



Translation of the Invitation to Tender

On Friday 25th January 2019

Public-Private Partnership (PPP)

The Laem Chabang Port Phase 3, Terminal F Project

As the Port Authority of Thailand ("PAT") has released the Invitation to Tender for the Laem Chabang Port Phase 3 Terminal F project ("The Project") on Friday 2nd November B.E. 2561 (2018) and has sold the Request for Proposal from Monday 5th November B.E. 2561 (2018) to Monday 19th November B.E. 2561 (2018), there was one Tenderer who submitted their proposal, in which, did not pass the evaluation. Hence, the PAT has decided to organize additional market sounding on Monday 21st January B.E. 2562 (2019) in order to revise the Request for Proposal of this project and proceed with the reissuance of the Request for Proposal. The entities that are interested in the Project may purchase the Request for Proposal documents at the location, date and time for the sale of Request of Proposal as per the details stated in Clause 5 of this Invitation to Tender document.

The PAT has constructed Laem Chabang Port, a modern deep seaport located 110 kilometers away from Bangkok on the east side of Thai Gulf, to support Thailand's maritime trade. The development of Laem Chabang port is also in accordance with Thailand's development plan particularly on the east side of Thai Gulf region. It also serves to relief the overwhelming maritime trade demand of Bangkok Port. Laem Chabang Port first started its commercial operations in 1991 (B.E. 2534), in which, its container throughput has been continually increasing ever since and is expected to exceed the total combined handling capacity of Laem Chabang Port Phase 1 and Laem Chabang Port Phase 2 of approximately 11 million TEUs per year in 2023 (B.E. 2566). Given the need for higher container handling capacity, the development of Laem Chabang Port Phase 3 has been planned to enhance the overall capacity as part of the Eastern Economic Corridor (EEC) development plan and support Thailand to become the regional logistics center through implementation and usage of modernized technologies.

The PAT has a policy for the Project under the Public-Private Partnership model in the design-build-operate-maintain, which a single Private Party will be responsible for the construction and operations of Terminal F. The completion of Terminal F will increase handling capacity in time to accommodate the increasing demand of Thailand's container throughput. The selection of the Private Party will be considered based on multiple aspects including experience in managing the World-Class terminals and proposed implementation plans that can maximize national benefits. The EEC Policy Committee ("Policy Committee") resolved in the approval of the principles of the Project in the meeting number 4/2561 on the 4th October B.E. 2561 (2018) and the Cabinet resolved in the approval the Laem Chabang Port Phase 3 on the 30th October B.E. 2561 (2018).

Therefore, the PAT desires to invite Private Parties who have interests in submitting proposals for the Design-Build-Operate-Maintain of the Project (consisting of Terminal F1 and F2). The PAT will grant a 35-year (Thirty-Five year) PPP period to the Successful Tenderer. The Tenderer shall strictly comply with the conditions stated in this invitation and the Request for Proposal document.

1. Overview of the Project

1.1 Project Objectives

- (1) To enhance the handling capacity of the Laem Chabang Port to be sufficient for continuously increasing demand at Laem Chabang Port, as the volume of container throughput is expected to exceed the current handling capacity.
- (2) To provide the infrastructure of maritime trade and relevant facilities to support the container transport via railway system and develop the country's logistics services to meet with the international standards.
- (3) To enhance operational and management efficiency of Laem Chabang Port Phase 3 through automation technologies while focusing on developing Laem Chabang Port to be a Green Port.
- (4) To promote the development of Thailand to be an international gateway to support trading with neighboring countries and enhance the competitiveness of Thailand.

1.2 Project Scope

The development of Laem Chabang Port Phase 3 is planned to be built on approximately 2,846 (Two Thousand Eight Hundred and Forty-Six) rai within Laem Chabang Port, located next to Laem Chabang Port Phase 2. The Project is a deep-sea port at the depth of -18.5 (Minus

Eighteen Point Five) meters MSL, consisting of Terminal F1 and F2 with a total berth length of 2,000 (Two Thousand) meters and a total width of 550 (Five Hundred and Fifty) meters, as shown in **Figure 1**.

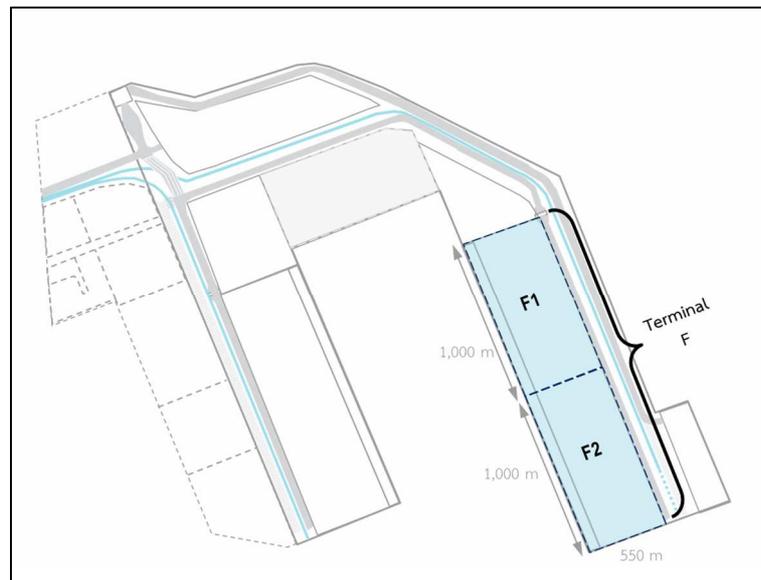


Figure 1 – Area of the Project

The scope of the Laem Chabang Port Phase 3 consists of design-build-operate-maintain with the following details:

(1) Infrastructure work

(a) Land reclamation for the construction of Terminal infrastructure and Port infrastructure, such as:

- 1) Four container terminals covering the area of approximately 1,336 (One Thousand Three Hundred and Thirty-Six) rai consisting of F-Series with two terminals and E-Series with two terminals
- 2) One multi-purpose terminal (Terminal E0) covering the area of approximately 221 (Two Hundred and Twenty-One) rai
- 3) One coastal terminal covering the area of approximately 63 (Sixty-Three) rai
- 4) One service terminal covering the area of approximately 14 (Fourteen) rai
- 5) Rail system and railway behind the terminal covering the area of approximately 168 (One Hundred and Sixty-Eight) rai

- (b) Future extension covering the area of approximately 947 (Nine Hundred and Forty-Seven) rai and Silt Pond covering the area of approximately 1,899 (One Thousand Eight Hundred and Ninety-Nine) rai
- (c) Basin and maneuvering basin work including:
 - 1) Basin for Terminal F and Terminal E at the depth of -18.5 (Minus Eighteen Point Five) meters MSL
 - 2) Basin for Terminal E0 at the depth of -14.5 (Minus Fourteen Point Five) meters MSL
 - 3) Basin for coastal terminal at the depth of -9 (Minus Nine) meters MSL
- (d) Design and construction of 3 (Three) breakwaters, including
 - 1) Breakwater in the area of future extension with approximate length of 1,000 (One Thousand) meters
 - 2) Breakwater in the area of coastal terminal with approximate length of 1,600 (One Thousand and Six Hundred) meters
 - 3) Breakwater in the area of Banglamung channel gate with approximate length of 411 (Four Hundred and Eleven) meters
- (e) Design and construction of utility networks in the common area such as water distribution network, electricity distribution network, electricity sub-stations, fire water network, drainage network, waste water drainage network, lightings network, and transportation network both within the port and outside of the port such as rail network and rail behind terminal, and road network within the port
- (f) Installation of navigating aids for Laem Chabang Port Phase 3
- (g) Common port facilities and buildings such as port office, rail freight transfer building, and truck parking area
- (h) Other works in the scope of the Project Infrastructure
- (2) Superstructure work including the work related to the machinery and equipment for the operations of container terminals and multi-purpose terminal and the automation technologies for terminal operations consisting of:

- (a) F-Series container terminals, consisting of Terminal F1 and Terminal F2, each with the berth length of 1,000 (One Thousand) meters, totaling of 2,000 (Two Thousand) meters in berth length
- (b) E-Series container terminals, consisting of Terminal E1 and Terminal E2, each with the berth length of 750 (Seven Hundred and Fifty) meters, totaling of 1,500 (One Thousand Five Hundred) meters in berth length
- (c) E0 multi-purpose terminal with the berth length of 920 (Nine Hundred and Twenty) meters
- (3) Coastal terminal and Service terminal work, including the work related to the machinery and equipment for the operation of such terminals

From the aforementioned scope of the Laem Chabang Port Phase 3 Project, the PAT will only tender Terminal F to be developed under the Public-Private Partnership model. The PPP scope shall include design-build-operate-maintain of the Terminal F project ("Project Operations").

