three fiscal years and based on the percentile participation of every member of this group.
- The average consolidated income over the past three years (2004, 2005, 2006) to the terminals, managed by the candidate, shall be a sum greater than two hundred and fifty million Euro (€250,000,000).

158. The EC will examine whether the interested parties satisfy the selection criteria and

shall dismiss all those candidates who do not satisfy the selection criteria and record them in the minutes. On the basis of this document, the table of pre-selected candidates shall be produce, which will be submitted to the ThPA SA Board of Directors for approval.

**WRITTEN NOTIFICATION OF THE THPA SA TO THE CANDIDATES OF THE RESULTS OF PHASE 1 OF THE TENDER PROCEDURE**

159. Within ten (10) working days from the approval of the results of the pre-selection from the Board of Directors of ThPA SA, the Contracting Authority will make the results of the pre-selection known to the candidates in writing, and will determine the date and place of the unsealing of sub-dossier B for the pre-selected candidates.
160. The pre-selected candidates continue to Stage 4 of Phase 2 of the Tender Procedure. Sub-dossiers B of the Tenders of disqualified candidates shall be returned to them without being opened.

**7. PHASE 2 - STAGE 4: UNSEALING OF SUB-DOSSIER B –FINANCIAL TENDERS RANKING TABLE – SELECTION OF PROVISIONAL BIDDER – SUBMISSION OF DOCUMENTATION BY THE PROVISIONAL BIDDER AND EXAMINATION - SELECTION OF PROVISIONAL CONTRACTOR**

161. Tender sub-dossier B and the internal sub-dossiers B<sup>1</sup>, B<sup>2</sup> and B<sup>3</sup> of pre-selected candidates shall be opened, per the order of their submission to the protocol office of the Contracting Authority, by the EC, which will examine their completeness in relation to their method of submission, as per paragraphs 138 and following, hereof. In the case of deficiencies or omissions the EC shall return sub-dossier B to the pre-selected candidates as unacceptable and they shall be disqualified from further participation in the Tender procedure.
162. During the unsealing of sub-dossier B of the tenders it is possible for the pre-selected Candidates to be present via their representatives.

**CONTENT AND EXAMINATION OF SUB-DOSSIER B<sup>1</sup> (TECHNICAL TENDER)**

163. In closed successive meetings, the EC will unseal sub-dossier B<sup>1</sup> of the Technical Tender of the pre-selected candidates and will examine its contents as regards the compatibility and completeness of the submitted information, as described in paragraph 139 and following paragraphs hereof.

**CONTENT AND EXAMINATION OF SUB-DOSSIER B<sup>2</sup> (PROPOSED CSPV AND ITS ARTICLES OF ASSOCIATION)**

164. The EC will unseal sub-dossier B<sup>2</sup>, on the proposed CSPV and its Articles of Association, of all candidates who have submitted complete information/details in sub-dossier B<sup>1</sup> and shall examine the contents of sub-dossier B<sup>2</sup> as regards the compatibility and completeness of the Articles of Association with the model in Annex 11 herewith, as well as the submitted shareholder agreement conformity to Greek Law, without prejudice to the provisions of paragraph 55 hereof

**CONTENT AND EVALUATION OF SUB-DOSSIER B<sup>3</sup> (FINANCIAL TENDER) – FINANCIAL TENDER RANKING TABLE – SELECTION OF PROVISIONAL CONTRACTOR**

165. The EC will unseal sub-dossier B<sup>3</sup> of the Financial Tender of the pre-selected candidates and will evaluate its contents. Specifically, the Committee will evaluate the level of the Guaranteed Annual Fee of each candidate to ThPA SA on a bidding basis and the bidder shall be announced "Provisional Bidder." At the same time, the financial tender ranking table of pre-selected candidates shall be compiled in accordance with 145 hereof. In the case of a tie between candidates, only these candidates shall be called by ThPA SA to improve their financial tenders. The improvement of the Financial Tender only includes bidding only on the amount of the Initial Payment, and this will continue in cycles until a bidding candidate is nominated, who shall be announced "Provisional Bidder."

166. The provisional bidder who will be awarded the call for tenders, based on the prepared financial tenders ranking table, is notified by the EC to submit, within the period of twenty (20) days from the relevant notification, the documents and supporting documentation of paragraphs 123-124 hereof. In the case that the provisional bidder does not provide one or more of these documents and supporting documents, the next bidder in the rank list is called to provide documentation and so on. If all bidders fail to

produce one or more of the documents and supporting documentation of paragraph 123-124 hereof, the tender procedure shall be cancelled.

#### **SELECTION OF PROVISIONAL CONTRACTOR**

167. The bidder, as per paragraph 145, who fulfils the requirements of paragraph 165 hereof shall be called Provisional Contractor of the Concession Contract.

### **8. PHASE 2 – STAGE 5: AWARD OF TENDER – NEGOTIATIONS WITH THE PROVISIONAL CONTRACTOR – SIGNATURE OF CONCESSION CONTRACT**

#### **NEGOTIATION – FINALISATION OF CONTRACTUAL DOCUMENTS**

168. The Tender shall be awarded by a decision of the ThPA SA. BoD The Provisional Contractor shall be called by written notification to appear within thirty (30) days from the onset of the negotiation procedure in order to sign the Concession Contract.

