



HELLENIC REPUBLIC ASSET  
DEVELOPMENT FUND

**INVITATION TO SUBMIT AN EXPRESSION OF INTEREST  
FOR THE ACQUISITION OF A MAJORITY STAKE IN THE SHARE CAPITAL OF  
THESSALONIKI PORT AUTHORITY S.A.**

Athens, 14 April 2014

## 1 Introduction

### 1.1 The Privatization of Thessaloniki Port Authority S.A.

“**THESSALONIKI PORT AUTHORITY S.A.**” (in Greek “*Οργανισμός Λιμένος Θεσσαλονίκης Ανώνυμη Εταιρεία*”), a legal entity operating in the form of a Greek *société anonyme* (“*ανώνυμη εταιρία*”) and registered with the General Register of Companies (in Greek “*Γ.Ε.ΜΗ.*”) under number 058231004000 (“**THPA**” or the “**Company**”) is the organization entrusted with the administration and operation of the seaport of Thessaloniki, Greece (the “**Port of Thessaloniki**”).

In 2001, the THPA and the Hellenic Republic (the “**HR**”) entered into a concession agreement in respect of the Port of Thessaloniki, which was subsequently amended, extended and ratified by law (the “**HR Concession Agreement**”).

The Hellenic Republic Asset Development Fund Société Anonyme (the “**HRADF**” or the “**Fund**”) is a *société anonyme* incorporated under Law 3986/2011 of the Hellenic Republic (Government Gazette 152A/1.7.2011) (as in force, the “**HRADF Law**”), the entire share capital of which is owned and controlled by the HR. Pursuant to Article 1§1 of the HRADF Law, the HRADF is entrusted, in the context of the Privatization Program of Law 3985/2011 “*Medium-Term Fiscal Strategy Framework 2012-2015*” (as each time in effect, the “**MTFSF**”), with the development of the assets of the HR as well as the assets of companies, the share capital of which are fully owned, directly or indirectly, by the HR or any public law entity or body.

Pursuant to the HRADF Law, the HRADF has acquired Seven Million Four Hundred Eighty-six Thousand One Hundred Ninety-four (7,486,194) shares in THPA, with a nominal value of EUR Three (€3) each (out of a total of 10,080,000 shares issued by THPA and outstanding), representing a percentage of approximately Seventy-four point Twenty-seven per cent. (74.27%) of THPA’s total share capital.

The shares of THPA are listed on the Athens Exchange (the “**ATHEX**”). Further information on the Company can be found on the website of the Company ([www.thpa.gr](http://www.thpa.gr)) or on the website of the ATHEX ([www.athex.gr](http://www.athex.gr)).

### 1.2 Transaction Structure

Within the framework of the above legislation, the Fund’s Board of Directors has decided, by means of a decision adopted at its meeting held on 10 April 2014, to sell a majority stake corresponding to a percentage of 67% in the share capital of THPA (the “**Stake**”) and, further, approved the process for the sale of the Stake through an international competitive tender process (the “**Process**”).

By virtue of the present invitation to submit an expression of interest for the acquisition of the Stake (the “**Invitation**”), the Fund invites potentially interested individuals or legal entities, whether acting singly or as Consortia (as defined below) and whether acting as strategic, financial or other investors, to the extent permitted by the terms and conditions set out below (the “**Interested Parties**” and each an “**Interested Party**”) to submit an expression of interest for the acquisition of the Stake (the “**Transaction**”).

As part of the Transaction, the Fund and the preferred investor to be selected in accordance with the Process (the “**Preferred Investor**”) would enter together with any Third Party Supporter (as defined below) into a share purchase agreement and, to the extent required and advisable in the sole judgment

of the Fund, a shareholders' agreement with respect to THPA (the "**Share Purchase Agreement**" and the "**Shareholders' Agreement**", respectively) for the transfer of the Stake.

Within the context of the Process, it is envisaged that the HR Concession Agreement will be renegotiated, and potentially amended or re-drafted, with a view to (amongst other matters): (i) introducing more detailed parameters and specifications in respect of THPA's ongoing obligations to provide, host and/or support a comprehensive range of port services and activities within the Port of Thessaloniki; (ii) preserving the position and role of the Port of Thessaloniki in Northern Greece and pursuing its potential development as a hub transit center for the Balkans and Central Europe; (iii) fostering balanced growth of the various functions and activities within the Port of Thessaloniki; (iv) detailing an appropriate process for the determination and approval by the HR of tariffs relating to the ferry and coastal shipping activity, taking into account the national, social and demographic dimensions; (v) establishing suitable incentives and update mechanisms to determine the levels of concession fees payable by the THPA to the HR, (vi) agreeing on specific investments in the Port of Thessaloniki, and (vii) reflecting the closely symbiotic relationship of the Port of Thessaloniki with the Municipality and the city of Thessaloniki and to upgrade their functional interface, taking into consideration the prevailing conditions, with regard to the views of local authorities and the local community, maintaining the integrity of THPA's port activities. The exact terms of the amendments to the HR Concession Agreement and the commercial effects of such amendments shall be specified in the Second Phase of the Process.

Morgan Stanley, Piraeus Bank, Marnet S.A., HPC Hamburg Port Consulting GmbH, Freshfields Bruckhaus Deringer LLP, Alexiou-Kosmopoulos Law Firm (together the "**Advisers**") are acting as advisers to the Fund in connection to the Process and the Transaction.