1.3 Duties and responsibilities of the PAT and the Private Party in the Project Operations

- (1) Duties and responsibility of the PAT
 - (a) The duty to grant the Private Party the right of partnership in the development of the Project
 - (b) The duty to carry out the operations in the scope of port infrastructure to facilitate the Project Operations
 - (c) The duty to prepare and transfer the Project Site and port infrastructure work necessary to carry out the Project Operations in the scope of Terminal F for the Private Party
 - (d) The duty to source and provide general services in Terminal F such as provision of utilities stated in PPP Contract
 - (e) The duty to design, build, operate, and maintain the coastal terminal and the service terminal including the machinery and equipment for the operation of such terminals to facilitate the operation of Terminal F
 - (f) Any other duties as stipulated in the PPP Contract for the Project Operations in pursuance of Project Objectives

- (2) Duties and responsibility of the Private Party
- (a) The Private Party to design, build and operate the terminal superstructure including all relevant machineries and equipment, and necessary automation technologies for the operation of the Project, as well as the infrastructure works, including those on-ground, underground, or underwater, within the scope of Terminal F such as terminal foundation, terminal structure, and buildings, and basin dredging 60 (Sixty) meters away from the edge of the terminal along the berth length.
 - (b) The Private Party to obtain required license, permission, or certificate from relevant government agencies to conduct required activities, as well as, formulating the environmental impact assessment report which must be approved prior to the beginning of terminal construction
 - (c) The Private Party to pay property taxes and encroachment fees as prescribed by laws as well as payment of taxes, customs duties on imported goods and other expenses incurred from imported equipment, and tools to carry out operations (if any)
 - (d) The Private Party to source and secure funding for the Project Operations in the scope of Terminal F Superstructure including the machinery and equipment and necessary automation technologies for the operation of Terminal F
 - (e) The Private Party to pay fixed concession fees for the concession right granted and royalty fees for the PAT in accordance with the format and procedures agreed between the Selection Committee and the Private Party
 - (f) The Private Party to transfer the ownership of all assets to the PAT as per the terms in the PPP Contract in Clause 1.5 and shall be financially liable for defects in transferred assets to the PAT for the next 2 (Two) years from the expiry date of the PPP Contract.
 - (g) The Private Party to transfer the know-how in relation to the development and use of the technologies for the development, management, and operation of the terminal to the PAT, public agencies, and the Thai personnel, either in the public or private sector, effectively for the Project Operations in pursuance of Project Objectives

- (h) The Private Party to perform any other duties as stipulated in the PPP Contract for the Project Operations in pursuance of Project Objectives

1.4 Project duration

Under the Project scope, the duration of the Project is equal to 35 (Thirty-Five) years, and it shall be as followed:

- (1) The duration for the design, construction and commission of Terminal F including the procurement and installation of necessary machinery and equipment, shall not exceed 6 (Six) years counting from the date stated in the Notice to Proceed. The Private Party shall complete the design and construction of Terminal F1, including the procurement and installation of necessary machinery and equipment, within 2 (Two) years counting from the date stated in the Notice to Proceed.
- (2) The duration for the operation and maintenance of terminal F, including the operation and maintenance of necessary machinery and equipment, shall not exceed 35 (Thirty-Five) years counting from the date stated in the Notice to Proceed.

1.5 Ownerships of core assets

Under the current project scope, ownerships of core assets refer to required assets for the operations of Terminal F throughout the Project duration as per Clause 1.4, which can be detailed as follows.

- (1) The infrastructure work and the work related to the coastal terminal and the service terminal shall belong to the Public Party in accordance to the conditions stipulated in the laws
- (2) During the Project duration, all Superstructure including movable and immovable assets shall belong to the Private Party throughout the Project duration; such as buildings and Superstructures within the Project Site that cannot be moved, both on-ground and underground, which are designed and constructed by the Private Party, or relevant machinery and equipment. The PAT reserves the rights to choose assets transfer whether wholly or partially and the Private Party shall have the duty to transfer the ownership of the aforementioned assets according to the stipulation in the PPP Contract to the PAT within the expiry of the PPP Contract (Build-Operate-Transfer [BOT]).

The Private Party will be responsible for all incurred expenses and fees related to ownerships transfer of both moveable and immovable assets to the PAT.

1.6 Allocation of returns between the Public and the Private Party

The details of returns from the Project allocation between the PAT and the Private Party can be summarized as followed:

(1) Revenue and expenses for the PAT

(a) Revenue for the PAT

- 1) Fee for concession right (Fixed concession fee)
- 2) Revenue sharing from the Project which shall be in accordance with the terms agreed by the PAT and the Private Party (Royalty fee)
- 3) Revenue from terminal operations including port dues and tug service
- 4) Other revenues as stipulated in the PPP Contract

(b) Expenses for the PAT

- 1) Construction and procurement of machineries and equipment under the PAT's responsibilities
- 2) Maintenance and basin dredging
- 3) Environmental monitoring
- 4) Other expenses as stipulated in the PPP Contract

(2) Revenue and expenses for the Private Party

(a) Revenue for the Private Party

- 1) Revenue from terminal operations such as berth hire, container handling, wharfage, reefer, and storage
- 2) Other revenues as stipulated in the PPP Contract

(b) Expenses for the Private Party

- 1) Fixed Concession Fee
- 2) Royalty Fee
- 3) Construction and Procurement of machineries and equipment under the Private Party's responsibilities
- 4) Terminal services and maintenance, including the costs for basin maintenance dredging under the Private Party's responsibilities
- 5) Other expenses as stipulated in the PPP Contract

1.7 Monetary and Non-Monetary governmental support for the Project

(1) Monetary governmental support

The PAT shall invest in the infrastructure for the development of Laem Chabang Port Phase 3 and the related works to the coastal terminal and the service terminal and machineries and equipment under the PAT's responsibilities.

- (2) Non-Monetary governmental support

Investment promotions under the Investment Promotions Laws

2. Qualifications of the Tenderers

2.1 Tenderers must have the following status

- (1) Single juristic person

or

- (2) Multiple juristic persons in a form of a joint venture that did not register as new juristic person

2.2 Tenderers must have the status stated above and must have the following qualifications.

- (1) A juristic person must have 1 (One) Thai juristic person holding more than 25 (Twenty-Five) percent of total shares and must have Thai juristic persons holding in aggregation of no less than 51 (Fifty-One) percent of total shares. A Thai juristic person or a single juristic person must be registered for not less than 3 (Three) years up until the proposal submission date.

