

April 13, 1981

PPA ADMINISTRATIVE ORDER
NO. 10 - 81

Subject GENERAL CONDITIONS ON ALL CONTRACTS/PERMITS FOR
 THE MANAGEMENT AND OPERATIONS OF CARGO HANDLING
 SERVICES

T O · All Port Managers, Cargo Handling Contractors
 and Others Concerned

Pursuant to the provisions of Sections 6-a (11), (111), (v) and 6-b (vi), of Presidential Decree No. 857 as amended, the following general conditions on all contracts/permits for the management and operations of cargo handling services are hereby prescribed:

ARTICLE I

PRELIMINARY PROVISIONS

Section 1.01 Definition of Terms - For purposes of this Order, the following terms, unless the context indicates otherwise, shall mean or be understood to mean, as follows

- a) "Authority" means the Philippine Ports Authority'
- b) "Contractor/Operator" refers to any person or entity awarded the management and operations cargo-handling services in a port.
- c) "Services" refers to cargo handling services such as arrastre/stevedoring and portorage.
- d) "Arrastre Services" means those activities which include the following
 - (1) receive and load cargoes from and to ship's tackle with the use of dock (arrastre) gang and cargo handling equipment,
 - (11) check cargo by marks and quantity, acknowledge and sign tally sheets,
 - (111) sort and pile cargo in sheds/open storage, if not taken on direct to truck,
 - (iv) deliver/transfer cargo to, and receive from, tail-end of consignee's transportation or ship's tackle,
 - (v) secure cargo from pilferage or losses while under its custody,
 - (vi) provide mechanical equipment for receiving/stowing/delivery/transfer/shifting of cargo, and
 - (vii) provide checking services only when cargo is unloaded or loaded to and from shipside, to and from barges alongside vessels

- e) "Stevedoring services" means all work performed on board vessel, that is the process or act of loading and unloading cargo, stowing inside hatches, compartments and on deck or open cargo spaces on board vessel. Related services to stevedoring are the activities of rigging ship's gear, opening and closing hatches, securing cargo stored on board by lashing, shoring and trimming. All these activities are undertaken by stevedore gangs which are headed by gang bosses and composed of winchmen, signalmen and as many number of stevedores as may be pre-determined by the kinds of cargo to be handled and in some cases are assisted by ship's crew members.
- f) "Porterage services" means the carriage/handling of passenger baggage, luggage and personal belongings from the passenger's ship accommodations to the passenger's vehicle or means of land transportation, or vice versa.

ARTICLE II

EQUIPMENT AND FACILITIES

Section 2.01. Cargo Handling Equipment - The CONTRACTOR shall have available at the commencement of the operation such equipment required by the AUTHORITY, all in serviceable and ready-line condition. Provided, within three (3) months from the time the CONTRACTOR receives an order from the AUTHORITY, he shall have available for the operation of the services covered by the Contract/Permit such cargo handling machineries, gears, tools, equipment and materials as may be necessary to efficiently handle sustained and uninterrupted cargo handling operations for all incoming and outgoing cargoes of all types and classes, including such reserve and standby machineries, equipment and materials to take care of fluctuations of port traffic, as well as breakdown of equipment as shall be determined and enumerated by the AUTHORITY in the order above-mentioned.

Section 2.02. Equipment Renewal and Modernization - The CONTRACTOR binds itself, when so required, to submit to the AUTHORITY for approval a program of equipment renewal and modernization, consistent with unitization, specialized gears for special types of cargo and other progressive material handling trends, concepts, and techniques, that CONTRACTOR binds itself to acquire new equipment to replace such equipment which the AUTHORITY shall, upon careful inspection, consider inefficient or uneconomical to operate or recondition by reason of age, wear, disrepair and other causes. Provided, that the CONTRACTOR shall procure additional modern equipment to meet the exigencies of the service brought about by the increase in volume and type of cargo as the circumstances demand.

Section 2.03. Fire-Fighting Component - The CONTRACTOR shall make available for its regular working force on a 24 hours basis fire-fighting equipment as prescribed in "Dockwork Safety and Health Standards" within sixty (60) days from the date of effectivity of this contract.

Section 2.04. Other Physical Facilities - The CONTRACTOR undertakes to improve working conditions of its employees and workers by adopting the following measures by the end of first year of operations under this contract

- a) For the Personnel Training Center of the Authority to conduct in-service training program for all categories of personnel from management down the line to ordinary dock worker, for

which purpose the CONTRACTOR shall provide the necessary funds, facilities and equipment for the proper implementation of this program,

- b) The CONTRACTOR shall maintain and keep at its own expense toilet facilities in the wharf including wash basins and bathroom,
- c) The CONTRACTOR shall, in cooperation with existing labor union, provide its employees and workers recreational and social facilities

Section 2.05. Notice of Termination or Renewal of Contract/Permits - Thirty (30) days before the expiration of the Contract/permit, the AUTHORITY shall decide and make known whether the services shall be taken over by the Authority itself, or be subject to bidding, or that the CONTRACT shall be allowed to continue under terms and conditions as may be agreed upon. In the event that the AUTHORITY has decided not to extend the contract/permit, the necessary arrangements between the AUTHORITY and the CONTRACTOR to assess and inventory all properties and equipment and perform such other related work shall be made within said period.