### 1.3 Company - Business Snapshot

Pursuant to the HR Concession Agreement, THPA has been granted the exclusive right of use and exploitation of land, buildings and infrastructure of the port land zone of the Port of Thessaloniki, as well as the right to grant sub-concessions in respect of the operation of parts thereof to third parties against payment of appropriate consideration.

The main activities of the Company comprise the provision of berthing to ships, container, dry bulk and general cargo stevedoring services and storage, and services provided to cruise and coastal ferry operators and passengers. In addition, the Company provides auxiliary services to ships (water, electricity, telecommunication services, etc.) and exploits land and buildings of the port for cultural and other activities.

## 2 Process Overview

2.1 The Fund hereby invites potentially interested parties that are either individuals, or single legal entities or consortia (the "**Interested Parties**" and each an "**Interested Party**") to submit an expression of interest to participate in the Process (the "**Expression of Interest**").

The purpose of this Invitation is to guide Interested Parties on the terms and conditions for the submission of an Expression of Interest and to outline the financial eligibility criterion described in Section 5 below (the "**Financial Eligibility Criterion**"), the technical eligibility criteria described in Section 6 below (the "**Technical Eligibility Criteria**") and the personal situation criteria described in Section 7 below (the "**Personal Situation Criteria**" and together with the Financial Eligibility Criterion and the Technical Eligibility Criteria the "**Pre-Qualification Criteria**"), on the basis of which Interested Parties will be selected to participate in the Second Phase (as defined below) of the Process.

2.2 The Fund has taken the decision that the Process will not be conducted pursuant to the rules applicable to public procurement procedures as, pursuant to the applicable laws, public procurement procedures are not mandatory for the Transaction. The Process will be conducted in a fair, transparent and non-discriminatory manner and in accordance with applicable European Union State aid rules and European Union case-law.

2.3 The Process will be conducted in two (2) phases. In the first phase of the Process (the “**First Phase**”), which is regulated by the terms and conditions of this Invitation, Interested Parties will express their interest to participate in the Process by submitting an Expression of Interest, accompanied by the documentation specified in Section 9 of this Invitation. Upon completion of the First Phase and selection of pre-qualified Interested Parties (the “**Qualified Parties**”), Qualified Parties will be requested to submit their binding offers during the second phase of the Process (the “**Second Phase**”). The Fund will determine whether or not an Interested Party qualifies to participate in the Second Phase on the basis of the relevant Pre-Qualification Criteria and the other terms and conditions set out in this Invitation (including, for the avoidance of doubt, the rules regarding composition of a Consortium set out in Section 3).

2.4 An Interested Party will be notified in writing by the Fund whether it is a Qualified Party.

2.5 In order to participate in the Second Phase, Qualified Parties will be required to sign a confidentiality agreement (the “**Confidentiality Agreement**”) following which they will receive a process letter setting out, among other things, an overview of the Second Phase and instructions for preparation and submission of a binding offer (the “**Process Letter**” or the “**Request for Proposal**”).

2.6 Following execution of the Confidentiality Agreement and subject to the provisions of the Request for Proposal, the Qualified Parties will be:

- (i) provided with vendor financial due diligence report;
- (ii) granted the opportunity to participate in site visits in relation to THPA of the port land zone operated by THPA in the Port of Thessaloniki;
- (iii) granted the right to carry out due diligence in relation to THPA, including access to a virtual data room containing information relating to THPA and the Greek ports industry generally;
- (iv) invited to submit comments on the draft Share Purchase Agreement, the Shareholders’ Agreement and any other legal documentation that may be provided to them in accordance with instructions in the Request for Proposal; and
- (v) invited to comment on the draft of the HR Concession Agreement, as may be amended between THPA and the HR.

2.7 The steps outlined in paragraphs 2.3 to (and including) 2.6 above may be amended in the event that an additional intermediary phase of non-binding offers is introduced, if so decided in the sole discretion of the Fund. The steps to be followed after the First Phase will be described in more detail in the Request for Proposal.

2.8 Interested Parties wishing to participate in the Process will need to fulfil the relevant Pre-Qualification Criteria and comply with the other terms and conditions set out in this Invitation. The Fund reserves the right to request clarifications, verification or written proof of fulfilment of Pre-Qualification Criteria and, in general, compliance with the terms and conditions described in this Invitation (including, for the avoidance of doubt, the rules regarding composition of a Consortium set out in Section 3 hereof), in addition to the documents outlined in Section 9 below, at any time during the Process.

2.9 All Interested Parties wishing to participate in the Process should submit their Expression of Interest not later than **5 June 2014**, (the “**Submission Deadline**”) 5.00 pm Athens current local time.

All documents with respect to the Expression of Interest (that is, the letter of the Expression of Interest together with the documentation specified in Section 9 of this Invitation) must be submitted to the individuals specified below (the “**Contact Person**”):

Mr. Anastasios Thanopoulos  
Morgan Stanley

20 Bank Street  
Canary Wharf  
London E14 4AD  
Tel: +44 20 7677 3797  
Fax: +44 20 7056 2242

Email:  
Anastasios.Thanopoulos@morganstanley.com

in the following forms:

- (i) in duplicate hard copy (original and photo copy), enclosed in a sealed envelope labelled “**Expression of Interest for THPA**”, to be submitted to the person above in hand or by courier; and
- (ii) in electronic form (and in an easily accessible format), either stored in an electronic storage device (e.g. CD-ROM, DVD or USB stick) to be submitted to the person above in hand or by courier or emailed to the Contact Person,

in every case to be received on or before the Submission Deadline.