In the case where the juristic person is a merged entity, the juristic person must have 1 (One) Thai juristic person holding more than 25 (Twenty-Five) percent of total shares and must have Thai juristic persons holding in aggregation of no less than 51 (Fifty-One) percent of total shares. Each entity that was merged to form this juristic person has to be registered for not less than 3 (Three) years up until the proposal submission date.

- (2) Multiple juristic persons in a form of a joint venture that did not register as new juristic person must have at least 1 (One) Thai juristic person holding more than 25 (Twenty-Five) percent of total shares and must have Thai juristic persons holding in aggregation of not less than 51 (Fifty-One) percent of total shares, and each member must have a shareholding proportion of not less than 5 (Five) percent. Each juristic person must be registered not less than 3 (Three) years to the proposal submission date and shall be severally liable under the joint venture agreement.

In the case where there is a merged entity in the joint venture that did not register as new juristic person, each entity that was merged to form this merged entity has to be registered for not less than 3 (Three) years up until the proposal submission date.

To submit the proposal, the Tenderer, both as a single juristic person and every member of the joint venture that did not register as new juristic person must be one of the 32 (Thirty-two) entities, that have previously purchased the Request for Proposal (As per the list attached to this Invitation to Tender) and must have purchased the addendum to the Request for Proposal, or a new entity who purchases the Request for Proposal document from the PAT. The Tenderer shall submit the proof of Request for Proposal purchase of every member along with the proposal.

2.3 The Tenderer must not possess the following traits:

- (1) The Tenderer is subject to the exclusive right or immunity from the Thai court. In the case where the government of the Tenderer receives the exclusive right or immunity from the Thai court, the government must submit the intention letter to waive this privilege from the Thai court.
- (2) The Tenderer is on the blacklist for neglecting the PAT or the government's work/project; or is relating to or is indirectly affected by the government's blacklist.
- (3) The Tenderer is the person who has committed offense under the Act Concerning Offences Relating to the Submission of Bids to Government Agencies B.E. 2542.
- (4) The Tenderer does not sign the Integrity Pact as part of the proposal submission.

In the case any Tenderer refuses to sign the Integrity Pact, the Selection Committee will not accept the proposal of the Tenderer.

- (5) The Tenderer is the person who has shared benefits with other Tenderers who also submit the proposals to the PAT on the date of proposal submission.

In the case of at least 2 (Two) Tenderers who are government agencies of the same foreign government, each government agency must issue a certificate of independence from its own government. In addition, the certificate of independence must be confirmed by the embassy or government agencies of that country. In this case, it will not be considered that government agencies owned by the same foreign government and submit proposals for mutual benefit or interest.

2.4 Technical Qualifications

Tenderers must have relevant previous experience to Clause 2.6 and perform sufficient technical qualifications to meet the Project Operations specified in the Request for Proposal document.

2.5 Financial Qualifications

(1) Net worth

- (a) Tenderer who is a single entity must have an average annual net worth, which is the average net worth calculated from the audited financial statement of the last 3 (Three) fiscal years from the proposal submission date, which are 2015, 2016, 2017, of no less than THB 7,500,000,000 (Seven Thousand and Five Hundred Million Thai Baht) or
- (b) Tenderers who are multiple juristic persons in a form of a joint venture that did not register as new juristic person; must have weighted average net worth of no less than THB 7,500,000,000 (Seven Thousand and Five Hundred Million Thai Baht). The net worth of the aforementioned members shall be weighed based on the proportion of investments of each member. The weighted average net worth will be calculated from the average of the last 3 (Three) fiscal years from the proposal submission date, which are 2015, 2016, 2017.

(2) Presenting the ability to finance the Project investment, the Tenderers must provide Financing Plan covering the proposed investment value of at least THB 30,000,000,000 (Thirty Billion Thai Baht) and the Tenderers shall specify Debt to Equity Ratio (D/E Ratio) not greater than 3:1 (Three to One). Moreover the Tenderer must provide proof of financing from debt (Debt Financing) and equity (Equity Financing):

(a) Debt Financing

Letter of Intent – The total amount equals to the proportion of debt under D/E ratio determined in the estimation of the total project investment cost.

The letter of intent must be issued by reliable Thai financial institutions based on Credit Rating evaluated by the Credit Rating Agency at the rate not lower than:

- 1) BBB- by Standard and Poor's or
- 2) BBB- by TRIS Rating or
- 3) Baa3 by Moody's or
- 4) BBB- by Fitch Rating

Or issued by reliable foreign financial institutions based on Credit Rating evaluated by the Credit Rating Agency at the rate not lower than

- 1) BBB+ by Standard and Poor's or
- 2) BBB+ by TRIS Rating or
- 3) Baa1 by Moody's or
- 4) BBB+ by Fitch rating

In the case where the Tenderer submits the letter of intent from more than 1 (One) financial institutions, the total amount can be combined.

(b) Equity Financing

Letter of Commitment – The total amount equals to the proportion of equity under D/E ratio determined in the estimation of the total project investment cost. The letter of commitment must be issued by the Tenderer. In the case where the Tenderer finances the equity from the shareholders, the Tenderer must present the letter of support issued by the shareholders.

The Tenderer must also attach the evidence showing that the Tenderer and/or the shareholder of the Tenderer are approved by the committee and/or shareholder of those who support the capital as determined by the regulations related to the capital supporter and the evidence showing that the Tenderer or the shareholder of the Tenderer has the ability to finance the equity such as consolidated financial statement of the Tenderer and/or the shareholder of the Tenderer audited by a professional auditor, as well as, auditor's report, balance sheet, income statement and cash flow statement for the past 3 (Three) years from the date of proposal submission, which are 2015, 2016, 2017.

In the case where the equity of Tenderer is financed by the Tenderer's shareholders or affiliates, the Tenderer must provide Letter of Support issued by the shareholders or affiliates along with their Financial Status Certification issued by reliable Thai or foreign financial institutions, as per Clause 2.5 (2) (a), and approval letter showing that the board of directors and/ or shareholders of such shareholder or affiliates is in approval of such financial support.

2.6 Previous experience of the Tenderers

- (1) The Tenderer, both as a single juristic person and every member of the joint venture that did not register as new juristic person must have at least 1 (One) member with previous experience operating international container terminal in the core operations of the terminal for not less than 10 (Ten) years under a single contract up until the date of proposal submission.

In the case where the Tenderer is a joint venture that did not register as new juristic person, only the highest experience level of one member will be accounted for. Consolidation of experience of multiple members of the joint venture that did not register as new juristic person to be qualified is not allowed.

- (2) The Tenderer, both as a single juristic person and every member of the joint venture that did not register as new juristic person must have at least 1 (One) member with previous experience in container handling with no less than 1,000,000 (One Million) TEUs per year or have an average productivity per meter quay length at the minimum of 2,000 (Two Thousand) TEUs per year per one meter achieved for every year in the past 3 (Three) years, the past 3 (Three) years are 2015, 2016 and 2017. Such amount can be combined across terminals but must be strictly under a single contract.

In the case where the tenderer is a joint venture that did not register as new juristic person, only the highest experience level of one member will be accounted for. Consolidation of experience of multiple members of the joint venture that did not register as new juristic person to be qualified is not allowed.

The Tenderers must be able to show above credentials upon requested by the PAT in any cases.

2.7 Other conditions on Tenderers' experiences

- (1) The submitted experience can be a credential from domestic or international projects, which must have a direct contract counterpart with the public or private sector entity. The Tenderers can submit any documents to prove to the Selection Committee of the Project that the Tenderer has qualified experiences as defined in Clause 2.6 such as Employment Contract, Notice to Proceed, or Certification Letter issued by a public party.