Section 2.06. Option to Purchase Equipment - At the expiration of the contract/permit or at any time the contract/permit is cancelled or terminated for any reason whatsoever before such expiration, and the AUTHORITY takes over the management and operations of any or all of the services, the AUTHORITY shall have the right to immediately take over possession and control of and utilize so much of the serviceable cargo-handling tools, gears, machinery, equipment, including office equipment, furnitures and fixtures of the CONTRACTOR as may be needed by the AUTHORITY for the continuous and uninterrupted operations of the services taken over. In such event, the AUTHORITY shall have the option to purchase the same at acquisition cost less depreciation or book value at the time of transfer of possession and control, subject to accounting and auditing rules and regulations, and payable in eight (8) quarterly installments, the first payment to fall due within the first ten (10) days from the execution of the Deed of Sale, Provided, that the AUTHORITY shall exercise its option to purchase in writing within thirty (30) days from the time it takes possession of said equipment, etc. Provided, further, that the AUTHORITY shall pay to the CONTRACTOR reasonable rentals at the prevailing rates for all said equipment, etc mentioned above which it may utilize, which rental shall form part of the purchase price in the event that the AUTHORITY exercises its option to purchase them, the total rental of which shall in no case exceed the purchase price mentioned above of such equipment, etc at the time of the take-over

ARTICLE III

PPA CONTROL AND SUPERVISION OVER OPERATIONS

Section 3.01. Control and Supervision by the Authority - The AUTHORITY shall have the direct control and supervision of all cargo handling operations and other related services being performed by the CONTRACTOR who shall follow all rules and regulations, order and/or instructions that the AUTHORITY or its duly authorized representative has issued and/or promulgated, or may hereafter issue and/or promulgate for the purpose of securing maximum efficiency in all the said services. The CONTRACTOR shall upon notice by the AUTHORITY, submit itself to an evaluation of its cargo handling system and shall promptly effect the necessary changes/modification in the system which the AUTHORITY may instruct, based on the results of the evaluation

Section 3.02 Rules and Regulations, Appeal - The CONTRACTOR shall at all times comply with and abide by all rules and regulations of the AUTHORITY now existing and those which may from time to time hereafter be made, adopted or promulgated by the AUTHORITY, Provided however, that in case the CONTRACTOR shall take exception as to the reasonableness of any future rules or regulations of the AUTHORITY, the CONTRACTOR shall have the right to appeal to the Board of Directors of the AUTHORITY for a review of the rules and regulations excepted to, but the enforcement of said rules or regulations shall not be stayed pending receipt of the decision of the Board of Directors of the AUTHORITY, which shall be final and binding upon both parties thereto

ARTICLE IV

ARRASTRE OPERATIONS AND PROCEDURES

Section 4.01. Detailed Checking of Cargo - The CONTRACTOR shall make a complete and detailed checking by marks and numbers of all cargoes handled, whether unto or over wharves or piers or delivered at shipside.

Section 4.02. Registry Marks and Tags - The CONTRACTOR shall clearly and legibly mark by lumber crayon whenever physically possible upon each and every package landed upon the piers or other designated places the registry/voyage number of the vessel from which package was received. PROVIDED, however, that for cargoes of bricks, coal, loose pipes and other similar commodities not susceptible to being marked, a registry tag shall be attached as may be convenient

Section 4.03. Tally Sheets as Immediate Receipt of Cargo - The CONTRACTOR thru its authorized representative shall deliver unto the master or agent of a vessel signed copies of the cargo tally sheets to be plainly printed as "cargo receipt" to show the total number of package by marks and numbers actually received whenever such marks and numbers are present and legible.

Section 4.04. Tally Sheets for Cargo Vans - The CONTRACTOR shall give a clean tally sheet for cargo vans received by it in good order and condition with locks and seals intact. Cargo in vans with locks and seals broken shall be treated as "Bad Order Cargo" to be surveyed in accordance with Sec 4.06. hereof and resealed.

Section 4.05 Out-Turn Reports - The CONTRACTOR shall within a fifteen (15) working days after the discharge of the last package from any vessel entering the port within the CONTRACTOR's area of operations, furnish and deliver to the vessel's agent, the Collector of Customs and the Port Manager concerned one (1) copy to each of the out-turn report of the vessel's manifest, detailing package on manifest not landed. The CONTRACTOR shall also list in said out-turn report all packages not on manifest