In the case of any discrepancy between the documents submitted in electronic form and those submitted by hard copy, the hard copy version will prevail.

2.10 Any Expression of Interest received after the Submission Deadline will not be accepted. Any delay by accident or for reasons of force majeure shall not be recognised as a justified reason for late receipt of the Expression of Interest. In the case of late submission, as per the provisions hereof, the Expression of Interest shall be returned without being unsealed.

2.11 Interested Parties may submit requests for clarification of the Expression of Interest by no later than **26 May 2014**, 5.00 pm Athens current local time. Such requests should be addressed to the Contact Person.

The requests for clarification can be sent to the Contact Person by e-mail or fax at the above contact details. The Fund will respond to the requests for clarification where it considers that this would assist Interested Parties in submitting a complete Expression of Interest within a reasonable timeframe and ensure the objectivity and transparency of the Process. The requests and related responses will be published on the Fund’s website ([www.hradf.gr](http://www.hradf.gr)) without identifying the party which submitted the request. No separate responses to such requests will be provided and all Interested Parties will be deemed to be aware of the information made available, as described above, on the Fund’s website from the date on which it is published.

### **3 Right to Participate – Individuals, Legal Entities & Consortia**

3.1 Individuals, legal entities or Consortia (each an “**Interested Party**”) are eligible to participate in the Process and submit an Expression of Interest in accordance with Section 9, provided that they meet the terms and conditions set out in this Section 3. The Expression of Interest from any Interested Party should be accompanied by the applicable documents set out in Section 9.

3.2 Parties that participate in the Process as members of an Interested Party (“**Members**” and each a “**Member**”) having the form of a Consortium (a “**Consortium**”, which term shall equally include a grouping in the form of a joint venture) are not required to establish or assume a specific legal form in order to submit an Expression of Interest. However, the successful Interested Party may be required or allowed to establish a special purpose vehicle (an “**SPV**”) for purposes of the Transaction.

3.3 A natural person or legal entity may only participate in the Process through a single Expression of Interest, i.e., either singly, as an Interested Party on its own, or as a Member of a single Consortium. Affiliated entities shall be treated as a single legal entity for purposes of this restriction. A breach of this restriction shall cause the immediate disqualification of the relevant Interested Party or Member and, in the discretion of the Fund, of any Consortium of which it is a Member (and, for the avoidance of doubt, all other Members of each Consortium formed in violation of the foregoing).

3.4 Each Interested Party shall appoint one representative (the “**Representative**”), who shall have the authority to act as the primary contact for, and represent the Interested Party in, all matters relating to the Process. Consortia shall jointly appoint one Representative (and that Representative must be the same person for all Members of that Consortium).

3.5 Each Member of a Consortium shall be jointly and severally liable with each other Member of that Consortium vis-à-vis the Fund, in connection with all matters relating to the Process and the Transaction.

3.6 Any changes to the persons/Members of Interested Parties that are confirmed as Qualified Parties shall at all times be subject to the prior written approval of the Fund, which is not to be unreasonably withheld, subject to any further procedures required by law and/or the terms and conditions each time applicable to the relevant stage of the Process. The Fund reserves the right to reject any changes to any Qualified Party, unless the interested Qualified Party(ies) is(are) able to demonstrate to the Fund’s satisfaction the continued ability to meet all applicable Pre-Qualification Criteria. Any new person/Member approved by the Fund in accordance with the foregoing shall be required to submit all the Supporting Documents evidencing its individual compliance with the terms and conditions of this Invitation, including the applicable Pre-Qualification Criteria. The Fund reserves the right to issue further rules and conditions regarding potential alliances of Qualified Parties or Members of Qualified Parties as part of the Process Letter. Changes to any Member’s percentage of participation in a Consortium upon it becoming a Qualified Party will be allowed during part of the Process, subject to certain conditions to be outlined in the Process Letter.

3.7 If an Expression of Interest is submitted by a Consortium, it shall be required to designate<sup>1</sup> in the Expression of Interest one of its Members as the leader (the “**Leader**”). The Leader shall be required to hold a stake in the Consortium corresponding to at least 20% of the total interest in the Consortium until completion of the Process. Upon its designation, the Leader shall represent the Consortium until completion of the Process (subject to any changes made in accordance with the provisions of this Invitation).

3.8 If the Interested Party is a single legal entity, this entity will be considered as Leader if it is subsequently joined by other persons and becomes a Consortium.

3.9 Following the submission of the Expression of Interest and until the date of submission of the binding offers specified in the Request for Proposal (“**Consortium Lock-in Date**”), the composition of a Consortium can change as follows (subject to Section 3.6 above):

3.9.1 by exit of existing Members; or  
3.9.2 by entry of new Members; or  
3.9.3 by internal re-allocation of the participation percentages, or  
3.9.4 by designation of another Member of the Consortium as Leader of the Consortium; it is noted that the new Leader should always be an entity which was a member of the relevant Consortium at the time of the submission of the Expression of Interest,

provided that:

- (i) the Consortium as a whole continues to fulfill the applicable Pre-Qualification Criteria;
- (ii) any new Members meet the applicable Pre-Qualification Criteria relevant for such Members; and
- (iii) the designation of a different Member as Leader of the Consortium shall not be permitted after a date falling thirty (30) days prior to the Consortium Lock-in Date.