- (2) In the case where the Tenderer was a member of a joint venture that did not register as new juristic person, the Tenderer must be responsible for the core operations of the project. For any credential from a joint venture used for the proposal evaluation, the Tenderer must have a certification letter and a contract copy issued by direct contract counterpart, either a public or private entity stating that the Tenderer was responsible for the core operations of the project.
- (3) In relation to the experience requirement in Clause 2.6, the Tenderer may use the experience of the Tenderer's Network of Subsidiaries and Affiliates or contractors subjected to the following conditions.
- (a) The Tenderer may refer the experiences of the Tenderer's Network of Subsidiaries and Affiliates. In this regard, the Tenderer shall demonstrate its contributions to the projects in the experience of the Tenderer's Network of Subsidiaries and Affiliates which shall be the same type of works that the Tenderer intends to submit as part of the proposal of the Project

For the purposes of evaluation, the technical experience of the Tenderer's Network of Subsidiaries and Affiliates shall be defined as follows.

"Tenderer's Network of Subsidiaries and Affiliates" is defined as entities that have the Controlling Power of the Tenderer or are entities that the Tenderer has the Controlling Power of or are entities that share the same shareholder, who has the Controlling Power of both the Tenderer and the entity.

"Controlling Power of an entity" is defined as the relationship in which the party that has the controlling power have the influence on setting the policy, management or operations of such entity, in which the power to influence may result from being the shareholder or authorized entity by power of attorney or any other means which must include one of the followings: (1) hold the shares of aforementioned entity of more than 50 (Fifty) percent of total voting shares; (2) have the control over majority of the voting rights in the general meeting of the shareholders directly or indirectly or by any other causes; or (3) have the controlling power, both directly and indirectly, over the appointment or removal of more than half of the entity's committee.

(b) The Tenderer may refer the experiences of its contractor. In this regard, the contractor shall demonstrate its contributions to the projects in the experience of the contractor which shall be the same type of works that the Tenderer intends to submit as part of the proposal of the Project. Such contractor cannot participate as a contractor for any other Tenderers.

In the case where there is a change in the contractor, the new contractor must have the equivalent or better qualifications than the original contractor, and must have written approval from the PAT. The selected Tenderer must enter into the contract with the contractor whose experience was submitted in the proposal in accordance to the terms stipulated in the PPP contract.

2.8 Certification of the proposed information

The Tenderer shall specify proofs and details of any unsettled lawsuits at or before the date of proposal submission.

In the case that the Tenderer is free from any unsettled lawsuits at or before the date of proposal submission, the Tenderer shall provide a certification guaranteeing such state in the proposal.

3. Development of the proposal document

Tenderers shall submit proposal documents in 1 (One) unsealed envelope and 4 (Four) sealed envelopes as follows:

3.1 Envelope 1 (One), unsealed: Proof for proposal submission

- (1) Power of Attorney letter – only for the case where the consented director of the juristic person is not present at the proposal submission, the Tenderer must submit the power of attorney from consented director of the juristic person to authorize an attorney-in-fact and sealed with juristic company's stamp (if any) attached with a copy of national identification or passport that certifies the copy of both the consented director of the juristic person and the attorney-in-fact with signature to certify the copy.
- (2) Proof(s) of Request for Proposal purchase (In case the Tenderer is a joint venture that did not register as new juristic person, Proof of Request for Proposal purchase from every member will be required). Both proof of Request for Proposal purchase from the sale fo Request for Proposal between Monday 5th November B.E. 2561 (2018) and Monday 19th November B.E. 2561 (2018) (Only for the 32 (Thirty-two) entities, that

have previously purchased the Request for Proposal) and proof of Request for Proposal purchase during the date and time as stated in this document is needed for submission.

- (3) The letter confirming non-possession or the immunity of the Thai court, or the intention letter issued by the government of the Tenderer waiving the privileges and coverage from the Thai court for those Tenderers who receive the privileges of the immunity from the Thai court.
- (4) Tender Security
- (5) Signed Integrity Pact

All documents in Envelope 1 (One) must be formulated in Thai or English. The Tenderer must ensure all documents/ forms are in Thai or English, in the case where the document is issued by the foreign government agencies or parties, the Private Party must translate into Thai or English, which the translated document must be attested to by a notary public.

3.2 Envelope 2 (Two), sealed: Qualifications of the Tenderer

- (1) General qualifications of the Tenderer, which consist of the followings:
 - (a) General information of the company following the form in the Request for Proposal document attached with the copy of the Certificate of Juristic Person registration and Memorandum of Association
 - (b) Details of managing directors and shareholders, board of directors, consented entity (if any) and major shareholder filed with certified original copy of shareholding registration of limited company and public company. A major shareholder refers to more than 10 (Ten) percent of the total shares in the company
 - (c) Resolution of the shareholders and/ or the directors and/ or the authorized authority to approve the creation of a legally binding agreement under the relevant laws on the submission of the proposal
 - (d) An agreement of a joint venture that is not registered as a new entity which shall require all members of the joint venture to be severally liable
 - (e) List of Tenderer's advisors for the development of the proposal

- (f) Proof and details of all unsettled lawsuits that the Tenderer is a defendant at or before the date of proposal submission or

Letter of Certification from shareholders and/ or the directors and/ or the authorized authority to approve the creation of a legally binding agreement certifying that the Tenderer is not a defendant in unsettled lawsuits at or before the date of proposal submission as per Clause 2.8

- (2) Financial qualifications of the Tenderer, which consist of the following:

- (a) Copy of audited consolidated financial statement reviewed by certified professional auditor. Financial statement shall consist of Balance Sheet, Income Statement and Statement of Cashflow for the last 3 (Three) years from the date of proposal submission, which shall include the year of 2015, 2016 and 2017

- (b) Proof of tax payment for at least 3 (Three) years from the date of proposal submission, which shall include the year of 2015, 2016 and 2017

- (c) Letter of Intent with D/E Ratio not exceeding 3:1 (Three to One) specifying the Project investment amount of at least THB 30,000,000,000 (Thirty Thousand Million Thai Baht)

- (d) Letter of Commitment with D/E Ratio not exceeding 3:1 (Three to One) specifying the Project investment amount of at least THB 30,000,000,000 (Thirty Thousand Million Thai Baht)

In the case where the equity of Tenderer is financed by the Tenderer's shareholders or affiliates, the Tenderer must provide Letter of Support issued by the shareholders or affiliates along with their Financial Status Certification issued by reliable Thai or foreign financial institutions, which meet the minimum requirement as per Clause 2.5 (2) (a), and approval letter showing that the board of directors and/ or shareholders of such shareholder or affiliates is in approval of such financial support as per the law.

- (3) Tenderer's experience, which consists of the following:

- (a) Experience in operating international container Terminal, stated in Clause 2.6 (1), with a copy of certification letter or a copy of contract issued by a direct contract counterpart. In case the Tenderer was a member of a joint venture, the Tenderer must provide a copy of certification letter and a copy of joint venture agreement stating proportion of project value associated with the Tenderer which also states that the Tenderer was responsible for the core operations of the Project.
- (b) Copy of performance report during the period as stated in Clause 2.6 (2) specifying total numbers of operated containers or details of the productivity per meter quay length during the mentioned period and a certified copy including the detail of contact person of the direct contract counterpart.

All documents in Envelope 2 (Two) must be formulated in Thai or English. The Tenderer must ensure all documents/ forms are in Thai or English according to attachments attached in the Request for Proposal document, in the case where the document is issued by the foreign government agencies or parties, the Private Party must translate into Thai or English, which the translated document must be attested to by a notary public.