Section 4.06. Bad Order Cargoes, Surveys - The CONTRACTOR shall segregate all cargoes landed in bad order immediately upon its discharge from a vessel, and place same in a place which must be provided for the purpose by the CONTRACTOR upon said piers and wharves. Each package in bad order shall be surveyed within 24 hours from request of the shipping company concerned, otherwise within seventy-two (72) hours after discharge, by representative of the vessel's master or agent and of the CONTRACTOR, except for cause or causes beyond the control either or both parties to the survey, in which case said survey shall be conducted thereafter within the required time as herein above prescribed, and a certificate of survey in triplicate shall be

prepared and signed jointly by said representatives. One copy of the certificate shall go to the master or agent, one copy to the CONTRACTOR, and the third copy shall be retained in the package covered by the survey. Bad order cargoes discharged from the carrying vessel shall be deemed to be in the possession and custody of shipping company until turned over to the CONTRACTOR. Thereafter the CONTRACTOR shall be liable for any further damage and/or shortage of contents of every such package surveyed, save in instances where the damage is due to the inherent nature of the goods. The CONTRACTOR shall furnish and deliver to the vessel's agent and to the AUTHORITY, respectively, together with the out-turn report, a complete list of all package discharged in bad order, but shall not be held responsible for failing to report same which cannot be easily detected during discharge, such as hook holes, chafage, stains, dents and old and second-hand cases or cargo of inadequate packing.

Section 4.07. Unclaimed and Undelivered Cargoes, Transfer - The CONTRACTOR shall submit to the AUTHORITY monthly within the first seven (7) days of each succeeding month a list of all unclaimed and undelivered cargo, which remain in the piers for a period of more than thirty (30) days after the last package from the carrying vessel has been discharged, and to transfer, upon request, to a designated place within the port zone such cargo, together with such other cargo, if any, which have been abandoned to or confiscated by the proper government authority, and the CONTRACTOR shall take and require from them, or their representatives to whom delivery is made, a receipt of said cargo showing the condition of the same upon delivery and also an acknowledgement by notation thereon of the charges and liens of the CONTRACTOR, and the subjection of said cargo thereto. Upon delivery of said cargo to the proper government authority, the responsibility of the CONTRACTOR shall thereupon cease with regard to any loss, shortage or damage to the said cargo or any part of parcel thereof that may thereafter come or happen thereto.

Section 4.08. Reconditioning and Recouping Bad Order Cargoes - The CONTRACTOR shall undertake to recondition or otherwise fix cases discharged in bad order so as to render possible their proper and orderly delivery to consignees. PROVIDED, however, that the actual cost of survey or reconditioning and/or fixing the cargo, materials and the wages of employees and laborers engaged in the work, shall be chargeable by the CONTRACTOR against the vessel's agent.

Section 4.09. Cargo Location System - It shall be the duty of the CONTRACTOR to devise and institute upon approval by the AUTHORITY an efficient cargo location system and the CONTRACTOR hereby binds itself to properly and systematically pile and segregate cargoes within twenty-four (24) hours after their discharge from the vessel according to marks, numbers, registries, etc. and to locate any cargo or cargoes within one (1) hour from demand to locate unless compliance cannot be done by the CONTRACTOR for causes beyond its control.

Section 4.10. Time-Requirement to Commence Delivery - The CONTRACTOR shall in case of foreign cargo, within one (1) hour after, and in case of domestic cargo, immediately upon, presentation to it by the consignee/cargo owner or his duly authorized representative of a delivery permit/order duly approved by the AUTHORITY, commence delivery of the cargoes to name consignee or consignees, or to his or their order and must complete delivery at the least possible time unless compliance cannot be done by the

CONTRACTOR for cause beyond its control, that the CONTRACTOR shall also furnish upon request, said consignee or consignees with a memorandum or certificate showing shortage or damage, if any, to the consignment or cargo as disclosed by the checker of the CONTRACTOR and shall, in each instance when delivery is made, require and exact from the consignee or consignees a receipt or receipts for all merchandise delivered, and said deliveries shall also be endorsed upon the permit of the AUTHORITY, and carrier's agent for the delivery of cargo. Provided, However, that the CONTRACTOR shall not be required to deliver any cargo to the consignee or consignees thereof, or his or their nominees, until all charges and disbursement with respect thereto have been paid in cash or certified checks

Section 4.11, Tail-End Delivery - The CONTRACTOR obligates itself to load unto the carrier or carriers of the consignee or brokers, only those cargo which are not susceptible of being handled manually, such as heavy lifts, tractors and the like, free of charge. Any other cargo capable of being handled manually shall be placed by the CONTRACTOR at the tail-end of the carrier of the consignees, or brokers or vice-versa (tail-end delivery)

Section 4.12. Inspection and Examination Area.- The CONTRACTOR shall provide a separate inspection area in each shed or warehouse for cargoes designated for examination and for this purpose, the CONTRACTOR shall immediately upon discharge segregate packages designated for examination and shall make available cargo locators and openers to facilitate examination thereof

Section 4.13 Production Rates - The CONTRACTOR shall receive foreign cargoes from the vessel at the average rate of at least fourteen (14) metric tons per net gang hour during night time and, at least twelve (12) metric tons per net gang hour during day time. and for domestic cargo the average rate shall be at least twelve (12) metric tons per net gang hour. The CONTRACTOR shall likewise deliver cargoes in a prompt and efficient manner and within the time requirement and conditions as provided in Section 4.10.