3.10 Without prejudice to any rights, faculties or discretions of the Fund hereunder, any intended change in the composition of a Consortium or formation of a new Consortium in accordance with the provisions of this Section 3 must be promptly notified to the Fund, together with evidence of compliance with the applicable Pre-Qualification Criteria, as well as with details of the ownership of any new Members. If the intended change in the composition of a Consortium or the formation of a new Consortium is not in compliance with the provisions of this Section 3 or in the absence of the necessary supporting documentation evidencing such compliance, the Fund may reject the intended change or formation and/or disqualify that Interested Party.

## **4 Pre-Qualification Criteria**

4.1 The Pre-Qualification Criteria comprise the Financial Eligibility Criterion, the Technical Eligibility Criteria and the Personal Situation Criteria.

4.2 All Interested Parties have to meet the Financial Eligibility Criterion and the Personal Situation Criteria upon submission of the Expression of Interest and throughout the Process. In addition, all Interested Parties have to meet also the Technical Eligibility Criteria as from the submission of the binding offers and throughout the rest of the Process.

4.3 In case of a Consortium, the Financial Eligibility Criterion and the Personal Situation Criteria must be met by each one and all of the Members of said Consortium in accordance with section 5 and 7 below, and all Pre-Qualification Criteria (including without limitation the Technical Eligibility Criteria) must be met by the Consortium as a whole.

4.4 Interested Parties that do not fulfill the Pre-Qualification Criteria set forth in Sections 5, 6 and 7 as and when applicable to them in accordance with this Section 4 will be disqualified from the Process. In case of a Consortium, if any one Member fails to meet the Pre-Qualification Criteria applicable to such Member at such time, then such Member will be disqualified and the Fund reserves the right to disqualify the Consortium as a whole.

## **5 Financial Eligibility Criterion**

5.1 Any Interested Party wishing to submit an Expression of Interest will need to demonstrate that:



5.1.1 If it is a corporate entity, the average annual consolidated equity position, calculated as total consolidated assets minus total consolidated liabilities (“**Equity**”) for the most recent three (3) audited financial years equals or exceeds EUR One Hundred Fifty Million (€150,000,000) (the “**Minimum Level**”). The Equity value for the aforementioned calculations shall be extracted from the entity's audited financial statements. If an entity (whether acting singly itself as an Interested Party or as a member of a Consortium) has completed less than three (3) fiscal years as of its establishment/incorporation, Equity shall be calculated as the average Equity of the years that such entity is in operation, provided it has completed at least one full year of operation.

5.1.2 If it is a private equity firm or fund or a fund manager, the sum of active and un-invested/uncommitted funds or the sum of assets under management for the latest financial year equals or exceeds the Minimum Level. Note that the Financial Eligibility Criterion shall be computed based on the figures for all companies managed by or receiving guidance from the same private equity firm/fund/manager or the same group of private equity firms/funds/managers.

5.1.3 If it is an individual (i.e. natural person) he/she must demonstrate his/her personal and direct ownership and possession of available, liquid and unencumbered financial assets (“**Personal Net Assets**”) having an aggregate market value that is not less than the Minimum Level. For purposes of calculation of a person’s Personal Net Assets, only the following may be taken into account:

(a) Cash deposits in a bank or other credit institution lawfully operating in at least one EU or EEA or OECD member state (statement from the bank or other credit institution, issued within the last three (3) months); and/or

(b) Liquid and transferable securities (statement from a bank, brokerage firm, custodian or any other legal entity authorized to issue such statements, issued within the last three (3) months).

5.2 In the case of a Consortium, the Financial Eligibility Criterion must be fulfilled by either the Consortium as a whole weighted by the participation of each Member in the Consortium or by each Member of the Consortium, pro rata to such Member’s participation in the Consortium.

5.3 In the event an Interested Party, whether individually or as a member of a Consortium, has merged with or acquired any businesses during the last three (3) financial years, the Financial Eligibility Criterion may also be tested taking into account, in respect of that period, pro-forma financial statements, prepared on the assumption that the merger or the acquisition took place at the beginning of that period.