3.3 Envelope 3 (Three), sealed: Technical Proposal and Project Investment Plan

- (1) Design concept of the terminal including the type, capability, and quantity of machinery, equipment, and automation technologies to be deployed in the Project as well as the planned procedure for machinery, equipment, and automation technologies procurement, operation, and maintenance of which shall include the following details:
 - (a) Principle and the concept for terminal design
 - (b) Quantity and price of each required machinery and equipment to be deployed in the Project
 - (c) Specifications, capability, and efficiency of the machinery and equipment to be deployed in the Project
 - (d) Principle for the operations and maintenance of the machinery and equipment and the application of automation technology and the container handling capacity of the crane per hour including the periodic protective maintenance plan
 - (e) Principle of port automation development

- (f) Principle of Green Port development
- (2) Construction plan, construction timeline and construction procedures including different important measures necessary for the construction stage as well as the plan for the installation of machinery and equipment to be deployed in the Project; of which shall include the following details:
 - (a) Construction timeframe for the whole terminal, including the installation of machinery and equipment ready for operations
 - (b) Construction plan that adheres to the terms in technical requirements in the Request for Proposal document which shows the critical path of the construction plan
 - (c) Safety control, environmental control and quality control during the construction and operations period, as well as, community relations
- (3) Simulation of container throughput projection, revenue projection, and total income projection throughout the Project including the key assumptions for the model
- (4) Initiatives, operations, and business plan to attract container throughput for the Project, particularly on transshipment throughput including the share of container throughput through rail and coastal terminal mode of which shall include the following details:
 - (a) Marketing plan to attract shipping lines and increase containers throughput along with performance indicators
 - (b) Marketing plan on the hinterland strategy along with performance indicators
 - (c) Plan to increase railway transportation which specifies the percentage of container throughput via railway after the construction of railway behind the Terminal F is completed
 - (d) Plan to increase transshipment throughput
 - (e) Plan to increase coastal terminal throughput
 - (f) Mitigation plan in the case of subpar performance of business plan
- (5) Initiatives and operational plan for the management of intraport strategy including traffic management plan for the inside and outside terminal

- (6) Organizational structure and capability of key personnel proposed for the Project management including the plans for knowledge transfer and trainings activities; of which shall include the following details:
 - (a) Organizational structure and number of personnel including the qualifications and experience of executives and key personnel
 - (b) Transition plan to Thai personnel
 - (c) Training plan and knowledge transfer to the PAT personnel
- (7) Financing plan, source of financing and cost of financing, cashflow projection including key assumptions and financial returns; of which shall include the following details:
 - (a) Estimated total project investment value which exhibits total investment items in the Project inclusive of taxes, fees, and other costs including the ownership rights of assets for project operations
 - (b) Financial plan along with the attachment of Letter of Intent, Terms Sheet for Debt Financing and Letter of Commitment (Clause 2.5 (2) (a) and (b)) specified which exhibits source of fund, cost of capital, cashflow projection and key assumptions, and financial returns both financial IRR and equity IRR

All documents in Envelope 3 (Three) must be formulated in Thai language. The Tenderer must ensure all documents/ forms are in Thai according to the documents attached to the Request for Proposal document in the case where the document is issued by the foreign government agencies or parties, the Private Party must translate into Thai content, with the exception of the content in all technical documents and engineering related documents which is created from computer software which the documents in both categories can be formulated in English. Financial and all simulation model must be submitted in electronic and editable format. If the document is issued by foreign government agencies or parties, the translated document must be attested to by a notary public.

3.4 Envelope 4 (Four), sealed: Proposed Monetary benefits

- (1) Proposal for Fixed concession fee
- (2) Proposal for Royalty Fee

The proposals in Envelope 4 (Four) must be unconditional. In the case where the Tenderer proposal on fixed concession fee or royalty fee is dependent on any condition, the Selection

Committee reserves the right not to evaluate the proposal and the proposal will be disqualified.

The document in Envelope 4 (Four) must use the form in Thai in the attachment of the Request for Proposal document. The Tenderers must use the original form with signature of the president of the Selection Committee.

3.5 Envelope 5 (Five), sealed: Proposal for Efficiency improvement

All documents in Envelope 5 (Five) can be formulated in either Thai or English. In the case where the Tenderers do not want to submit a proposal in Envelope 5 (Five), the Tenderers must clearly state "No proposal for Efficiency improvement for the Project" in Envelope 5 (Five) and submit the Envelope 5 (Five) with the proposal package.

3.6 In the case where there is contradiction or discrepancy between the Tenderer's proposal in Thai and the Tenderer's proposal English, the PAT will refer to and evaluate the Tenderer's proposal in Thai.

4. Evaluation criteria and procedures

4.1 Evaluation of Proof of Request for Proposal purchase and general information (Assessment Stage 1)

Assessment Stage 1 shall take the information provided in Envelope 1 (One) into consideration. The evaluation shall focus on the accuracy and completeness of the documents. The Tenderers who are qualified in this stage shall be further evaluated in Assessment Stage 2 in Clause 4.2.

4.2 Evaluation of General Qualifications of the Tenderer (Assessment Stage 2)

Assessment Stage 2 shall take the information provided in Envelope 2 (Two) into consideration. The evaluation shall focus on the accuracy and completeness of the documents submitted based on a pass/fail system according to the minimum requirement as stated in Clause 2. The Tenderers who are qualified under Assessment Stage 2 shall be further evaluated in Assessment Stage 3 in Clause 4.3.

For the forms that are not relevant to the Tenderer, the Tenderer shall submit the empty forms clearly specifying that the forms are not relevant.

4.3 Evaluation of Technical Proposals and Project Investment Plan (Assessment Stage 3)

Assessment Stage 3 shall take the information provided in Envelope 3 (Three) into consideration. The evaluation shall be under a scoring system with a total score of 100 (One Hundred) points. The assessment can be categorized in 7 (Seven) categories specifying in Clause 3.3 (1) to (7). Details of categories are as follows:

- (1) Category 1: Design concept of the terminal including the type, capability, and quantity of machinery, equipment, and automation technologies to be deployed in the Project as well as the planned procedure for machinery, equipment, and automation technologies procurement, operation, and maintenance
- (2) Category 2: Construction plan, construction timeline and construction procedures including different important measures necessary for the construction stage as well as the plan for the installation of machinery and equipment to be deployed in the Project
- (3) Category 3: Simulation of container throughput projection, revenue projection, and total income projection throughout the Project duration including the key assumptions for the model
- (4) Category 4: Initiatives, operations, and business plan to attract container throughput for the Project, especially for transshipment throughput including the share of container throughput through rail and coastal terminal mode
- (5) Category 5: Initiatives and operational plan for the management of intraport strategy including traffic management plan for the inside and outside terminal
- (6) Category 6: Organizational structure and capability of key personnel proposed for the Project management including the plans for knowledge transfer and trainings activities
- (7) Category 7: Financing plan, source of financing and cost of financing, cashflow projection including key assumptions and financial

The Tenderer who meets the following evaluation criteria is qualified for the evaluation in Assessment Stage 3 (Three)

- (1) Total score of each category for all 7 (Seven) categories must not be less than 70 (Seventy) percent, and
- (2) Total score of all categories must not be less than 80 (Eighty) percent or 80 (Eighty) points out of the total score of 100 (One Hundred) points

The Tenderers who are qualified under Assessment Stage 3 shall be further evaluated in Assessment Stage 4 in Clause 4.4.

4.4 Evaluation of Proposed Monetary Benefits for the PAT (Assessment Stage 4)

Assessment Stage 4 shall take the information provided in Envelope 4 (Four) into consideration. The Tenderer with the highest proposed monetary benefits will be qualified and passed to the negotiation stage.

In the case where there are more than 1 (One) Tenderer proposing the highest level of monetary benefits for the PAT, all Tenderers must submit new Proposed Monetary Benefits for the PAT of which the benefits in the new proposal shall not be less than the previous proposal.

In the case where the proposed monetary benefits for the PAT in Envelope 4 (Four) is dependent on any condition, the Selection Committee reserves the right not to evaluate such proposal and the proposal will be disqualified.