Section 4.14. Dangerous and Obnoxious Cargoes - The CONTRACTOR shall not store inside the shed and warehouse cargoes which are classified as explosives, inflammable, poisons, obnoxious, fire hazard or are otherwise dangerous to life and safety of the people working therein, and for this purpose the CONTRACTOR shall strictly comply with the pertinent provisions of the "Dockwork Safety and Health Standards".

Section 4.15. Safety Officer - The CONTRACTOR shall in accordance with the provisions of the "Dockwork Safety and Health Standards", designate a Safety Officer who shall possess the necessary education, training and/or experience required by law in the handling and disposal of dangerous and obnoxious cargo together with a pool of equally qualified men to handle any emergency or accident arising from the handling of such dangerous and obnoxious cargo

Section 4.16. Receipts for Cargo - Whenever any cargo owner/shipper delivers unto the custody of the CONTRACTOR his merchandise for outbound loading, the CONTRACTOR shall at all times accept the delivery of such merchandise even in cases of delayed arrival of the carrying vessel, subject to control and approval of the Port Manager concerned or his authorized representative and shall issue the necessary receipts evidencing the delivery thereof

Section 4.17 Receipts, Storage and Security of Mails - The CONTRACTOR agrees to receive, upon the issuance of proper receipt, store and guard mails discharged from vessel pending delivery to the Post Office

Section 4.18. Delivery - The CONTRACTOR while discharging cargoes from the vessel shall deliver the same immediately to the warehouse of individual shipping companies, if any, within the port zone who in turn shall assume full responsibilities for the control and delivery of all cargoes being turned-over. PROVIDED, however, that the CONTRACTOR shall provide a complete listing of all cargoes stored, piled and stocked in the port zone but outside the individual warehouse of the shipping companies.

Section 4 19 Obligation on Cleanliness - The CONTRACTOR shall properly clean and maintain its area of operations within the port zone at its own expense

ARTICLE V

CONTAINER OPERATIONS

Section 5.01. Container Operations - The provisions of pertinent PPA rules and regulations and subsequent amendment thereto, which may be promulgated from time to time shall apply to all containers discharged from or loaded unto vessels whether such vessels are containerized, semi-containerized or conventional in all piers/wharves. Applicable rates promulgated by PPA shall be incorporated into or made part of the Contract/Permit. Prior to such promulgation rates mutually agreed upon by the parties shall apply subject to the approval of the Authority.

Section 5.02. Containers Not Subject to Heavy Lift Charges - In order to encourage containerization and keep abreast with the world container trade, all containers, whether packed or empty, shall not be considered "heavy cargo" as defined in the Tariff and Customs Code of the Philippines as amended. However any single package of import, export or transit cargo, weighing more than two (2) tons, packed in a container as a unit, shall be charged in accordance with the rates mutually agreed upon by the parties subject to the approval of the AUTHORITY.

Section 5.03 Services Included in the Rates - The rates shall include the following services to be rendered by the CONTRACTOR

- a) Receiving of containers from vessel unto chassis of trailer which are provided by the CONTRACTOR or shipping companies that have adopted the "chassis/shifter operation of containers.
- b) Moving such container on chassis or trailers or by shifters from alongside on the carrying vessel to the container yard or any storage area in the port zone designated for storage of containers,
- c) Handling, stowing and shifting of containers in the container yard or in the storage areas for containers within the port zone,
- d) Loading containers from place of storage in the container yard or other storage areas in the port zone unto chassis or trailers either for delivery or transfer of containerized cargo or empty containers,

- e) Receiving handling and stowing containers, either empty or loaded, coming from places outside the port zone, and
- f) Moving containers either loaded or empty from the container yard or container storage area within the port zone and loading them unto vessels alongside the pier.

ARTICLE VI

CLAIMS AND LIABILITY FOR LOSSES AND DAMAGES

Section 6 01. Responsibility and Liability for Losses and Damages, Exceptions - The CONTRACTOR shall at its own expense handle all merchandise in all work undertaken by it hereunder diligently and in a skillful, workman-like and efficient manner, the CONTRACTOR shall be solely responsible as an independent CONTRACTOR, and hereby agrees to accept liability and to promptly pay to the shipping company consignees, consignors or other interested party or parties for the loss, damage or non-delivery of cargoes to the extent of the actual invoice value of each package which in no case shall be more than THREE THOUSAND FIVE HUNDRED PESOS (₱3,500.00) (for import cargo) and ONE THOUSAND PESOS (₱1,000.00) (for domestic cargo) for each package unless the value of the cargo importation is otherwise specified or manifested or communicated in writing together with the declared bill of lading value and supported by a certified packing list to the CONTRACTOR by the interested party or parties before the discharge or loading unto vessel of the goods, as well as all damage that may be suffered on account of loss, damage or destruction of any merchandise while in the custody or under the control of the CONTRACTOR in any pier, shed, warehouse facility or other designated place under the supervision of the AUTHORITY but the CONTRACTOR shall not be responsible for the condition of the contents of any package received, nor for the weight nor for any loss, injury or damage to the said cargo before or while the goods are being received or remains in the piers, sheds, warehouses or facility, if the loss, injury or damage is caused by force majeure or other causes beyond the CONTRACTOR's control or capacity to prevent or remedy, PROVIDED, that a formal claim together with the necessary copies of Bill of Lading, Invoice, Certified Packing List and computation arrived at covering the loss, injury or damage or non-delivery of such goods shall have been filed with the CONTRACTOR within fifteen (15) days from date of issuance by the CONTRACTOR of a certificate of non-delivery, PROVIDED, However, that if said CONTRACTOR fails to issue such certification within fifteen (15) days from the receipt of a written request by the shipper/consignee or his duly authorized representative or any interested party, said certification shall be deemed to have been issued, and thereafter, the fifteen (15) days period within which to file the claim commence, PROVIDED, Finally, that the request for certification of loss shall be made within thirty (30) days from the date of delivery of the last package to the consignee