5.4 For the purposes of this Section 5, an Interested Party (whether acting singly or as a Member of a Consortium) may rely on the financial capacities of an Affiliate (as defined below) (a “**Third Party Supporter**”) in order to demonstrate fulfillment of the Financial Eligibility Criterion, but only if that Interested Party is able to demonstrate to the Fund that it will have at its disposal the resources necessary by producing an express and appropriately unqualified undertaking by the Third Party Supporter to that effect. In such case, the Interested Party must procure the delivery to the Fund and in connection with the Third Party Supporter of all Supporting Documents as would have been applicable to it had the Third Party Supporter been an Interested Party (or member thereof), in the same form and at the same times as applicable to an Interested Party and provided at all times that the Third Party Supporter is a person that would be entitled to participate in the Process in accordance with Section 3 (*Right to Participate-Individuals, Legal Entities & Consortia*). The financial resources of a person or entity identified as a Third Party Supporter, as verified in accordance with Sections 5.1, 5.2 and 5.3 (as applicable to that Third Party Supporter’s status and circumstances), may be allocated partly in support of its own participation in the Process (if it is an Interested Party, whether individually or as Member of a Consortium) and/or partly in support of another participant invoking the Third Party Supporter’s financial strength, provided that such financial resources may not be taken into



consideration in duplicative manner. For purposes of this Section 5.4 an “**Affiliate**” means in relation to an Interested Party or Consortium member, any other person which, directly or indirectly, is in control of, or controlled by, or is under common control with, the Interested Party or Consortium member (and for the purposes of this definition, “**control**” means the power: (i) to vote or direct the voting of more than 50% of the voting rights of such person; and/or (ii) to direct or cause the direction of the management of such person, whether by contract or otherwise).

## 6 Technical Eligibility Criteria

6.1 Subject to the provision of Section 4.2, each Interested Party shall be required to demonstrate that it satisfies the following conditions (the “**Technical Eligibility Criteria**”), cumulatively:

6.1.1 it has operated for the last three (3) years at least two (2) terminals in at least two countries with;

- a) a combined annual traffic of at least 1,000,000 TEU for all terminals and at least one container terminal with an annual traffic of 500,000 TEU or more;

*or, alternatively,*

- b) a combined annual traffic of at least 8 million tons of dry bulk cargo and at least one dry bulk terminal with an annual traffic of 4 million tons or more;

*or, alternatively,*

- c) at least one multi-purpose terminal with an annual traffic of 5 million tons of break bulk/general cargo or more.

6.1.2 each relevant operation has not been terminated by the public authority due to any breach of the terms and conditions, or performance targets, applicable to the operation and/or any other reason attributable to the conduct or fault of the operator;

6.1.3 each relevant operation has been in compliance with the ISPS (International Ship and Port Facility Security Code).

6.2 In case of a Consortium, the Technical Eligibility Criteria must be fulfilled at least by one Member that has a participation of over 20% in the Consortium (a “**Technical Expert Member**”). The Technical Expert Member can either be an individual Member or a joint venture of two operators, if each such operator fulfils at least one of the Technical Eligibility Criteria referred to in Section 6.1.1 (each a “**TEM Member**”) and further provided that all TEM Members constituting the Technical Expert Member provide a joint declaration satisfactory to the Fund stating that for the purposes of the Process, they are acting in concert as if they were one single party. If (i) both such operators propose to invoke technical capacity deriving from the same type of activity amongst those envisaged in any one of paragraphs (a), (b) or (c) of Section 6.1.1; and (ii) such operators are Affiliates by reference to one another, then such two operators are required to fulfill jointly the technical capacity requirements corresponding to their single common activity. In such case, each of the operators must operate at least one of the minimum of two terminals required to operate in two different countries pursuant to Section 6.1.1.

6.3 An Interested Party that is a single person or (in the case of an Interested Party that is a Consortium) a Technical Expert Member or, if applicable, a TEM Member (the “**Supported Entity**”) may each rely on the technical expertise of an Affiliate of that Supported Entity (a “**Technical**”

**Supporter**”), provided that the relevant Supported Entity provides evidence that the Technical Supporter has committed to furnish technical support to the Supported Entity and for the benefit of the Interested Party as a whole.

6.4 A Technical Supporter may demonstrate satisfaction of the Technical Eligibility Criteria by reference to the technical capacities of itself and/or one or more of its wholly owned and controlled subsidiaries (including, if applicable, special purpose entities).

## **7 Personal Situation Criteria**

7.1 Each Interested Party or, in the case of a Consortium, each Consortium Member must comply with the requirements set forth in this Section 7 (the “**Personal Situation Criteria**”).

7.2 Any Interested Party who, by means of a final decision of a criminal Court has been proven to have committed criminal offences in any jurisdiction, which are related to its professional or business conduct, is not permitted to take part in the Process, and consequently shall be disqualified. Regarding legal entities, this disqualification criterion also applies to the entity’s legal representative(s). Offences related to professional or business conduct include (but are not limited to) embezzlement, extortion, forgery, perjury, fraudulent bankruptcy and, additionally:

**a.** Participation in a criminal organization, as defined in Article 2 of the Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organized crime (EU L 300 of 11.11.2008, page 42).

**b.** Bribery as defined in Article 3 of the Council Act of 26 May 1997 (EU C 195 of 25.6.1997, page 1) and Article 2 paragraph 1(a) of the Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (EU L 192 of 31.7.2003, page 54).

**c.** Fraud, within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities (EU C 316 of 27.11.1995 page 48).

**d.** Money laundering, as defined in Article 1 paragraph 2 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, as in force (which has been incorporated in Greece by Law 3691/2008, as in force).

**e.** The natural person or the legal entity's representative(s) has(ve) been sentenced by a court decision bearing power of res judicata in Greece for any crimes, in relation to its(their) professional activity which is relevant to the subject matter of the Process, the Transaction or his/her (their) professional activity.