4.5 Envelope 5 (Five) Proposal for Efficiency improvement will not be used to evaluate the Tenderers. However, proposals in Envelope 5 (Five) of the qualified Tenderer in Clause 4.4 will be opened prior to the negotiation stage and are committed by the Tenderer.

In the case where the Tenderer does not wish to propose any efficiency improvement measures, the Tenderer should submit envelope 5 with the proposal indicating "No proposal for Efficiency improvement for the Project". If the Tenderer fail to submit Envelope 5 (Five) along with other proposal documents as stated in the Invitation to Tender document, the Tenderer will be failed by the Selection Committee due to incompleteness of documents.

The Tenderer with the highest score and agreed negotiation terms with the PAT will be the Successful Tenderer of this tender. However, if the highest-ranking Tenderer fails to finalize the contract terms, the Selection Committee shall continue the negotiation stage with the second highest score Tenderer in Clause 4.4 until there is the Successful Tenderer.

4.6 The Successful Tenderer who has passed the evaluation in all Clauses from 4.1 to 4.4. will have the rights to invite State-Owned Enterprise to co-invest with the Successful Tenderer in the Project, in which, the Successful Tenderer may change the shareholding structure but the percentage of the original member cannot be below 51 (Fifty-One) percentage of the total shares.

For the purposes of evaluation, the definition of "State-Owned Enterprise" shall be in accordance with the principles and terms in the Budget Procedures Act B.E. 2561

5. Location, date, and purchase time of Request for Proposal document

Request for Proposal will be available for purchase from Monday 28th January, B.E. 2562 (2019), until Friday 8th February, B.E. 2562 (2019), 9:00 hrs. to 12:00 hrs. and 13:00 hrs. to 15:00 hrs. Thailand's local time (Navy Standard) at

Planning Division, PAT's Administration Building at Laem Chabang Port

Sukhumvit Road, Thung Sukhla

Si Racha Chonburi 20230

Tel: +66-3840-9135

Fax: +66-3849-0146

6. Location, date, time and approaches for submitting comments, questions or clarifications regarding Request for Proposal document

The PAT will organize a Request for Proposal clarification meeting on Tuesday 12th February B.E. 2562 (2019) at 9.00 hrs. followed Thailand's local time (Navy Standard) at

Exhibition Room at Laem Chabang Port Resident Complex

Sukhumvit Road, Thung Sukhla

Si Racha Chonburi 20230

Tel: +66-3840-9135

Fax: +66-3849-0146

The PAT will organize a site visit for the Tenderers on the same day.

The PAT will organize sessions for the Tenderers to submit comments or questions regarding the tender documents from Monday 28th January B.E. 2562 (2019) to Saturday 9th March B.E. 2562 (2019) during public operating hours at location stated above. The format of comments or questions will be specified in the Request for Proposal document.

In the case where the Tenderer does not attend this specified event, the Tenderer will not be disqualified. Moreover, the PAT will presume that the Tenderer acknowledges and understands the Request for Proposal document. If there are any mistakes in the submitted proposal, all mistakes will be liable by the Tenderer.

The PAT will reply to the questions in Thai in a written form with English translation for the convenience of the foreign Request for Proposal purchasers. In the case where there is contradiction or discrepancy between the Thai and English version of the answers, the Request for Proposal purchasers shall refer to the Thai version.

The PAT will circulate any further addendum and the answers to the questions received to every Tenderer no less than 14 (Fourteen) days prior to the proposal submission date.

7. Procedures for Verification of the Project-Related Information and Details

The PAT will give access to inspect information regarding the Project for 24 (Twenty-four) days from Wednesday 13th February B.E. 2562 (2019) to Friday 8th March B.E. 2562 (2019), 9:00 hrs. to 15:00 hrs. followed Thailand's local time (Navy Standard) on working days at

Room 1-3, Personnel Development Division, 4th Floor, Building B, PAT's Head Office

Ta Rua Road, Khlong Toei

Bangkok 10110

Tel: +66-3840-9135

Fax: +66-3849-0146

and

Meeting Room 2, PAT's Administration Building at Laem Chabang Port

Sukhumvit Road, Thung Sukhla

Si Racha Chonburi 20230

Tel: +66-3840-9135

Fax: +66-3849-0146

The PAT will provide documents that show the information regarding the Project as it deems appropriate. The Tenderers and the consultants of the Tenderers shall comply with the rules for inspection of the information regarding the Project as specified by the PAT. The PAT will not certify the accuracy of the documents provided above.

8. Location, date, time for proposal submission and evaluation

The PAT will start accepting proposals from the Tenderers from Friday 29th March B.E. 2562 (2019) at 9.00 hrs. until Friday 29th March B.E. 2562 (2019) at 12.00 hrs. followed Thailand's local time (Navy Standard) at

Exhibition Room at Laem Chabang Port Resident Complex

Sukhumvit Road, Thung Sukhla

Si Racha Chonburi 20230

Tel: +66-3840-9135

Fax: +66-3849-0146

The Selection Committee and/or authorized persons by the Selection Committee will open Envelope 1 (One) (unsealed envelope) as per Clause 3.1 on Friday 29th March B.E. 2562 (2019) at 13.00 hrs. followed Thailand's local time (Navy standard) onward at Exhibition Room, Laem Chabang Port, Chonburi. Once the Selection Committee has finished the evaluation of Envelope 1 (One) (unsealed envelope), the Selection Committee and/ or authorized persons by the Selection Committee will open Envelope 2 (Two) (sealed envelope) of the Tenderers who have passed the evaluation of Envelope 1 (One) (unsealed envelope) on the same day.

9. Fee for the Request for Proposal document

- 9.1 For the entity which is one of the 32 (Thirty-two) entities, that have previously purchased the Request for Proposal (As per the list attached to this invitation to tender)

The PAT will sell the additional addendum to the 32 entities who have previously purchased the Request for Proposal document between Monday 5th November B.E. 2561 (2018) to Monday 19th November B.E. 2561 (2018) (As per the list attached to this invitation to tender) at the total fee of THB 5,350 (Five Thousand Three Hundred and Fifty Thai Baht) (VAT included)

- 9.2 For the interested entity who have not yet purchased the Request for Proposal document

The PAT will sell the Request for Proposal document at total fee of THB 540,350 (Five Hundred Forty Thousand Three Hundred and Fifty Thai Baht) (VAT included). The fee must be paid by cash in Thai currency or Cashier's Check issued to "Laem Chabang Port" or wire transfer via commercial bank to the account with details below

Account name: "Laem Chabang Port"

Krungthai bank, Si Racha branch

Savings account number: 208-1-33333-3

Swift code: KRTHTHBK

The Tenderers shall in no case request or claim a refund of this fee. The Cashier's Check shall be issued by branches in Chonburi. Otherwise, the Tenderers must pay for the cross-branch fee. The Tenderer shall be solely responsible for all of the fee and costs incurred from transferring the money both on the sending and receiving ends via Cashier's Check or from any relevant tax.

The Tenderers must present certificates of juristic person registration and copy of Thai identity card or a passport of the consented director of the juristic person, who is present at the purchase of Request for Proposals document.

In the case where the consented director is not present at the purchase of Request of Proposal document, the Tenderers must present certificates of juristic person registration and submit Power of Attorney from consented director of the juristic person and a copy of Thai identity card or a passport of both the consented director of the juristic person and the authorized representative with signature to certify the copy.

9.3 A juristic person who submits a proposal shall be the one who purchases the Request for Proposal from the PAT. In case of multiple juristic persons merging into a joint venture, every member of the joint venture must be the one who purchase the Request of Proposal. The Tenderers shall provide proofs of purchase when submitting the proposal.