The CONTRACTOR shall be solely responsible for any and all injury or damage that may arise on account of the negligence or carelessness of the CONTRACTOR, its agent or employees in the performance of the undertaking under the Contract. Further, the CONTRACTOR hereby agrees to hold free the AUTHORITY at all times from any claim that may be instituted by its employees by reason of the provisions of the Labor Code, as amended, Employees Liability in force or hereafter may be enacted

Section 6.02. Payment of Claims, Disputes and Resources - Under the existing regulations, and while any shipping company or any carrier shall be required to respond to any consignee, consignees or other interested party for loss, damage or destruction of cargo suffered while in the possession of the CONTRACTOR or under its control, save in the exceptions therein above provided, the CONTRACTOR shall make prompt payments to such shipping company or carrier or its agent, of all claims for which it is determined that the CONTRACTOR is liable in conformity with the provisions, of the Bill of Lading and/or other documents of probative value. All claims for losses and/or damages to the cargoes shall be adjudicated, decided and paid by the CONTRACTOR within fifteen (15) days from the date of formal filing of the same provided that all documents and supporting papers are complete and available. Said responsibility upon any dispute arising between the CONTRACTOR and shipping company shall be submitted to the AUTHORITY for determination in the first instance either by the shipping company, the CONTRACTOR or the consignee, and its decision shall be final, but nothing herein contained shall be held or construed to prevent either disputant party from recourse to the courts, and the CONTRACTOR shall immediately, after the decision is rendered, give notice in writing to the AUTHORITY and the claimant of its dissatisfaction therewith, otherwise, the CONTRACTOR shall forthwith comply with the decision of the AUTHORITY. In the adjudication of any dispute between the CONTRACTOR and the shipping company, the AUTHORITY will consider all clauses and exceptions of the carriers bill or bills of lading where same may be relevant or applicable.

Section 6.03. Pilferages - The CONTRACTOR binds itself to control pilferages and the same (pilferage) shall not exceed ONE-TENTH of One Percentum (1/10 of 1%) of the landed value and/or the total volume in metric tons of all cargoes received and handled monthly.

ARTICLE VII

LABOR MANAGEMENT AND RELATIONS

Section 7.01 Employment, Investigation and Dismissal of Employees and Labor Personnel - The CONTRACTOR shall utilize and employ members of the existing labor force as may be needed in the cargo handling operation subject to the individual screening of the members of the labor force by the CONTRACTOR. The CONTRACTOR agrees to the right of the AUTHORITY to conduct a thorough character investigation of each and every employee of the former and should it be discovered that employees or laborers with derogatory records have been employed, the CONTRACTOR shall take appropriate measures in order that their employment shall be terminated immediately and to incorporate those conditions in its collective bargaining agreement with the union.

Section 7.02. Collective Bargaining Agreement - The CONTRACTOR agrees to enter into a collective bargaining agreement with one labor union representing the labor force except those performing security functions that will employ its services in accordance with the laws and regulations promoting free trade unionism, so that every individual laborer will be protected from any kind of exploitation or unfair labor practice. But in no case shall such agreement be beyond the actual life of the arrastre and stevedoring contract between the CONTRACTOR and the AUTHORITY.

Section 7.03. Availability of Sufficient Manpower - The CONTRACTOR binds itself to have in readiness and available at all times sufficient manpower and/or labor force necessary to carry out and perform any and/or all of the cargo handling services covered by the contract within one (1) hour from receipt of notice/ requisition of gangs in case of domestic vessels and boats, and within twelve (12) hours in the case of foreign vessels.

Section 7.04. Work Schedule - The CONTRACTOR shall provide fair and equitable distribution of work and shall observe the proper composition of men to a gang and agrees to bind itself to provide as many gangs of workers as the particular situation demands, in order to meet the normal operational requirements at all times. The CONTRACTOR shall also provide for a fair and equitable distribution of work and rotation of workers, to the end that every worker shall be given his due share of earning his livelihood, PROVIDED, that the CONTRACTOR shall furnish the Port Manager, the accomplished rotation schedule of workers every fifteen (15) days. The CONTRACTOR binds itself to maintain a twenty-four hours work schedule on a three (3) shift basis. The said working schedule shall take into account the schedule of arrival and departure of vessels.