7.3 Any natural person or legal entity participating in the Process, either individually or as Member of a Consortium, shall be disqualified, if:

**a.** It has been declared or has become bankrupt, insolvent or otherwise unable to pay its debts or has admitted in writing its inability generally to pay its debts as they become due, made a general arrangement or composition with or for the benefit of its creditors or a competent authority in any relevant jurisdiction: (i) has it placed in any other formal process of relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights in general (in Greece see Law 3588/2007-Bankruptcy Code, as in force); (ii) appoints an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar

official for it or for all or substantially all its assets; and/or (iii) has a distress, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets at the date of submission of the Expression of Interest;

**b.** It has not fulfilled or otherwise come to a lawful arrangement in respect of any material obligations relating to the payment of social security contributions, to the extent applicable;

**c.** It has not fulfilled or otherwise come to a lawful arrangement in respect of any material obligations relating to the payment of taxes, to the extent applicable;

**d.** It is guilty of serious misrepresentation in supplying the information required under this Section or has not supplied such information and/or

**e.** if it has been found guilty of making false representations or to have neglected to submit required information in accordance with the law of the country where the Interested Party or relevant Consortium member is incorporated.

7.4 The Personal Situation Criteria set out in Sections 7.2 and 7.3 above shall also apply to:

7.4.1 the authorised representatives of the Interested Party;

7.4.2 where the Interested Party is a Consortium, each member of the Consortium and the authorised representatives of each member of the Consortium;

7.4.3 if the Interested Party or Consortium member is a member of a consolidated group, the parent company of such consolidated group;

7.4.4 if the Interested Party or a Consortium member is relying on any Affiliate to satisfy the Financial Eligibility Criterion, such Affiliate; and

7.4.5 if the Interested Party or a Consortium member is a private equity firm or a fund, the investment manager/general partner of that equity firm or fund or fund manager and the authorized representatives of that investment manager or the general partner of the private equity firm or the fund or the fund manager.

## **8 Disqualification**

Interested Parties that do not comply with any of the terms and conditions set out in this Invitation and/or do not fulfil the Pre-Qualification Criteria, may be disqualified from the Process. The Fund also reserves the right to disqualify any Interested Party from participating in the Process at any time and for any reason.

## **9 Supporting Documents**

9.1 The Expression of Interest should include the following documents (the “**Supporting Documents**”):

9.1.1 A letter of Expression of Interest, signed by the duly authorised representative of the Interested Party (and in the case of a Consortium, signed by the duly authorised representative of each member of such Consortium), including the following information and declarations, presented in the order set out below:

(i) The Interested Party’s full name, registered office address, phone and fax numbers, email address and internet website address.

In the case of a legal entity a certificate of incorporation and registration of the entity with the competent authority(ies) or public register in its jurisdiction of incorporation.

In the case of a private equity firm or a fund or a fund manager, the Expression of Interest should also include the full name, address, registered office address, phone and fax numbers, email address and internet website address of the investment manager/general partner.

In the case of a natural person (a) a true copy of a valid and current identification document (signed passport, national identity card or residence permit) certified by a competent authority, (b) a document issued by a public authority evidencing his/her tax residence, and (c) document issued by a third party evidencing his/her current residence.

In the case of a Consortium, the Expression of Interest should also include: (a) details of its composition, indicating the percentage participation of each member in the Consortium, (b) full name, address, registered office address, phone and fax numbers, email address and internet website address of each member of the Consortium, (c) the designated Leader of the Consortium, and (d) a clear description demonstrating the satisfaction of the Pre-Qualification Criteria by the Consortium as a whole and its particular Members, as applicable.

- (ii) Details of the Interested Party's shareholding/ownership structure including ultimate legal and beneficial owners holding 5% or more of its share capital.

In the case of a Consortium, details of shareholding/ownership structure, including the ultimate legal and beneficial owners holding 5% or more of the share capital, in each Consortium member.

In the case of a private equity firm or a fund or a fund manager, details of the ownership of the investment manager/general partner, including any person holding 5% or more of the legal and beneficial ownership of the share capital of the investment manager/general partner.

- (iii) Details of the composition of the board of directors or other relevant administrative or competent corporate bodies of the Interested Party.

In the case of a Consortium, details of the composition of the board of directors or other relevant administrative or competent corporate bodies of each member of the Consortium.

In the case of a private equity firm or a fund or a fund manager, details of the board of directors or the investment committee and the advisory committee or other relevant administrative or competent corporate bodies of the investment manager/general partner.

- (iv) Declaration that the Interested Party and its authorised representatives meet the Personal Situation Criteria.

In the case of a Consortium, declaration that each member of the Consortium and its authorised representatives meet the Personal Situation Criteria.

In the case the Interested Party or a Consortium member is relying on any affiliate to satisfy the Financial Eligibility Criterion and/or the Technical Eligibility Criteria, declaration that such affiliate meets the Personal Situation Criteria.

In the case the Interested Party or Consortium member is a member of a consolidated group, declaration that the parent company of such consolidated group meets the Personal Situation Criteria.

In the case of a private equity firm or a fund or a fund manager, declaration that the investment manager/general partner and its authorised representatives meet the Personal Situation Criteria.