10. Tender Security

The Tenderer shall provide the tender security, when submitting the Request of Proposal, in the total amount of THB 1,000,000,000 (One Billion Thai Baht). The tender security can be submitted in one of these two following forms:

- (1) Letter of Guarantee must be issued by a Thai financial institution, a qualified Thai bank, or foreign bank with local branches in Thailand, which the Letter of Guarantee must be issued by a branch in Thailand only. The expiration date of Letter of Guarantee must not be less than 210 (Two Hundred and Ten) days after the proposal submission date.
- (2) Thai Government bond or Thai State-Owned Enterprise bond

The PAT will return the tender security to unsuccessful Tenderers under conditions for the return of tender security according to the results of the assessment of each Tenderer as follows:

- (1) In case the Tenderer fails the Tender selection process, the PAT will return the tender security within 15 (Fifteen) days from the date the Policy Committee approve the results of the tender or 120 (One Hundred and Twenty) days from the date the Selection Committee have the resolution to approve the Successful Tenderers, whichever occurs first.
- (2) In case the Tenderer is the Successful Tenderer, the PAT will return the tender security to the Successful Tenderer when the PPP Contract has been signed, and the performance security in Clause 13.1 has been submitted to the PAT.

The PAT will return the tender security without interest payment to the Tenderer.

The tender security will be confiscated under the following situations:

- (1) The Tenderer withdraws the submitted proposal prior to its expiration date or
- (2) For the Successful Tenderer, who refuses to
 - (a) Sign the PPP Contract
 - (b) Submit Performance Security in Clause 13.1

11. Evaluation Fee for the tender process

Each Tenderer must pay the evaluation fee to the PAT in the total amount of THB 428,000 (Four Hundred Twenty-Eight Thousand Thai Baht) (VAT included) on the proposal submission date. The evaluation fee can be paid in the form of Thai Baht cash or a Cashier's Check issued to the "Laem Chabang Port". The Tenderers shall in no case request or claim a refund of this fee. The Cashier's Check shall be issued by banks in Chonburi. Otherwise, the Tenderers must pay for the cross-branch fee. The Tenderer shall be solely responsible for all of the fee and costs incurred from issuing Cashier's Check, or from any relevant tax.

12. PPP Contract Signing Fee

The Successful Tenderer must pay the signing fee in the total amount of THB 120,000,000 (One Hundred and Twenty Million Thai Baht) on the PPP Contract signing date. The payment must be made in the form of Thai Baht cash or Cashier's Check; in case of Cashier's Check, the Successful Tenderer must issue two Cashier's Checks. The first Cashier's Check must be issued at the amount of 100,000,000 (One Hundred Million Thai Baht) issued to "Laem Chabang Port" and the second Cashier's Check at the amount of 20,000,000 (Twenty Million Thai Baht) issued to "The Eastern Economic Corridor Office of Thailand". The Tenderer shall in no case request or claim a refund of this fee. The Cashier's Check issued to "Laem Chabang Port", shall be issued by bank branches in Chonburi and the Cashier's Check issued to "The Eastern Economic Corridor Office of Thailand" shall be issued by bank branches in Bangkok. Otherwise, the Tenderers must pay for the cross-branch fee. The Tenderer shall be solely responsible for all of the fee and costs incurred from issuing Cashier's Check, or from any relevant tax.

13. Performance security and letter of guarantee**13.1 Performance security**

The Successful Tenderer must provide a performance security issued by a qualified bank to the PAT in two following forms:

(1) Performance Security for construction

The Successful Tenderer shall provide a performance security for construction on the PPP Contract signing date in the total amount of THB 1,500,000,000 (One Thousand and Five Hundred Million Thai Baht) as a guarantee of the Private Party's compliance with the PPP Contract for the construction of Terminal F, which is the obligation of the Private Party. Once the PAT issues Acknowledgement letter of terminal operation for Terminal F1, the Private Party can reduce the value of performance security for construction to be THB 750,000,000 (Seven Hundred and Fifty Million Thai Baht). And the remaining amount of THB 750,000,000 (Seven Hundred and Fifty Million Thai Baht) will be returned to the Private Party when the Private Party is released from its obligations under PPP Contract for the construction of Terminal F and the PAT issues Acknowledgement letter of terminal operation for Terminal F2.

(2) Performance Security for operations

The Successful Tenderer shall provide a performance security for operations on the date stated in the Notice to Proceed as a guarantee of the Private Party's compliance with the PPP Contract for all the operations and maintenance for the Terminal under the Private Party's responsibility. The PAT will return a performance security for operations to the Private Party when the Private Party is released from its obligations under PPP Contract. The value of the performance security will vary depending on time, described as follows

- (a) Grace Period of 2 (Two) Years – The value of performance security must be equal to 50 (Fifty) percent of fixed concession fee in the 3rd (Third) year of the PPP period as prescribed under the PPP Contract.
- (b) Project duration after Grace Period – The value of performance security must be equal to the fixed concession fee in that year as prescribed under the PPP Contract. In the case where fixed concession fee changes, the Successful Tenderer must inform its bank to change value of the performance security or submit the new performance security valued equal to the fixed concession fee prior to 30 (Thirty) days before that PPP year starts to ensure the performance security is equal to the fixed concession fee.

Performance security in Clause 13.1 shall be submitted in one of these two following forms:

- (1) Letter of Guarantee must be issued by a Thai financial institution, a qualified Thai bank, or foreign bank with local branches in Thailand, which the Letter of Guarantee must be issued by a branch in Thailand only.
- (2) Thai Government bond or Thai State-Owned Enterprise bond

The PAT will return the performance security without interest to the Private Party.

In the case that PAT exercise its right from performance guarantee, the Private Party is obliged to provide additional amount of the performance security when they are required by the PAT or when the Private Party needs to return the performance security back to the specified amount in the PPP Contract within 30 (Thirty) days from the date the PAT exercise such rights.

13.2 Letter of Guarantee

On the signing date of the PPP Contract, the Private Party, which will be a new Special Purpose Vehicle set up in accordance to Clause 15, shall provide letters of guarantee issued by all members of the Tenderer in order to guarantee the damages that may incur from failure to deliver the work in the PPP contract by the Private Party. In the case where the PAT has already exercised its right on the performance security as per Clause 13.1 but the compensation has yet to cover the total cost of damages from all incidents, each member of the Tenderer must be responsible for the damages where each member will be responsible equal to the total cost of damages from all incidents shared to each member by the proportion of investment of that member. In all cases, each member of the Private Party shall not be liable for an amount exceeding the sum specified in such letter of guarantee. The amount specified will be an amount mutually agreed by the Selection Committee, and the PAT by considering the total Project investment and the proportion of investment of each member of the Tenderer that has issued the letter of guarantee. The total sum of the amount specified in the letter of guarantee of all members of the Tenderer will not exceed the total investment of the Project stated in the proposal of the Tenderer.

Letter of guarantee shall be effective from the Effective Date of the PPP Contract to the end of project and when the Private Party completes its duties and is released from obligations as specified in the PPP Contract, unless any of the following instances occur, the letter of guarantee shall be invalid.

- (1) In the case where the Private Party raise funds from a capital market under the law of securities and stock exchange, or foreign law, or a case of a national or international public offering of the shares of the Private Party, or a case of raising funds through an infrastructure fund or an infrastructure trust
- (2) In the case where the aggregate shareholding of the initial shareholders of the Private Party falls below 51 (Fifty-One) percent of the total amount of shares of the Private Party.