Section 7.05 Prompt Payment of Wages, Overtime, Benefits, Etc.- The CONTRACTOR binds itself to pay promptly, as they fall due, the wages and salaries of all laborers and employees, directly or individually, without the intervention whatsoever of any third person, entity, association, partnership or corporation in accordance with pertinent laws, rules and regulations and in compliance thereto, the CONTRACTOR shall keep a daily, weekly, and/or monthly payroll signed by the laborers and employees indicating therein the number of hours and days of work, and the corresponding payments of wages or salaries received by each and the amount and nature of deductions, if any.

For all work of any nature whatsoever, performed by the CONTRACTOR beyond the regular eight hours of work, including those performed during Sundays and Holidays, the CONTRACTOR shall pay its employees and laborers concerned such overtime and holiday premiums in accordance with the provisions of the collective bargaining agreement with the labor unions and/or in the absence thereof, the premiums provided for by law. Provided, that when for any reason or circumstances over which the CONTRACTOR has no control, the requested overtime work is delayed and/or suspended, the CONTRACTOR shall charge the requisitioner the amount aggregating the whole salaries and wages paid to employees and laborers assigned to fill the request in accordance with the rates agreed upon between the CONTRACTOR and the shipping companies

The CONTRACTOR likewise binds itself to pay to its employees and workers such other benefits as night differential, emergency allowance and others in accordance with existing laws

Section 7.06. Profit Share of Labor - The CONTRACTOR agrees to insure industrial peace in the waterfront within the framework of Presidential Decree No 442 otherwise known as the New Labor Code of the Philippines, as amended, and its implementing rules and regulations, by granting to labor its share in the annual net income of the CONTRACTOR derived from all its cargo handling operations shown in its annual income tax return filed with the Bureau of Internal Revenue. This annual profit share of labor shall be paid not later than May 31 of each year, directly to the CONTRACTOR's employees and workers (union and non-union) through payrolls, in equal amounts irrespective of positions and rates of salaries and wages of said employees and workers

Section 7 07. Maximum Working Hours - The CONTRACTOR shall not allow or require any worker to work more than twelve (12) hours a day, except in emergencies.

ARTICLE VIII

RECORDS, BOOKS OF ACCOUNT AND BILLING

Section 8.01 Records, Books of Accounts, Billing, etc. - The CONTRACTOR shall at all times keep and maintain up-to-date, accurate and detailed books of account, records, billings, inventories, etc. in accordance with the bookkeeping regulations of the Bureau of Internal Revenue and the requirement of the AUTHORITY.

In addition to the foregoing obligation of the CONTRACTOR, it shall submit to the AUTHORITY appropriate reports on tonnage handled (inbound and outbound), list of overstaying cargoes, number of vessels serviced, claims filed for cargoes that were lost, undelivered and/or damaged and the action taken thereon by the CONTRACTOR, statements of billings, collection and disbursement, personnel strength and disposition, remittances to SSS, Medicare and all other obligations due labor under existing laws, regulations and collective bargaining agreements, and on such other matters as the AUTHORITY may deem necessary, and such reports shall be in accordance with the rules and regulations, instructions and/or orders of the AUTHORITY and/or its duly authorized representatives.

Section 8.02. Visitorial Powers - The CONTRACTOR shall make available at all times during office hours, for inspection, examination and audit by the AUTHORITY, Commission on Audit and other government agencies exercising visitorial powers, all books of accounts, properties, inventories, payrolls and financial records of the CONTRACTOR and all other records concerning cargo received and delivered as well as all other labor agreements and contracts provided that the authority to inspect, examine and audit the records and books of accounts shall be exercised by the visiting officials concerned pursuant to and within the limits of the duties and functions vested upon their respective offices by express provisions of law

Section 8 03 Overseer - The CONTRACTOR agrees that the AUTHORITY thru the Port Manager concerned or his duly authorized representative shall oversee its operations and financial transactions in order to insure faithful compliance with the provisions of the Contract, and such directives, rules and regulations as the Authority may promulgate from time to time.

ARTICLE IX

ARRASTRE, STEVEDORING AND PORTERAGE RATES & CHARGES

Section 9.01 Authorized Charges - The CONTRACTOR shall carry on its financial transactions strictly on a cash and carry system. The arrastre, stevedoring and portorage rates which may be collected by the CONTRACTOR shall be strictly in accordance with the rates prescribed by the Authority, or in the absence thereof, the prevailing rates at the time of the commencement of operations or such rates mutually agreed upon by the parties concerned, subject to the approval of the Authority. PROVIDED, further that said rates shall

be reasonably adjusted so as to conform with the rates which may be provided under the Cost Based Tariff Study being presently undertaken by the AUTHORITY

Section 9 02 Uniformity of Charges - All charges made by the CONTRACTOR shall be strictly in accordance with the preceding section, that the CONTRACTOR shall not take or receive directly or indirectly any compensation for service other than herein provided and shall not discriminate against any person or persons whomsoever in the rendition of services, PROVIDED, that the CONTRACTOR may make a reasonable charge for any service rendered which is not specifically provided for herein with the written consent of the AUTHORITY.