- (v) Declaration that the Interested Party meets the Financial Eligibility Criterion and – to the extent the relevant Interested party meets the Technical Eligibility Criteria already upon submission of the Expression of Interest – the Technical Eligibility Criteria.
- (vi) In the case of a Consortium, the declaration that the Interested Party meets the Financial Eligibility Criterion and the Technical Eligibility Criteria (to the extent the relevant Consortium meets the Technical Eligibility Criteria already upon the submission of the Expression of Interest) needs to be signed only by the Leader and the Technical Expert Member.
- (vii) Declaration that the Interested Party, or in the case of a Consortium, that each member of the Consortium: (a) is fully aware of the contents of this Invitation and unconditionally and unreservedly accepts its terms; (b) acknowledges that its participation in the Process takes place at the sole risk and expense of the Interested Party and that the participation as such does not establish any right to compensation from the Fund, the HR or any other party involved in the Process; and (c) acknowledges that disqualification from the Process or failure to succeed in the Process does not create any right to compensation for the Interested Party.
- (viii) Details of the procedure agent (in Greek “αντίκλητος”) appointed by the Interested Party to act as a contact person for all communications between the Fund and the Advisers and the Interested Party, including name, address, email address, phone and fax numbers and email address.
- (ix) Reference to the Interested Party’s decision to participate in the Process and submit the Expression of Interest, including a reference to the decision of the Interested Party’s (or members’ thereof) competent management body, if applicable.
- (x) Full contact details for the Interested Party’s Representative (including full name, address, phone and fax numbers and email address).
- (xi) Full details of the Third Party Supporter if applicable, and of the connection of the Third Party Supporter with the Interested Party.

The Fund retains the right to request evidence of compliance with the Pre-Qualification Criteria at any time during the Process.

9.1.2 A copy or extract of the resolution of the competent body of the Interested Party (or, in the case of a Consortium, of each Consortium member or, in the case of a private equity firm or a fund or a fund manager, of its investment manager/general partner), regarding the approval of the Interested Party’s participation in the Process and the appointment of the procedure agent.

In the case of a Consortium, the participation percentage of each member in the Consortium, as well as the authorisation of the Leader to represent the Consortium must also be included in the above resolution for each member of the Consortium.

9.1.3 Copies of the financial statements of the Interested Party of the last three audited (3) financial years. If the Interested Party is a parent company, consolidated financial statements of the last three (3) audited financial years should also be submitted.

In the case of a Consortium, copies of the financial statements of the last three (3) audited financial years for each Consortium member. If a member of an Interested Party is a parent company, consolidated financial statements of the last three (3) audited financial years should also be submitted. In the case of a private equity firm or a fund or a fund manager, copies of the financial statements of the last three (3) financial years of the private equity firm or fund or fund manager and copies of the financial statements of the last three (3) financial years of its investment manager / general manager.

In the event that an entity does not produce consolidated financial statements and its average consolidated net assets include those of other legal entities being controlled by such entity, it must also provide adequate proof of control over the entities consolidated, as well as financial statements of such legal entities, in line with the requirements of this section.

If the law in the country of current establishment of the entity does not require the compilation of audited financial statements, the entity shall submit a declaration confirming that auditing is not required, accompanied by the unaudited financial statements.

If an entity (either in itself an Interested Party or as a member of a Consortium) has been incorporated for less than three (3) fiscal years, the years that such entity is in operation will be taken into account, provided that at least one set of audited financial statements is submitted and such set pertains to the most recent period of the ones reported.

9.1.4 Evidence as to the Interested Party's (or, in the case of a Consortium, the Technical Expert Member's) or, as the case may be, a Third Party Supporter's, compliance with the Technical Eligibility Criteria, to include each of the following documents and confirmations, as well as such additional suitable evidence as the Interested Party may furnish and/or the Fund may request, in line with reasonable commercial practices:

- (i) Confirmation of accreditation in respect of the standard/norm envisaged in Section 6.1.3 or equivalent and confirmation of such accreditation remaining up-to-date and/or of continued compliance with qualification criteria; and
- (ii) Letters of recommendation from the appropriate port management authorities, attesting to the operation of container terminal(s) and confirming the period of operation, the term of the relevant agreement(s), annual levels of throughput achieved.

9.1.5 Each Interested Party or Member of a Consortium must submit a reference letter or letter of recommendation issued by a bank or credit institution established in an EU, EEA or OECD or FATF (Financial Action Task Force) member state or member country (the "**Bank Reference Letter**"). Each Bank Reference Letter must, in addition to such information as is customarily expected to be set forth therein, specify the contact details of at least one (1) officer or associate of the institution issuing the Bank Reference Letter who must be contactable and able to provide details regarding the Interested Party to the Fund and/or its Advisers upon request.

9.2 In the event any of the Supporting Documents cannot be issued by the competent authorities or do not exist in the relevant jurisdiction, they may be replaced by a declaration by the Interested Party. Said declaration must verify the inability to issue the Supporting Document in question and confirm the facts that would have been certified by such Supporting Document, pursuant to the provisions of this Section 9.

9.3 Consortia must submit a joint Expression of Interest and full set of Supporting Documents for each Member.

9.4 All Supporting Documents must be issued and (where applicable) certified within the last ninety (90) calendar days before the date of submission of the Expression of Interest.



9.5 The Fund reserves the right to request additional evidence of compliance with the Pre-Qualification Criteria at the time of submission of binding offers during the Second Phase. Without limiting the generality of the foregoing, the Fund wishes to notify Interested Parties that it intends in any event to request additional evidence in connection with its ultimate beneficial owners.