In the case of change on shareholder or shareholding structure of the Private Party, where there will be the change the letters of guarantee which were to the PAT in order to reflect the change of shareholder or shareholding structure, the Private Party has the rights to change the letter of guarantee under the condition that, after the change, the sum specified in letter of guarantee shall be equal to the total sum of amount specified in the letter of

guarantee prior to the change on shareholder or shareholding structure, which the amount will not exceed the Project investment stated in proposal of the Tenderer and will be proportionate to the amount of investment of each member of the Tenderer that issued letter of guarantee .

14 Disclaimer

14.1 The rights reserved to cancel the tender process

The Selection Committee reserves the rights to cancel the Invitation to Tender, the tender process or not to tender and/or negotiate with the highest score Tenderer or the Tenderer for the Envelope 4 (Four) with the highest proposed benefits. This includes the cases where the Cabinet or the Policy Committee resolve to cancel the Project, the selection of the Successful Tenders or disapprove of the results of the Tenderer selection, the negotiation, agreed draft PPP Contract or Tenderer with highest score who fail to comply with Thai laws.

In any case, the Tenderer shall not claim any fees, expenses or damages incurred from Thai Government, Ministry of Transport, the Selection Committee, the PAT, Board of Commissioner of the PAT, the Policy Committee, the EEC and other relevant authorities.

14.2 The rights reserved to amend document related to Tenderer selection

The Selection Committee reserves the rights to change, amend or add details of Invitation Letter and Request for Proposal document including the draft PPP Contract. This includes the rights to change or amend result of the Tenderer selection, negotiation between the Selection Committee and the Successful Tenderer and rights to inform the comments/opinions from the Office of Attorney General, the Policy Committee, and the Cabinet.

The Selection Committee reserves the rights to change, amend or add details of Invitation Letter and Request for Proposal document including the draft PPP Contract and/ or contract with the financial sponsors to differentiate from Invitation to Tender document. The Tenderers shall not claim any fees, expenses or damages incurred from the Thai Government, the Ministry of Transport, the Selection Committee, the PAT, Board of Commissioners of the PAT, the Policy Committee, the EEC and any relevant authorities.

14.3 The rights reserved to refer to the document in Thai as main document

In the case where there is contradiction or discrepancy between the Invitation to Tender or the Request for Proposal in Thai and the Invitation to Tender or the Request for Proposal in English, the Tenderer shall refer to the Invitation to Tender or the Request for Proposal in Thai as the main document.

14.4 The rights reserved to disqualify the proposal of the Tenderer who has a Thai government agency as its shareholder of the Tenderer's juristic person or as a member of the Joint Venture which is not registered as a new juristic person in proportion of more than 50 (Fifty) percent.

In such cases, the Selection Committee of the Project reserve the right not to consider the Request for Proposal of such Tenderer. The Tenderers shall not claim any fees, expenses or damages incurred from the Thai Government, the Ministry of Transport, the Selection Committee, the PAT, Board of Commissioners of the PAT, the Policy Committee, the EEC and any relevant authorities.

14.5 The right reserved to request for the additional details from the Tenderer

The Selection Committee reserves the rights to request for the additional details from the Tenderer; however, the additional details shall not materially change the main content of the proposal.

In case the proposal of the Tenderer is different from conditions specified in non-essential section and the difference does not make any advantage or disadvantage to other Tenderers or is a minor mistake. The Selection Committee may consider alleviating or not disqualifying the Tenderer according to the regulations prescribed by the PAT and the Selection Committee. Information about the inspection of documents shall be recorded in written form.

14.6 Intellectual Property Rights

The PAT reserves the rights of intellectual property in the form of all pictures and documents sold to the Tenderers, the intellectual property rights of the Tenderer selection, as well as, the information contained in the document to be the sole property of the PAT. The Tenderer

has no right to seek for any benefit from the document. Therefore, the Tenderer must keep the information strictly confidential.

15. Registration of new juristic person

15.1 Conditions for setting up Special Purpose Vehicle (SPV)

- (1) Once the Selection Committee has negotiated with the Successful Tenderer and the PAT has received the draft PPP Contract which has been reviewed by the Office of Attorney General, The PAT will propose the result of Tenderer selection, negotiation outcome and draft of PPP Contract to the EEC who will later propose the Policy Committee for approval.
- (2) Upon the Policy Committee's approval of the Tenderer selection, negotiation outcome, and draft PPP Contract, the Successful Tenderer shall register as a new Special Purpose Vehicle (SPV) specifying objectives of this new SPV for operating businesses under obligations and responsibilities defined in the PPP Contract. The new SPV must comply with Thai Laws. The shareholders of the SPV must consist of at least 1 (One) Thai juristic person holding no less than 51 (Fifty-One) percent of the total shares. Every shareholder must hold no less than 5 (Five) percent of the total shares. The shareholding proportion of the new SPV shall comply with the following specifications:
 - (a) In the case where the Successful Tenderer is a single juristic person, every shareholder of single juristic person shall jointly set up a new SPV that complies with Thai Laws and maintains the same shareholding structure.
 - (b) In the case where the Successful Tenderer is the multiple juristic persons in a form of a joint venture that did not register as new juristic person, every juristic person must jointly form the new SPV that complies with Thai laws and maintains the same shareholding structure as the multiple juristic persons in a form of a joint venture that did not register as new juristic person
- (3) On the contract signing date, the SPV must have registered and paid up capital equal to THB 4,000,000,000 (Four Billion Thai Baht)

15.2 Changing shareholding structure of the Private Party, which is a SPV set up in accordance with Clause 15

- (1) Unless approved by the PAT and qualified as one of the following, the Private Party shall not proceed with the change in shareholding structure during the period of design, and construction of the whole terminal F as per Clause 1.4.

- (a) In the case where the change in shareholding structure, which the new shareholder has the same or better qualification than the previous shareholder

Or
 - (b) In the case where the change of shareholding structure to allow Thai State-Owned Enterprise to co-invest in the Project but the change must not decrease the shareholding of the Tenderer to fall below 51 (Fifty-One) percent of total shares as per Clause 4.6.
- (2) Unless approved by the PAT, the Private Party shall not proceed with the change in shareholder or shareholding structure during the period of operation and maintenance of whole Terminal F.

Attachment to the Invitation to TenderList of the entities, that have previously purchased the Request for Proposal of Laem Chabang Port Phase 3 Terminal F projectBetween 5th November B.E. 2561 (2018) and 19th November B.E. 2561 (2018)

No.	Company name
1.	TIPS CO.,LTD
2.	ITOCHU Corporation LTD
3.	UNIQUE Engineering & Construction CO.,LTD
4.	Laem Chabang International Terminal CO.,LTD
5.	JWD InfoLogistics Public CO.,LTD
6.	CHEC (Thai) CO.,LTD
7.	Italian-Thai Development PLC
8.	Charoen Pokphand Holdings Co.,LTD
9.	China Harbor Engineering Co.,LTD
10.	Fujita Corporation (Thailand) LTD
11.	MITSUI & CO.,LTD
12.	China Merchants Port Holdings CO.,LTD
13.	International Container Terminal Services, INC.
14.	Sumitomo Corporation Thailand
15.	PTT Tank Terminal CO., LTD
16.	PSS Organic Healing
17.	Hutchison Laemchabang Terminal LTD
18.	PSA International Pte LTD
19.	Bangkok Modern Terminal LTD
20.	Associate Infinity Co.,LTD
21.	China Railway Construction (Southeast Asia)
22.	Shekou Container Terminals Ltd.
23.	APM Terminals B.V.
24.	Adani Ports and Special Economic Zone LTD
25.	BMT Pacific Co.,LTD
26.	Mediterranean Shipping (Thailand) Co.,LTD
27.	Terminal Investment Limited Sarl
28.	Dredging International nv
29.	Boskalis International B.V.
30.	C.R.C. Warf CO.,LTD
31.	China Communication Construction CO.,LTD
32.	Powerline Engineering PLC