169. The duration of negotiations for the signature of the Concession Contract is set to four (4) months. In exceptional circumstances, ThPA SA may extend this period if the Provisional Contractor requests an extension before expiry of the deadline, for reasons beyond his control that prevent him from observing the deadline.

170. The Contracting Authority and the Provisional Contractor will negotiate on specific terms of the Contract in order to finalise its final form and sign it.

171. These negotiations will concern, first and foremost, the analysis and elaboration of the obligations to be undertaken by the Provisional Contractor with his binding Tender and may in no way alter the terms of either the Call for Tenders, as these are laid down in this Proclamation and its Annexes, or the Financial Tender of the Provisional Contractor. More specifically, the scope of these negotiations shall focus on the terms of the Contract, any changes to which will not affect, directly or indirectly the financial terms and the consideration of the Provisional Contractor's tender.

172. If all the conditions of the Call for Tenders have not been satisfied by the end of the Negotiations and the Finalisation Period of Contractual Documents, the Contracting Authority may terminate the above process with the Provisional Contractor and repeat the procedure with the Candidate ranked second in the list. In this case, the

Contracting Authority will have the right to demand forfeiture of the entire amount of the existing Participation Letter of Guarantee of the Provisional Contractor.

173. In case of retraction of their selection for whatever reason, the defaulting Provisional Contractor shall not be entitled to any form of compensation.
174. After confirmation of compliance with the above, the ThPA SA Board of Directors will approve the decision to award the Concession Contract.
175. The Contract shall be subject to a preventative audit by the Court of Auditors in accordance with article 8, paragraph 1 of Law 2741/1999, as applicable.

#### **CONTRACT SIGNATURE**

176. In the time period until signature of the Concession Contract, the Contractor shall establish a Greek Contractor Special Purpose Vehicle (Contractor Special Purpose Company) for the Concession, and submit to the ThPA SA:
  - decision to form the Board of Directors of the CSPV,
  - articles of association of the company,
  - receipt of payment of the equity required as per this Proclamation, and
  - certificate of registration in the register of companies.
177. With the establishment of the CSPV, the Concession Contract shall be signed and will enter into force, provided:
  - (i) The Concession Contract has been validated by the Greek Parliament and the validating law has been published in the Government Gazette,
  - (ii) The initial payment of paragraph 144.1.1 hereof has been made to ThPA SA,
  - (iii) The long-term Loan Agreements required (if necessary) have been signed by all the contracting parties,
  - (iv) The performance letter of guarantee has been submitted to ThPA SA.

#### **PERFORMANCE LETTER OF GUARANTEE**

178. The Contractor who is awarded the concession is required to provide a performance letter of guarantee of the terms of the contract, the amount of which is defined as 5% of the minimum guaranteed amount of the price. An example of the letter of guarantee is



provided in Annex 12.

179. The performance letter of guarantee, regardless of the issuing body and its form, must contain the following:
- the date of issue
  - the issuer
  - the authority to which it is addressed
  - the guarantee number and tax registration number
  - the amount covered by the letter of guarantee
  - the full company name and address of the Contractor, for whom it is issued, the number of the relevant contract (for performance letters of guarantee)
  - that the letter of guarantee is provided irrevocably and unconditionally, and the issuer waives the right to discussion,
  - that the guarantee amount is at the disposal of the Authority which has concluded the contract, and that it shall be paid in whole or in part, without any objection or challenge on behalf of the issuer and without examining the grounds of the request within three (3) days of receipt of a simple written notification by the issuer,
  - that the issuer of the guarantee is required to extend validity of the guarantee following a simple request from the body conducting the Call for Tenders. The relevant request must be made before the guarantee's expiry date
  - in the case of associations, the guarantee also includes a condition that the guarantee covers all the obligations of the members of the association.
180. The guarantee is submitted after signature of the Concession Contract and before it enters into force.
181. The performance letter of guarantee shall be converted into an operation letter of guarantee after a period of two (2) years from the certification of completion of the development plan works and until the end of the concession. The cost of maintaining the above letter of guarantee shall be incurred by the CSPV.

#### **RETURN OF DOCUMENTATION TO NON-SELECTED CANDIDATES**

182. ThPA SA will notify the candidates who were dismissed from the tender procedure to

collect the supporting documentation which they provided during the course of the procedure. Should the supporting documentation not be sought within three (3) months from the above notification, they shall be considered unwanted and ThPA SA shall dispose of them.

**PUBLICITY**

183. A summary of this Proclamation was sent on 19/1/2008 for publication in the Supplement of the Official Journal of the European Union (OJ). A summary of this Proclamation will also be published in the Proclamation of Public Contracts Issue of the Greek Government Gazette and in the Press.

Thessaloniki, 19 January 2008

**ON BEHALF OF ThPA SA**

**IOANNIS TSARAS  
MANAGING DIRECTOR & CEO**