9.6 All declarations required or envisaged pursuant to this Invitation are to be issued (and signed) by one or more individuals that must be identified by full name and position/title or other capacity in which the signer is acting; each declaration must include confirmation that the signatories identified have sufficient power to execute and deliver it in the name and on behalf of the Interested Party to which it relates. Declarations pertaining to a Consortium must be issued in accordance with the foregoing on behalf of each Member.

9.7 All documents required or envisaged pursuant to this Section shall either display sums in EUR (€) denomination, or be accompanied by annexes expressing in EUR (€) any non-EUR (€) denominated sums together with the exchange rate applied.

9.8 All documents described in this Section should be submitted either in Greek or in English. The Fund reserves the right to request official translations into Greek or English of documents not originally drafted in Greek or English.

9.9 The Fund has the right to request originals, official extracts, and additional information from the Interested Parties regarding the Supporting Documents at any time prior to determining the Qualified Parties and/or during the Second Phase.

## **10 Legal Notice**

10.1 This Invitation has been prepared by, and is the sole responsibility of the Fund. The Invitation is addressed only to those persons to whom it may be lawfully communicated under applicable law. The Fund and the Advisers accept no liability in relation to this Invitation.

10.2 The Fund reserves, at its exclusive discretion, the right to repeat, postpone, cancel, suspend, amend or terminate the Process, including any elements of the procedure set out in this Invitation, at any time, without any liability to the Interested Parties and/or any third parties. The issuance of this Invitation in no way commits the Fund to proceed with the Transaction pursuant to the Process or at all. The Fund reserves the right to reject any or all of the Expressions of Interest and to terminate discussions with any or all Interested Parties at any time.

10.3 In relation to the information contained in this Invitation, whilst prepared in good faith, it is not comprehensive and has not been verified independently by THPA, the Fund or the Advisers. No representation, warranty or undertaking, express or implied, is or will be made in relation to the accuracy, adequacy or completeness of this Invitation. No responsibility or liability is or will be accepted by the Fund or the Advisers, or any agents, servants, officers or affiliates of them in respect of any error or misstatement in or omission from this Invitation.

10.4 For the purposes of this Invitation, the Advisers are acting exclusively as advisers to the Fund and will not be responsible to anyone other than the Fund for work carried out by them in connection with this Invitation, the Process or the Transaction. Neither the Fund nor any of the Advisers shall be liable for any costs or expenses incurred by any Interested Party or other recipient of this document in connection with the Invitation, the Process or the Transaction. By providing this Invitation, the Fund and the Advisers undertake no obligation to provide Interested Parties with access to any additional information or to update the Invitation or to correct any inaccuracies therein which may become apparent.

10.5 No information contained in this Invitation forms the basis for any warranty, representation or term of any contract by the Fund or any of the Advisers, with any third party. This Invitation is not intended to form the basis of any investment decision or investment recommendation made by the Fund or any of the Advisers and does not constitute investment advice by the Fund or any of the Advisers. Each person to whom the Invitation is made available to must make its own independent assessment of this Invitation after making investigation and seeking professional advice, as they deem necessary. This Invitation does not represent any offer or solicitation to offer to acquire or subscribe for any securities or investment in THPA or any other entity and does not have any effect as such or otherwise in any jurisdiction in which the issue, receipt, use or dissemination of this Invitation is restricted or prohibited under applicable laws and regulations or requires any registration or filing with, or submission to, any governmental or regulatory body or securities exchange or other process to comply with applicable laws and regulations.

10.6 All Expressions of Interest become the property of the Fund upon their submission. Interested Parties give the Fund the right to replicate and disclose the responses to this Invitation for any purposes in relation to the fulfilment of their statutory duties. If required by law, regulation or order of a court or regulatory body or governmental authority, the Fund may also disclose certain information and/or documents relating to any Expression of Interest. The Fund may also require from the Interested Parties, at any time, clarifications and/or additional information or additional documents in connection with any issues related to the Expression of Interest.

10.7 All Expressions of Interest, responses, proposals and submissions relating to this Invitation and/or the Process are made at the risk of the Interested Parties. Interested Parties should be aware that national legislation applying (directly or indirectly) to THPA might change. The European Union law and treaties applicable to the ports sector may also change.

10.8 This Invitation may not be reproduced, copied or stored in any medium, in whole or in part, without the prior written consent of the Fund, other than as strictly required for the preparation of a response to this Invitation.

10.9 No person shall have any right or claim for compensation for any costs, expenses or other losses or liability arising from this Invitation or from their participation in the Process, against the Fund or the Advisers for any reason or cause. For the avoidance of doubt, as the Fund has decided that the Process will not follow the rules and laws on public procurement procedures, no rights and claims arise based on the rules and laws governing public procurement procedures or based on any deviations from public procurement procedures.

10.10 By agreeing to participate in the Process, Interested Parties (and in the case of a Consortium, each Consortium Member) shall be deemed to have unconditionally accepted the terms and conditions of this Invitation.

10.11 Greek law shall apply to all contractual or non-contractual disputes arising out of or in connection with this Invitation. The Courts of Athens (Greece) will have exclusive jurisdiction in relation to any disputes arising from this Invitation.

**The text of this Invitation ends here**

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