Section 9.03. Exemptions from Arrastre and Stevedoring Charges - The CONTRACTOR shall respect all exemptions from arrastre/stevedoring charges as certified by the AUTHORITY and to the extent so provided Service of such cargoes shall be the same as with non-exempted cargoes. The CONTRACTOR shall have no claims against the AUTHORITY for compensation for service rendered to these exempted duties

Section 9.04. Performance Bond to Insure Faithful Performance - The CONTRACTOR shall, upon approval/issuance of the Contract/permit put up a Performance Bond in the amount specified to be furnished by at least two reputable companies duly cleared by the Insurance Commissioner and acceptable to the AUTHORITY to guarantee full and faithful performance and compliance with each and every term, stipulation and condition of the Contract/permit, and guarantee the prompt payment of all amounts to be paid by the CONTRACTOR, whether on account of the rights and privileges herein granted or for losses, injuries or damages that may be sustained, by the AUTHORITY or any person or persons whomsoever, or damage suffered to any property including wharves, piers and other premises occupied by or under the control of the CONTRACTOR, its agents and employees and the AUTHORITY or any interested person or persons whomsoever, shall be entitled to and may enforce the liability of the CONTRACTOR upon said surety bond. The conditions of the performance bond shall include among others the proviso quoted

"The CONTRACTOR guarantees that the performance bond once accepted by the AUTHORITY cannot be cancelled or withdrawn by the surety companies and/or the CONTRACTOR without the express consent of the AUTHORITY until their obligations under this Contract/Permit shall have been fully liquidated"

ARTICLE X

FINANCIAL OBLIGATION AND LIABILITIES

Section 10 01. Working Capital - The CONTRACTOR binds itself to maintain a deposit in a reputable bank the amount specified in the contract, as working capital to efficiently meet its day to day operational expenses involved for the proper rendition of services herein provided

Section 10 02 Government Share - In consideration of the rights and privileges granted the CONTRACTOR, the CONTRACTOR shall remit to the AUTHORITY (without prejudice to its right to subsequently impose a direct collection system) not later than the 10th day of each month a percentage, as required in the contract, of the gross income derived

by the CONTRACTOR from whatever services in connection with the cargo handling operations at the said port for the previous month. Failure to pay the required government share on or before the due date shall be a ground for the cancellation of the Contract/Permit by the AUTHORITY and furthermore, the AUTHORITY shall proceed to collect and receive charges for services rendered by the contractor at the CONTRACTOR's expense, to be applied and credited to the government share without prejudice to the AUTHORITY's right to cancel the Contract/Permit as aforestated.

Section 10.03. Payment of Share to AUTHORITY - The payment of the government share shall be supported by copies of proper bills which shall be kept by the AUTHORITY. All receipts, as stated, shall specify the percentage as well as the amount of the Government share.

Section 10.04. Billing and Billing Procedure - For purposes of the foregoing, the CONTRACTOR shall bill all cargoes handled, received and placed in its custody, including articles or baggages based on their actual weight or measurement whichever is applicable in accordance with Section 9.01. hereof but in no case less than those indicated in the inward or outward manifests as the case may be, unless it is shown by clear and convincing evidence that the figures indicated in the manifests representing such weight or measurement are not correct.

Section 10.05. Expense for the Sole Account of CONTRACTOR - All expenses of every nature and kind whatsoever incurred by the CONTRACTOR in receiving, handling, carrying for and delivery of merchandise under the terms and conditions hereof and all liabilities to which it may be subjected including expenses for light and water in areas utilized for the storage and handling of cargoes shall be for the sole account of and paid by the CONTRACTOR.

ARTICLE XI

SPECIAL PROVISIONS

Section 11.01. Separate Books of Account - The CONTRACTOR shall maintain a separate distinct and new set of books of account in its management and operation of the cargo handling services under the Contract/Permit. The new act of books of account which shall have prior approval of the AUTHORITY, shall be registered with the Bureau of Internal Revenue as required by existing bookkeeping regulations.

ARTICLE XII

PROHIBITIONS, VIOLATIONS AND PENALTIES

Section 12.01. Prohibitions against Assignment and Transfer of Contract/Permit - There shall be no assignment, mortgage or transfer direct or indirect of the Contract/Permit or any portion thereof, or any undertaking thereunder without the written approval of the AUTHORITY and neither shall there be any subletting or leasing of the privileges hereunder granted to the CONTRACTOR

Section 12.02. Prohibiting Against Execution of Any Chattel Mortgage or Contract or Cargo Handling Equipment Without Prior Notice - Excepting such encumbrances or contracts already existing on the date of effectivity of the Contract/Permit, the CONTRACTOR shall not

execute any chattel mortgage, deed or conveyance or any other contract that may affect, encumber or impose any lien or any of the equipment or machineries used in the cargo handling operations without the approval of the AUTHORITY. The rights of the AUTHORITY over the equipment or machineries shall be formally incorporated in specific provisions in the mortgage, conveyance or contract.

Section 12.03. Take-over by the AUTHORITY - The AUTHORITY shall have the right to take-over the management and operations of the cargo-handling services of the CONTRACTOR at the Port concerned in any of the following instances:

1. In case of any emergency, such as strikes, lockout, stoppage of work and other causes of similar nature;
2. In case of violation of any of the terms and conditions of the Contract/Permit or provisions of law, government rules and regulations;
3. In case of cancellation or termination of the Contract/Permit;
4. In such other cases where the AUTHORITY deems that the take-over is warranted in order to protect and/or promote public interest.

Section 12.04. Grounds for Cancellation and/or Termination of Contract/Permit - Violation by the Contractor of any of the terms and conditions of this contract shall be sufficient ground for revocation and cancellation of the Contract/Permit. The AUTHORITY upon discovery of the violation, shall inform the CONTRACTOR in writing of such violation. If within seventy two (72) hours from such notice, the CONTRACTOR shall fail to satisfy the AUTHORITY that such violation has not been committed or does not exist, it is expressly agreed that the AUTHORITY shall have the right to revoke and/or cancel the Contract/Permit outright; PROVIDED, FURTHER, that in any of the following specific instances the AUTHORITY reserves the unqualified right to automatically cancel the Contract by written notice to the CONTRACTOR.

- a) Failure of the CONTRACTOR without justifiable cause to remit the government share, to pay during the designated pay days to its employees, laborers, stevedoring and dockworkers their just salaries or wages, and/or non-remittance of premiums to SSS, Medicare, and fringe benefits as those obligations fall due,
- b) Unjustified refusal of the CONTRACTOR to make available its books of account and other documents for inspection, examination or audit as provided for in its Contract/Permit or otherwise to submit to supervision, inspection and/or overseeing by the AUTHORITY and/or its duly authorized representatives;
- c) Existence of pilferages of cargoes in excess of one-tenth (1/10) of one percent (1%) of the total landed value and/or the total volume in metric tons of all cargoes handled monthly due to the unjustified failure of the CONTRACTOR to control such pilferages,

- d) If the CONTRACTOR through any of its corporate officers and ranking management officials or employees from the rank of section head or higher, by taking advantage of their free access to the port premises and the vessels calling at the port, engage in smuggling and other activities and customs duties,
- e) If the CONTRACTOR engaged in any unlawful, illegal or highly immoral business practice, prejudicial to the interest or well-being of the government or its employees or laborers or any such practice which would unduly cause cessation of operations of the arrastre and stevedoring services,
- f) If the AUTHORITY shall find that public interest shall be better served by the cancellation of the Contract/ Permit, determination of the circumstances justifying cancellation on the ground of public interest shall solely rest on the judgement of the AUTHORITY.

Section 12.05. Cost of Litigation - The CONTRACTOR agrees in case of litigation, to pay all court fees, costs and other expenses as may be incurred, including damages in the form of legal interest or in the event of an adverse decision, unless the court decides otherwise.

Section 12.06. Non-Relief from Liability - Any forfeiture or cancellation of the Contract/Permit shall not relieve the CONTRACTOR from any liability incurred under the contract

Section 12.07. Other Pertinent Conditions - The CONTRACTOR agrees to comply with any other pertinent conditions as are provided in Presidential Decree No. 857, as amended by Executive Order Nos. 513 and 546, PPA Administrative Order No. 13-77, LOI No. 1005-A Revised Tariff and Customs Code of the Philippines and its implementing regulations.

ARTICLE XIII

AMENDMENTS

Section 13.01. Amendments. - Subject to the approval of the AUTHORITY, at any time during the effectivity of the Contract/ Permit, any of the parties may propose amendments accordingly to conform to the Provisions of Presidential Decree No 857.

Section 13.02 Compulsory Amendment Clause - The CONTRACTOR hereby agrees and binds itself to strictly comply with the condition that the Contract/Permit shall be subject to appropriate revision in accordance with the subsequent policy guidelines that may be issued by the PPA Board of Directors on the basis of the recommendation of the Study Group created pursuant to the Memorandum of the Minister of Public Works, Transportation and Communication (now Ministry of Public Works per Executive Order No. 546), the principal task of which is to recommend policy proposals on arrastre/stevedoring integration.


Section 13.03. Cost Based Tariff Study - The provisions of the Contract/Permit pertaining to rates of charges including the government share shall be amended accordingly to conform with the rates as may be prescribed under the Cost Based Tariff Study presently undertaken by the AUTHORITY

ARTICLE XIV

FINAL PROVISIONS

Section 14.01. Repealing Clause - All PPA orders, rules and regulations, memoranda, circulars or guidelines which are inconsistent herewith are hereby or modified accordingly.

Section 14.02. Effectivity - This Order shall take effect immediately


E. S. BACLIG, JR

APPROVED As per Resolution No. 458 of the Board of Directors of the Philippine Ports Authority in its 62nd Regular Meeting.